

THE MEDIEVAL MARRIAGE MARKET.

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It is a little difficult to define the term medieval, but in this paper I shall use it as referring chiefly to the five centuries which intervened between the Norman conquest of England and the reformation.

FEUDALISM.

In order to appreciate the conditions surrounding marriage in those centuries it is necessary to realise certain aspects of feudalism, that all-pervading system under which England was then organised and governed.

We know, of course, that Charlemagne, who died in 814, is regarded as the monarch who first developed feudalism upon a national scale. Gibbon, in a famous passage, says that 'dignity of his person, the length of his reign, the prosperity of his arms, the vigour of his government, and the reverence of distant nations distinguish him from the royal crowd, and Europe dates a new era from his restoration of the Western Empire.'¹ Professor Abdy in his lectures on feudalism, says that 'the era of Charlemagne is that of the settlement of order, of law, and of government in France. . . . He strove to make the central government strong and effective by the establishment of national assemblies. . . . He established local government by resident . . . officials, connected closely with the centre by inspecting agents. . . . In a word, his reign was an era of splendid progress in civilisation and political development.'²

Sixty years after Charlemagne's death the Northmen settled in France, where they found feudalism firmly rooted. They eagerly accepted and further developed it, and two centuries later William the Conqueror brought it to England.

¹ Gibbon, *Decline and Fall*, chap. 49
(edit. J. B. Bury, 1898, vol. v. p. 286).

² J. T. Abdy, *Feudalism . . . Lectures at
Gresbam College* (London, 1890, 8vo).

Even here there had been some approach to such a system in an increasing centralisation of government. Offa of Mercia had corresponded with Charlemagne. Alfred developed a system of thegnhood. Edward the Elder increased the idea of lordship and protection; and Canute ruled almost as a feudal monarch. But England was much more loosely governed than Normandy, and there was much more personal freedom. Had there been less, had Harold been able to command the obedience of the whole nation, it is possible that he might have repulsed William; but alas! the native English paid dearly for the freedom which they prized, for they lost it during many generations.

Such Anglo-Saxon codes of law as have been preserved were printed with an English translation by the Record Commissioners in 1840.¹ They shew us that wives could be regularly purchased, but they indicate a gradual improvement in their position as the people became more civilised. There is in them little of feudalism until shortly before the conquest, when we find some of its main features beginning to appear.

King Ethelbert of Kent published a series of 'dooms' in the time of St. Augustine (597-604), among which are these:

31. 'If a freeman co-habit with a freeman's wife, let him pay for it with his wer-geld and provide another wife with his own money, and bring her to the man' (p. 4).

77. 'If a man buy a maiden with cattle, let the bargain stand if it be without guile [the cattle being sound], but if there be guile let him bring her home again, and let his property be restored to him' (p. 9).

78. 'If she bear a live child let her have half the property if the husband die first.' (p. 9).

79. 'If she wish to go away with her children, let her have half the property' (p. 9).

80. 'If the husband wish to have them, let her portion be as one child' (p. 9).

82. 'If a man carry off a maiden by force let him pay 50s. to the owner, and afterwards buy her of him' (p. 10).

Hlothhaere and his nephew Eadric, kings of Kent, promulgated, about 680, the doom: 'If a husband die,

¹ *Ancient Laws and Institutes of England*, vol. i (edit. B. Thorpe, 1840, fol.)

wife and child yet living, it is right that the child follow the mother, and let surety be given to him from among his paternal kinsmen to keep his property till he be ten years of age' (p. 12).

King Ine of Wessex, 688-725, published this among his dooms:

31. 'If a man buy a wife and the marriage do not take place, let him give the money, and compensate' (p. 53).

King Alfred, 871-901, published a long code of dooms, and among them:

12. 'Though any one sell his daughter to servitude, let her not be altogether such a theowu as other female slaves are. . . . If he who bought her let his son cohabit with her, let him marry her . . . and have her dowry' (p. 21).

A little later we see the beginning of a regular system of marriage settlements, which gave to the wife a more assured position of security.

King Edmund I, 940-946, successor to his brother Athelstan, gave the following:

1. 'If a man desire to betroth a maiden or a woman, and it be so agreeable to her and her friends, then it is right that the bridegroom, according to the law of God and the custom of the world, first promise and give a wed to those who are her foresprecas that he desire her in such wise, that he will keep her according to God's law, as a husband shall his wife, and let his friends guarantee that' (p. 108).

3. 'Let the bridegroom declare what he will grant her in case she live longer than he' (p. 108).

4. 'If it be so agreed, then it is right that she be entitled to half the property, and to all if they have children in common, except she again choose a husband' (p. 108).

8. 'At the nuptials there shall be a mass-priest by law, who shall with God's blessing bind their union to all prosperity' (p. 109).

The editor says that the law indicates that the legal endowment of a woman was one third of the chattels, but a husband might before marriage increase it to one half, and (if there were issue) to the whole for life or widowhood. Where there was neither child nor endowment before marriage the husband's next of kin took two thirds of his personal estate, and does so still (p. 108).

King Canute, 1014-1036, has a doom shewing still further progress, viz. :

75. 'Let none compel either woman or maiden to him whom she herself mislikes, nor for money sell her, unless he is willing to give anything voluntarily' (p. 179).

In Canute's time, however, we see the beginnings of some part of the feudal system, as is shewn by his reference to the overlord and the heriot, thus :

71. 'If a man die intestate, then let not the lord draw more from his property than his lawful heriot, and . . . let the property be distributed very justly to the wife and children and relatives, to each according to his degree' (p. 177). Doom 72 defines the heriot, viz. for an eorl four helmets and coats of mail, eight spears and shields, four swords, and 200 mancuses of gold (about £70). The heriot of a king's thegn was half as much, and that of a medial thegn was a horse and his trappings, and £20 in money.

With regard to the heriot, Kemble says : 'The horse and arms, which in the strict theory of the comitatus had been the gift or rather the loan of the chief, were to be returned at the death of the vassal, in order . . . that they might furnish some other adventurer with the instruments of service. These, technically called *Heregeatwe*, *armatura bellica*, have continued even to our own day under the name of *Heriot*, and strictly speaking consist of horses and weapons.'¹ Kemble 'inclines to the view that the king had some rights of wardship and marriage over the children and widows of his own thegns and socmen,' but the instance which he gives is not very conclusive.²

The feudal system of Normandy certainly included the important rights of wardship and marriage, and these after the conquest had immense influence upon the matrimonial customs of this country. The right of wardship was that during the minority of heirs the overlord administered and enjoyed the revenues of their lands, providing fitting

¹ Kemble, *The Saxons in England*, i, 178, (ed. Birch, 1876). It seems likely that the custom of leading an officer's horse, fully accoutred, at his funeral is a survival of the heriot. In early times the horse would have been led to the lord's stable at the close of the ceremony. The heriot was often

mentioned in wills until comparatively recently. An early instance is that of archbishop Aelfric, 996-1006, who left to the king as his heriot 60 helmets and coats of mail, and his best ship with all her tackle and stores (*ibid.* i, 101).

² *ibid.* ii, 98.

maintenance in his own house or elsewhere for his wards. The *maritagium* or right of marriage gave the lord power, within reasonable limits of age and station, to marry the heirs to whom he would. He could give or sell either of these rights to others, and we shall see that he often did so. As supreme overlord, the king frequently exercised his right of bestowing in marriage the widow as well as the heirs of his tenants in capite, but there is less evidence of these using the same right towards their sub-tenants, because their records have not been so carefully preserved. There is a curious statement of the form to be observed by an overlord, when he desires to marry his female ward to a man of his choice, in the 'Assises et bons usages du royaume de Jérusalem,' a series of laws, statutes, usages, and customs promulgated by Godfrey de Bouillon after he had been elected king, 1099, chiefly drawn from the customs and usages of France. They were revised about 1250, and again in 1369, and may be taken as illustrative of many customs of the age of chivalry. Prof. Abdy translates the passage as follows: 'When the seigneur desires to summon, as he is entitled to do, a woman who holds an estate of him which owes him body service, to take a husband, he must present to her three men of suitable condition in this way: he must send three of his men—one to represent himself, and two to represent his court, and the one who represents him must say to her: "Madam, on the part of my lord so and so, I offer to your choice three men—naming them—and call upon you, on the part of my lord, by such a day—naming the day—to have taken one of these three for your husband"; and this he saith three times.'¹

The lady could however escape matrimony by paying to the lord a sum equal to that which had been offered for

¹ Migne, *P. L.* clv, pp. 397-430, gives the rubrics of the several chapters, but only a few of these in full. Gaspard Thaumas de la Thaumassiere published the *Assises* in full (Paris, 1690, fol.). Cap. 242 (on p. 162) has the passage as follows: 'Quant le seignor veaut semondre ou faire semondre si com il doit feme de prendre Baron . . . il li doit offrir trois Barons, et tels que il soient a lui afferans de parage, ou a son autre Baron, et la doit semondre de deus de ses homes

ou de plus, ou faire la semondre par trois de ses homes l'un en leuc de lui et deus com court, et celui que il a establi en son leuc a se faire doit dire enci, dame, je vous euffre de par monseignor tel et le nome, trois Barons tel et tel et les nome, et vous semons de par monseignor que dedans tel jour et' morisse le jour, aies pris l'un des trois Barons que je vous ay només, et de ce trais je a garans ces homes dou Seignor qui sont ci com court, et enci li dic par trois fois.

her hand, and many did so. Moreover, by English custom, clergy, infirm laymen, and women could provide substitutes for service in the field. Thus on 16 April, 1303, king Edward I issued a writ addressed to ecclesiastics, females and infirm tenants of the crown, bidding them pay £20 fine per knight's fee, or send substitutes, who should assemble at Berwick-upon-Tweed on the ensuing 26 May, to proceed against the Scots.¹

THE MARRIAGE OF WIDOWS.

Seeing that the widow of a landholder had from immemorial times her reasonable dower from her husband's lands, even if she had no lands of her own, it is clear that he who received her was assured of a certain income during her life.² Her marriage had therefore a pecuniary value to whoever had the disposal of her hand. Her age, her income, and the size of her family were determining factors, besides of course her personal appearance and disposition, which no doubt would-be suitors took also into consideration.

A curious record has come down to us from 1185, the *Rotuli de dominabus et pueris et peullis*, or Rolls of widows and orphans,³ which gives the hard facts in more detail than the later inquisitiones post mortem. This record, which concerns twelve counties, was made by justices itinerant, and its first entry, fairly typical of the rest, reads thus: 'The wife of Everard de Ros, who was daughter of William Trussebut, is at the disposal of the king. She is thirty-four years of age, and has two sons, the elder being thirteen years old, and his lands in the custody of Ranulf de Glanvill. The land of the said lady, which she

¹ *Parliamentary Writs*, vol. i, p. 371, from Close Roll 31 Ed. I, m. 12 d.

² The dower lands of a widow are often enumerated in inq. p.m., and sometimes their value is stated, although often there is merely an order to assign dower. The Anglo-Saxon provision for a widow has been already alluded to. It seems likely that the later custom was to assign to her one third of a moderate estate, or perhaps less when the property was very large. Here are two instances: on Sunday after 25 Ap. 1291, Herbert fitz John married Eleanor, daughter

of Roger le Rous, and dowered her at the church door with one third of his castles and honours (*Cal. of Misc. Inq.* ii, 306). On 8 March, 1327, the escheator was ordered to deliver to Richard, son and heir of Richard de Sandford, his father's lands, saving to Agnes, widow of the said Richard, her dower (*Cal. of Fine Rolls*, Ed. III, vol. i, p. 28). The widow had also, of course, her own inherited lands, if such there were. Lands could not then, of course, be left by will.

³ Ed. Stacey Grimaldi, 1830 (London, 8vo.).

holds in dower at Stroweston, co. Lincoln, is worth £15 per annum and no more. It is furnished with two ploughs, 100 sheep, three pigs and one horse.'¹ Thus an aspirant to her hand might easily calculate how much to offer to the king. In point of fact Roysia Trussebut did not remarry. Her elder son, Robert de Ros, was ancestor of the lords Roos, whose eventual heiress married Sir Robert Manners, and was progenitor of the dukes of Rutland.

About a hundred widows are named in this roll as at the disposal of the king. Several were 60 to 70 years of age, and three were over 80, but many were young and doubtless attractive, and we meet with such well-known names as Nevill, d'Arcy, Tateshale, Crevequer, Engaine, Beauchamp, Tony, Colvill, Say, Tregoz, and the countess of Chester. Probably the king was able to dispose of a fair proportion, but of this we are not told, the roll being but a catalogue *raisonnée* of those who were on offer. In considering their ages we are tempted to think that some of the ladies had uncertain memories, or that the justices were influenced in their estimate by the brightness of their smiles. At any rate it is curious that Maud, widow of Angot de Wiccumbe, aged 30, should have had four sons and four daughters, of whom the eldest was 16 (p. 19). Alda de Beauchamp, widow of William Maubanc, was also 30, and had four daughters, the eldest 16 (p. 16). Ada de Tony, aged 30, had a son of 15, and 5 daughters (p. 27). Lauretta Picot, aged 40, had a son of 26 (p. 29). Basilia Pinel, aged 18, had a son of 3, and a daughter aged 2 (p. 20). Maud de Colvill, aged 27, had a son of 12 (p. 32). But poor little Maud, widow of John de Bidune jun., was but 10 years of age (p. 26). Some of the heirs had also married at a tender age, as William, son of William de Noers, aged 18, a ward in custody of Henry de Pinkeni, 'whose daughter he married four years ago' (p. 20). And we are told that 'in the town of Stanford is a certain boy of 18, who was in custody of the abbot of Selby when he died and is now in custody of William de Stanford, who gave him his daughter for 100s., which sum he gave to the king through Sir Ranulph de Glanville' (p. 14).

¹ *Rotuli*, p. 1.

That the custom of selling the hands of eligible widows long continued, we learn from Fine rolls and inquisitions. Thus in 42 Henry III, 1257-8, the marriage of Beatrice, widow of William le Curuner, pertained to the king, and 'is worth 100s. only, because she is much burdened with debts and the cost of her boys, and is beyond the age of child-bearing, and great poverty threatens her.'¹ Nevertheless, her marriage was granted to Ralph le Fisseburne the same year, viz. on 7 May, 1258.² On 19 May, 1280, Oliver Dynant gave £100 for the marriage of Isabel, widow of John de Courtenay of Okehampton.³ On 21 July, 1281, Arnold Murdak gave £200 for that of Lucy, widow of John de Grey of Codnor.⁴ On 28 Jan. 1289, the sheriff of Northumberland was ordered to imprison William de Duglas, who had come to the manor of Ellen la Zouche in Scotland with horses and armed men, and had forcibly abducted Eleanor, widow of William de Ferrers, earl of Derby, who was staying there, but on 18 Feb. 1291 he gave the king £100 for her marriage.⁵ On 3 Oct. 1336, William Lengleis had a grant 'of what pertains to the king of the marriage of Alice, widow of Walter de Kirkebride, i.e. the fine if she marry with licence, or the forfeiture if she marry without.'⁶ On 3 Feb. 1340, Roger de Normanvill gave 100s. for the marriage of Margaret, widow of William de Kaerdyf, on the same terms.⁷ On Wednesday before 24 June, 1342, it was reported that Maud, widow of Richard Heyras, 'the king's widow,' had married without licence a year ago, 'and is of the yearly value of 3s. 4d.'⁸ Even more curious is a report as to the manor of Hewelsfield, co. Gloucester, at Whitsuntide, 1276, where among receipts we find—'From the purchase of women for marriage (de mulieribus emptis ad maritandum), from pannage and other tolls, 2s. per annum.'⁹

More romantic is the story told of the second duke of Chandos, who with a friend was dining at the Pelican inn, Newbury, when they perceived a disturbance in the inn-yard. Enquiring the cause, they were told that a man was

¹ *Cal. Inq. p.m.* Hen. III, p. 112.

² *ibid.*

³ *Cal. of Fine Rolls*, vol. i, p. 125.

⁴ *ibid.* p. 151.

⁵ *ibid.* pp. 256, 289.

⁶ *Cal. Pat.* 1334-1338, vol. iii, p. 322.

⁷ *Cal. Fine R.* Ed. III, vol. ii, p. 158.

⁸ *Cal. of Misc. Inq.* vol. ii, p. 448.

⁹ *ibid.* vol. i, p. 310.

selling his wife, and they stepped outside to view the proceedings. The woman was led up with a halter round her neck, and the Duke, struck with her beauty, made a bid, bought her, and on Christmas Day, 1744, married her. She died in 1759. The writer, in *Notes and Queries*,¹ believed the story to be well authenticated, but the *Complete Peerage* is perhaps more doubtful.

If indeed such things could happen in the highest circles, we need not be over-surprised to find at the bottom of society a case that was certainly genuine. In 1814 Henry Cook, a pauper, was married at the instance of the poor-law guardians, who considered marriage advisable. His wife and child were sent not long afterwards to the workhouse at Effingham in Surrey, but Chippen, the governor, objecting to this addition to his establishment, persuaded Cook to sell his wife. 'The overseers directed Chippen to take her to Croydon next market-day, which he did on 17 June, 1815, in a halter. Cook met them, and sold his wife to John Earl for one shilling,' making out a formal and stamped receipt. The couple, after publication of banns, were married at Dorking, and the parish officers of Effingham provided a leg of mutton for the wedding-feast. But when Earl discovered that the marriage was illegal he deserted, and Mrs. Cook went back to the workhouse.²

Many widows were quite naturally averse to the compulsory bestowal of their hands, although apparently but few ventured upon open rebellion against the custom of the day. Frequently the king's widows took an oath not to marry without licence from him, as did Margery, widow of Guy de Rocheford, 12 Sep. 1274,³ and Isabel, widow of Alan de Wolverton, 2 Oct. 1274.⁴ Others 'made fine with the king' by paying him considerable sums, as Beatrice de Beauchamp, widow of Thomas fitz Otto, who gave £100 to marry whom she would, 28 Oct. 1275,⁵ and Elizabeth, widow of John de Clyfford, who gave 20 marks for that privilege, 20 July, 1426.⁶ In the Fine

¹ *Notes and Queries*, ser. 4, vol. vi, p. 179. *Complete Peerage*, new ed.

² Mackay, *History of the Poor Law*, vol. iii, p. 182. During the early weeks of 1924 several instances of a similar character

were mentioned in *The Times* as having occurred a century or less ago.

³ *Cal. Fine R. Ed. I*, i. p. 27.

⁴ *ibid.* p. 29.

⁵ *ibid.* p. 54.

⁶ *Cal. Pat.* 1422-4129, 350.

rolls of Edward I there is mention of payment of sums for this purpose, varying from 40s. to 200 marks.

Those however who married without licence from the king paid, or their husbands for them, heavy fines for the offence. On 26 April, 1286, William de Byfeld paid £500 for having thus married Maud, widow of Henry de Erdington.¹ On 25 June, 1423, Margery, widow of Sir John de Ros, paid £1,000 for having married Roger Wentworth.² In the seven years 1423-1429 eleven cases of such fines were entered in the Patent rolls. In some cases the lands of offenders were confiscated, as those of Clarice, widow of Humphrey de Whaddon, who having re-married without his leave had her lands taken from her 27 Oct. 1282.³

THE MARRIAGE OF HEIRS.

More common than the sale of the marriage of widows was that of heirs, both male and female, since these, and especially the latter (being often co-heiresses) were more numerous. Very many such sales are recorded in the Fine rolls, and many in Patent rolls and records of inquisitions, and although we cannot say that there were sales by auction, yet not infrequently the escheator or other person is instructed to dispose of marriages to the king's best advantage, or a purchaser is to pay as much as others will give, expressions which imply some sort of competition. The wardship and the maritagium usually went together, but sometimes they were separately appraised. From these records I select sufficient instances to shew that the right of marriage was exercised continuously during the middle ages.

On 25 April, 1254, Joan, daughter and heiress of Ralph de Bethum, was reported to be 7½ years of age. 'Her marriage is worth £30 in Lancashire and Westmoreland. She is not married, and is sick from a worm which consumes her.'⁴ In 1262, Richard Filiot had sold the wardship and marriage of Osbert de Daggord to his mother, who sold them to the archbishop of York, who married the boy.⁵

¹ *Cal. Fine R.* Ed. I, i, 226.

² *Cal. Pat.* 1422-1429, 136.

³ *Cal. Fine R.* Ed. I, i, 171.

⁴ *Cal. of Inq. p.m.* Hen. III, p. 82.

⁵ *ibid.* p. 148.

On 21 July, 1268, the king had given the wardship and marriage of Alice, daughter and heiress of Stephen de Hampton, to Sir Nicholas de Yetindene, who gave them to Sir Philip Basset, and he to Dame Katharine Lovel, and she to Sir Walter de la Puile, who married the girl.¹ On 12 April, 1269, 'the king was bound by letters patent to provide Robert Walerand with a lady or a girl in marriage, with the wardship of £200 per annum lands, and has granted to him the marriage of the daughter and heiress of John de Gatesden, and 200 marks of his lands.'² On 23 May, 1275, the escheator south of Trent was empowered to sell all wardships worth £20 falling to the Crown, with their marriages.³ On 18 June, 1275, Stephen de Sutton, canon of Lincoln, gave 650 marks for the wardship and marriage of the heir of Robert de Sutton.⁴ On 29 May, 1280, Agnes, widow of Mauger le Vavasour, paid £300 for the wardship and marriage of Mauger's heirs.⁵ On 5 Jan. 1282, Amaury de St. Amand gave 800 marks for the wardship and 200 marks for the marriage of the heirs of Robert de Kaygnes.⁶ On 4 June, 1283, John de Bohun gave 2,500 marks for those of the heirs of John le Mareschal,⁷ and on 15 Nov. 1283, Geoffry de Camvill gave £200 for those of Henry de la Pomeraye.⁸ On 20 Jan. 1291, Guy Ferre gave £40 for the marriage of Amice, daughter and heiress of James de Boulay, which marriage Henry de la Pomeraye, James' overlord, had granted to queen Eleanor.⁹ On 23 Oct. 1299, the king granted to Hugh le Despenser the marriage of Thomas, son of Nicholas de Audley, 'to the use of his daughter,' and if the boy should die, 'then that of the next heir, until matrimony be effected.'¹⁰ On 9 Aug. 1303, the king gave to Hugh Bardolf the marriage of Robert, son and heir of Robert de Tateshale, with a mandate to the boy's mother 'to deliver the body of the said Robert to Hugh to be married.'¹¹ The child, however, died the same year. On 3 May, 1325, the king granted to Robert Eglesfeld, founder of Queen's college, Oxford, the marriage of Thomas, son and heir of Thomas

¹ *ibid.* p. 208.

² *ibid.* p. 224.

³ *ibid.* p. 46.

⁴ *ibid.* p. 49.

⁵ *ibid.* p. 127.

⁶ *ibid.* p. 177.

⁷ *Cal. Fine R.* Ed. I, vol. i, p. 185.

⁸ *ibid.* p. 194.

⁹ *ibid.* p. 288.

¹⁰ *Cal. Pat.* 1334-1338, p. 451.

¹¹ *ibid.* 1338-1340, p. 152.

de Moreleye, 'and so from heir to heir, Walter de Plumland is to deliver the body of the said heir: to be married.'¹ On 23 Feb. 1328, Hugh de Audley gave 500 marks for the wardship and marriage of the heir of Ralph de Greystoke, and was to pay £50 per annum for the manor of Greystoke.² On 4 Jan. 1337, Ralph de Nevill gave 300 marks for the marriage of the son and heir of Roger de Huntyngheld.³ On 8 Oct. 1337 the king gave to the archbishop of Canterbury wardship and marriage of the heir of John de Insula, he 'rendering as much as others will render, and so from heir to heir, the escheator to deliver the body of the heir to the archbishop.'⁴ On 18 Aug. 1338, the bishop of Hereford, as guardian of the land of Ireland, was empowered 'to sell or demise at farm under the king's seal all wardships and marriages to the king's greatest advantage.'⁵ On 29 Jan. 1348, Richard Talbot gave 500 marks for marriage of the heir of John Lovel, 'and so from heir to heir.'⁶ On 18 Oct. 1349 the bishop of St. David's gave £50 per annum for the wardship, and the sum of £50 for the marriage of an heir.⁷

In the next century many considerable sums came to the royal exchequer from the sale of marriages. On 18 Dec. 1423, an assignment of £2,000 was made to the executors of king Henry V's will from the marriage of the earl of Devon.⁸ On 24 July, 1425, Sir John Radclyf bought for £600 the marriage of John, son and heir of Henry de Beaumont,⁹ and on 20 July, 1426, he had a grant of the marriage of Ralph, earl of Westmorland, as a set-off against 2,000 marks which the king owed him.¹⁰ On 14 May, 1431, Richard Nevill, earl of Salisbury, gave 2,000 marks for the marriage of Thomasia and Elizabeth, daughters of Richard Hankford.¹¹

A certain number of heirs were also, like their mothers, disinclined to marriage except of their own free will, and paid varying sums to secure freedom of choice. On 25 May, 1274, John, son and heir of Hugh de Wymm gave 100 marks for this liberty,¹² and on 29 Jan. 1274,

¹ *Cal. Pat.* 1324-1327 v. 117.

² *Cal. Fine R.* Ed. III, i, 82.

³ *ibid.* ii, 19.

⁴ *ibid.* ii, 46.

⁵ *Cal. Fine R.* Ed. III, ii, 91.

⁶ *ibid.* iii, 73.

⁷ *ibid.* iii, 173.

⁸ *Cal. Pat.* 1422-1429, p. 176.

⁹ *ibid.* p. 264.

¹⁰ *ibid.* p. 350.

¹¹ *ibid.* 1429-1436, p. 116.

¹² *Cal. Fine R.* Ed. I, i, 6.

Christiana, Isabel and Denise, daughters and co-heiresses of Nicholas le Seculer, paid a like sum.¹ On 7 Feb. 1284, Thomas fitz Maurice, a minor, paid 700 marks at Dublin for the privilege,² and on 23 June, 1289, Amaury la Zuche paid £20 for the same,³ whilst on 27 Oct. 1349, John, son and heir of John de Wylughby, paid £100.⁴ Others gave sums varying from 40 marks to £100.

As might be expected, not a few heirs married without licence, and were fined for their temerity. On 5 April, 1274, Peter de la Stane paid 60 marks for having married Christiana, sister and co-heiress of Simon de Albini, without licence.⁵ On 5 Feb. 1276, John de Eyvill paid 200 marks for this offence,⁶ but a much more important case was that of John de Vere, earl of Oxford, who, 'being under age and in the king's ward, married without license Elizabeth, daughter of St. John Howard, jun. kt. after refusing a competent marriage proposed to him by the king, who had been offered £1,000 for the same.' On John's petition, however, 'in consideration of his good service about the king's person, and by advice of the council, the king pardons these trespasses, on his payment of £2,000 fine.'⁷ John was beheaded as a Lancastrian in 1461.

That the money received from the sale of marriages and from fines connected therewith was at this time a regular source of income to the king is clearly shewn by an entry on the Patent roll, 12 July, 1424: 'Grant by advice of the council that 10,000 marks per annum for the expenses of the king's household shall be levied thus . . . From wards, marriages, and other casualties £1,000.'⁸

CHILD MARRIAGES.

To us in England the marriage of young children appears a strange and reprehensible custom. Our distant forefathers thought otherwise, as we shall see. But let me first call attention to the practice still prevailing in parts of British India. Dr. E. J. Trevelyan, in his authoritative

¹ *ibid.* i, 16.

² *ibid.* i, 198.

³ *ibid.* i, 261.

⁴ *ibid.* Ed. III, iii, 176.

⁵ *ibid.* Ed. I, i, 20.

⁶ *ibid.* i, 65.

⁷ *Cal. Pat.* 1422-1429, p. 543.

⁸ *ibid.* p. 210.

treatise on Hindu family law,¹ mentions that three of the four great castes of the Hindus are regarded as the regenerate or twice-born. Among these marriage is considered indispensable to constitute the perfect purification of a Hindu, and in order that by begetting a son he may be delivered from the hell to which the shades of sonless men are doomed, that he may repay the debt he owes to his forefathers, and be able to perform some of the most important religious acts. It is the imperative religious duty of a father or guardian to cause a girl to be married before she attains puberty. A girl of any age can be given in marriage, and, whilst marriage is essentially religious, divorce is unknown to the general Hindu law. Mr. F. J. Furnivall, in his *Child Marriages*, etc., to be further alluded to below, quotes from *Papers relating to infant marriage and enforced widowhood in India* (Calcutta, 1886), the testimony of Mr. T. R. Venkatesh (on p. 56) that 'the proper age prescribed for the marriage of girls in these castes is between six and eight, but never under six years of age. . . . If a girl were to attain puberty before being married, her parent and brothers go to hell, as it was their duty to have got her married before that period.'²

We never, of course, held these views in England, and I have not found traces of child-marriage in this country before the Norman conquest, but after the full introduction of the feudal system, with its maritagium or right of the marriage of widows and heirs, the custom was undoubtedly widely prevalent. Two circumstances, moreover, aided its promotion. In that militant age men often fell by the sword in middle life, leaving young children, and just as we now desire to make provision for those whom we leave behind us when we pass away, so then men naturally wished to secure the future welfare of their children, and were inclined rather to marry them in early life than to leave them to be married a little later by their overlord for his own pecuniary advantage. More-

¹ E. J. Trevelyan, * D.C.L. *Hindu Family Law, as administered in British India*, London, 1908, 8vo.

² *Early English Text Soc.* 1897, p. xxxv. That child marriage, though decreasing, still

largely prevails, was shewn by the census of India, 1921. Out of every 10,000 female children, between five and ten years of age, 9093 were married. The proportion among Hindus alone must have been even larger.

over the conditions of English law furthered this desire of the parents, as was noted by the eminent judge, Henry Swinburne (who died 1624) in his *Treatise of Spousals*. He says that 'the laws of our realm say that the wife who is of the age of nine years at the time of her husband's death shall be endowed of the third part of his lands and tenements which he had by purchase or descent.' If therefore a father married his little girl of seven to a boy, and three years later the child-husband died, then the girl-wife held for life one third of his property, and was the more eligible for a second and more real marriage.

It might seem fitting to allude to these very early unions as betrothals rather than marriages, and indeed Swinburne says that 'spousals contracted during infancy (which he defines as under seven years of age) are utterly void, whether the infants themselves or their parents for them do make the contract.' But he adds that after that age spousals could be validated, without further ceremony, by the children calling each other husband and wife, or by such actions as giving and receiving gifts and tokens, kissing, embracing or greater familiarity. And when they had attained ripe age, boys at 14 and girls at 12, these words and actions automatically gave full effect to the original contract.¹ In point of fact these small children were always married by priests, and usually in church, with the same words, and taking the same vows as were used and taken by adults.² In some cases, perhaps chiefly where property was concerned, these marriages were confirmed at ripe age in the bishop's court. Others were denounced and broken by suits for divorce, or rather for nullity of marriage, which it was important to bring without delay, and of course before cohabitation.

It has sometimes been thought that our royal family set the example of very early marriages in England, but this opinion is not founded upon fact. Alfred the great, says Asser, married in his twentieth year. William I married at 28, Henry I at 30, Henry II at 18, Richard I at 33,

¹ Quoted by Furnivall, *E.E. Text Soc.* 1897, p. xxxvi.

² The marriage vow, as given in the *Tork Manual* (*Surtees Soc.* lxxiii, 27) was 'Here I take the, N., to my wedded wyfe (husband)

to have and to holde, at bedde and at borde, for fayrer for fouler, for better for warse, in sekeness and hele, tyl dethe us departe (if holy kirk it will ordayne) and there to I plyght the my trouthe.'

John at 23, Henry III at 29. Edward I was the first king to marry very young, viz. at 15 years and 3 months, and his brother Edmund married Aveline, a child of 13. Edward II married at 23, Edward III at 16 years 10 weeks, his eldest son, the Black prince, being born before he was 17. Lionel of Clarence was married in infancy, being 3 years and 10 months old, but he was faithful to his child-wife, who bore him a daughter before he was 16 years 9 months old. John of Gaunt married at 19, and his great-nephew Richard, Duke of York, at 13. Richard II was 16 and Henry IV was 14 at marriage. Richard, one of the princes murdered in the Tower, was then a widower, having been married five years previously at the age of four and a half. The children of Henry VII married young, viz. Arthur at 15 years 2 months, Margaret at 13 years 9 months, Mary at 16, and Henry VIII at just under 18. Finally, Mary, queen of Scots, and Mary II of England married at 15 and a half. Thus we see that, though many married young, yet only two princes were so young as not to understand the meaning of the ceremony, and in both cases not repudiation but only 'dethe did them departe.'

Among early cases of child marriage that of Robert de Ferrers, last earl of Derby of that family, is interesting because a record of his marriage settlement has been preserved.¹ On 26 July, 1249, William de Ferrers, earl of Derby, his father, grants to king Henry III that his eldest son Robert shall marry Isabel, daughter of Hugh le Brun, count of Angoulême, the king's niece, and that Robert shall endow her of the manors of Stamford, Berks, and Pery, Northants. If Robert shall die childless, and the said manors be not worth £200 per annum, then William shall make up the deficiency by an inquisition. If Robert survive William, then he shall endow Isabel with one third part of all his lands. The king, on the day of their marriage, shall give in free marriage to them and their heirs corporal £100 sterling per annum at the treasury, viz. from those 400 marks per annum which Hugh le Brun receives by grant of the king. Robert shall hold the two manors and receive their profits till he be of age, unless he die previously. When he be of age William shall give him the manors and

¹ *Cal. Close R. Hen. III*, vi, 224-6.

he shall receive the £100 per annum. If Isabel shall die or be married to another before these covenants are completed, then Robert shall take her next younger sister to wife on the same terms. If Robert die before the covenants are completed, his brother William shall marry Isabel in the same way. Hugh le Brun, her father, shall agree to these covenants, and if not, then all things shall remain *in statu quo*. These covenants shall be performed before the festival of All Saints, 1249.'

The sequel is curious, being recorded thus in the Annals of Burton. 'MCCXLIX. Robertus de Ferrariis, puer ix annorum, filius Wilhelmi de Ferrariis, comitis Derbeie, desponsavit apud Westmonasterium Mariam, vii annorum puellulam, neptem Regis Henrici, filiam fratris sui Comitis Engolismi et Marchie.'¹ Thus before the marriage the bride was changed, apparently to the satisfaction of all parties. Isabel married another. Mary, countess of Derby, was still living 11 July, 1266,² but died childless.

Here are other instances in the thirteenth century, taken from inquisitions. On 16 Sept. 1250, it was found that Isabel de la Forde, grandchild of Robert de Muschamp, was aged 15 and already 'married to a boy named Adam de Wyginton, aged 13 or 14.'³ She was his widow on 4 May, 1251. On 18 Oct. 1255, Henry, aged 16, son and heir of Roger de Croft, had been espoused 5 years.⁴ In Jan. 1265, Alice, daughter and co-heiress of Roger de Merley, was wife of the son and heir of Marmaduke de Tweng.⁵ On 26 April, 1269, the youngest daughter and co-heiress of Hugh de Morwyk, aged 11, was wife of John de Roseles.⁶ At the proof of age of John, son of Elias Giffard (*temp.* Henry III, but date not given) it was shown that he was contracted in marriage at the age of 4 with Aubree de Caumvill, aged 4 to 5, but 'often declaimed against the marriage.' He never really married her, and always avoided her presence. He said that 'no one of the race of de Longespey would adhere to any wife to whom he happened to be married in his boyhood.'⁷

¹ *Annales de Burtonia*. (Rolls Ser.)

² *Cal. Pat. R.* 1258-1266, p. 615.

³ *Cal. Inq. p.m.* Hen. III, p. 51.

⁴ *ibid.* p. 87.

⁵ *ibid.* p. 200.

⁶ *ibid.* p. 230.

⁷ *ibid.* p. 298.

On 6 Dec. 1277, it was found that Alan de Aldefeld had married his grandson William to a daughter of Sir Elias de Knol, taking 40 marks for the marriage. At the time of the Inquisition the boy was thirteen.¹

More interesting, because the evidence is more fully given, are the child-marriages of the sixteenth century, noted by Mr. F. J. Furnivall from records of the consistory court of Chester, with a few from elsewhere.² In 1538-9 Robert Parre, aged 3, married Elizabeth Rogerson. 'He was hired for an apple by his uncle to go to church, and was borne thither in the arms of his uncle, which held him in his arms the time that he was married to the said Elizabeth, at which time the said Robert could scarcely speak' (p. xxii).

In 1541 William, lord Eure, aged 10 to 11, was married at Eynsham, co. Oxon, to Mary, daughter of George, lord Darcy of Aston, a child of 3. Thirteen years later, at a suit for divorce, Peter Hothorne, servant to lord Darcy, gave evidence thus: 'He was present in the parish church of Eynsham, and did see when the solemnisation of matrimony was had between the parties, and did also hear and see all rites and ceremonies done and ministered at that time as is commonly used and done in all marriages, saving that the said Mary Darcy alias Eure spake the words of matrimony as her nurse, who had her in her arms, taught her. The said Mary was not above 4 years of age. The said William, lord Eure, was then *circa* 10 years of age. He himself, Peter, hath dwelt in lord Darcy's house continually, and knoweth that the said lord Eure was never with the said Mary at any time save twice since she came to 12 years of age, and at the one time she would not speak with him nor see him, and at tother time, when they met together the said lord Eure would have kissed her and she refused to do so, and went from him. Further he saith that he could never see or perceive any token of favour that she bare towards the said lord Eure since she came to 12 years of age, but hath heard her at divers times say that she would never have him.' The marriage was annulled 3 November, 1554 (p. xxiv).

¹ *ibid.* Ed. I, i, p. 148.

² *Child-marriages, divorces and ratifica-*

tions, etc., in the diocese of Chester, A.D. 1561-6, Early English Text Soc. 1897.

Among the Chester cases which were heard 1561 to 1565, are the following, the dates given being those of their hearing.

1561, November. William Pole, *c.* 11, and Elizabeth Tilston, *c.* 8, had been married in Merbury church on a February morning about cock-crowing, with torch and candle-light. 'They were both so ignorant they knew not what the matter meant. They never lived together' (p. 1).

1561, 12 December. George Hulse, *c.* 7, had married his wife Elizabeth in a chapel at Knutsford. 'Her frendes thought she should have had a lyvinge bie hym.' They never kissed or lived together. 'She did never fansie or love the said George' (p. 4).

1561, December. John Bridge, 13-14, and his wife Elizabeth. He cried, but his father compelled him to be married at Bury church, having made a bargain to do so when he was two. John would eat no meat at supper, but the priest persuaded him to sleep that night with his wife, though he turned his back upon her all night (p. 6).

1561-2, 5 March. Andrew Haworth, *c.* 9, and Constance Entwistle, 11, were married at Bolton church at the compulsion of their friends. They lived together in the same house without using themselves familiarly together as man and wife (p. 9).

1562, 8 May. Peter Haworth, under 8, and Margery Haydocke, 8, were married in Blagburn (i.e. Blackburn) church. She never consented, and at 12 years old dislove fell between them (p. 11).

1562, 25 September. Rafe Wittall and Joan Leyland, both 10-11, were married in Leyland church. 'She dealed so unkindly with him he will never have her. For why? She ever loved other boys as well as him' (p. 12).

1562, 25 October. John Andrewe, 10, and Ellen Dampart, under 8, were married for family reasons in a chamber at Widford. 'They never loved each other but agreed so evil when they came to years of consent, that Ellen went to London and John to service in the country' (p. 12).

1562-3, 11 February. Randle More, 7-8, and Margery Vernon, 9-10, were married at Barthumley church. 'There were no tokens of love or kiss, or calling each other man and wife' (p. 16).

1563, 26 May. Thomas Fletcher, 10-11, and Anne Whitfield, *c.* 9. The boy's father 'being in debt married his son to Anne for a piece of money to discharge it' (p. 22).

1564, 15 April. John Somerford, 3, and Jane Brereton, 2, were married in Brereton church by agreement between Sir William Brereton and the boy's father. 'The boy was carried in a man's arms, who held him while the words of matrimony were in speaking. Another man carried the girl, and spake all or most of the words for her' (p. 25).

1565, 4 May. Alexander Osbaldiston, under 11, and Margaret Hothersall, 6-7. She was partly borne in arms and partly led to church (p. 34).

1565, 27 October. George Spurstowe, 6, and Bridget Dutton, 4-5, married in Rafe Dutton's private chapel. 'She could not perfectly speak the words of matrimony' (p. 38).

1565, 8 November. James Ballard and his wife Anne. She, when aged 10-11, enticed him with two apples to go to Colne church and marry her. If indeed our first forefather yielded to the temptation of a single apple, we can scarcely wonder that poor James took the double bait. But it was the curate who was punished, for the archbishop of York sternly reprimanded him for marrying this youthful couple at 10 p.m. (p. 45).

About this time four Dutton children, including Bridget, came into the consistory court for divorce, so that Sir Ralph was unfortunate in his alliances.

Another case, undated, was that of John Rigmarden, aged 3, who married a lady of 5. 'He was carried in the arms of a clergyman, who coaxed him to repeat the words of matrimony. Before he had got through his lesson the child declared that he would learn no more that day, and the priest answered, 'You must speak a little more, and then go play you' (p. xxii).

These and many others are cases in which disagreement had become so acute as to make separation necessary. We have no means of ascertaining the whole number of child-marriages in this country in any year, or the whole number of divorces, but eight suits were brought in 1565 in the single and comparatively small diocese of Chester. Considering the deterrent effects of publicity and the

expense of ecclesiastical litigation it would certainly be safe to assume that the marriages broken at ripe age were but a small proportion of the whole number, and that most child-marriages were quietly acquiesced in when the parties came to years of discretion. Had it not been so the custom would before this have died a natural death.

The attitude of the Church of England all along from the twelfth century at least, was simple acceptance of the custom, and the clergy performed the marriage rites. From this point of view an interesting case occurred in 1582, when Richard Brooke, aged nearly 11, married Joan, aged 9, daughter of William Chaderton, bishop of Chester. Their marriage was ratified in the bishop's court in 1586 (p. xxii). After this child-marriages still continued. In 1606 the earl of Essex, aged scarcely 14, married Frances, aged 13, daughter of the earl of Suffolk (p. xxix). In 1666-7 Elizabeth, heiress of the Percies, at 12 years 2 months, married the son and heir of the duke of Newcastle. On 20 May, 1673, the earl of Aylesbury wrote in his diary: 'This morning, about 10 of the clock, at Lambeth, the archbishop of Canterbury married my grandson, John Power, not 8 years old, to Mrs. Catharine Fitzgerald, his cousin german, about 13 years of age. I gave her in the chapel there, and they answered as well as those of greater age. The wedding dinner and supper I gave them . . . I did duties and commended them to God's blessing.' John Power afterwards became second earl of Tyrone (p. xxxi, from *Hist. MSS. Com.*, 1893).

In Scotland, however, an act of assembly was passed in 1600 'to correct divers and great inconveniences arising from the untimely marriage of young and tender persons,' and it was ordered 'that no minister presume to join in matrimony any persons in time coming except the man be 14 and the woman be 12 years of age complete.'

An extract which the Rev. H. L. L. Denny has kindly sent me from the will of his direct ancestor, Sir Anthony Denny, in 1549, illustrates the customs of wardship and early marriage as practised at that time by a kindly and provident father: 'I will that my said children and wards, if they may be persuaded thereto, and my said wife and executors shall perceive tokens and agreement of faithful

love, shall be coupled and married when they come to their lawful years of consent (i.e. 14 and 12 respectively) in such sort as followeth: Margaret, the eldest daughter of the late lord Audley of Walden, sometime lord chancellor of England, I will shall be given in marriage to my son . . . I will also that my daughter Anne shall be married to the son and heir of the lord high chancellor of England, both parties being so agreed, who of friendship, for the sum of £500 to be paid, hath concluded and consented with me for the performance thereof. My second daughter Mary, to be married to my ward, the son and heir of Sir John Shelton . . . or that my friend Sir George Cotton be moved for his son and heir for some reasonable sum. My third daughter Douglas . . . to be married to Sir George Somerset's son and heir, whom I have for certain years nourished with mine in my house for that intent.'

Burke does not mention these marriages.

CLANDESTINE MARRIAGES.

As now, so in medieval and later times, young couples sometimes eloped. Occasionally punishment fell upon those who connived at the escapade, as on 20 December, 1458, when Walter Crepehogg, who promoted a clandestine marriage, was adjudged to be whipped three times round the market at Rochester, and as often round his parish church, carrying in his hand as a penitent a torch, valued at 6s. 8d, which he was to present to the altar in Rochester cathedral. He was to present another of the same value to the altar of St. Blaize in Bromley church.¹

The following account of a clandestine marriage occurs in the consistory records at Chester, at a libel action on 4th May, 1565. George Haydocke, a witness of Blackburn, deposed 'that the parties, being free from all precontracts, as he thinks, did draw together in way of love or marriage, and Thomas Southworth (the young man) perceiving that the friendship and good will of the parents of the said Margaret could not be had, did on a certain night,

¹ *Archæologia* xii, 19. Acts of consistory court, Rochester.

viz., upon Michaelmas day at night, how long since he knows not perfectly, repair to the father's house of the said Margaret, and then and thence took her away with him by her free consent, and conveyed her to the chamber of one Sir Edmund (what his surname was he knoweth not), a priest that served at Balderston chapel, which chamber standeth about 2 or 3 bowshot from the said chapel, and the said priest is now dead, and when they were come thither one Edmund Levyer did open the door and did let them in, and there was a book of service which the said Sothworth (as he thinks) brought thither from a neighbour of the priest's, and then the priest sitting up in his bed upon his pillow (being a very old and sickly man) did marry them together as he thinketh. Being asked of the time, the words and the manner of the doing, and who were present by, he saith that it was about midnight, and what words were spoken between the parties he certainly cannot declare because he did not mark them well, but he says he heard the said Thomas say to the said Margaret, 'I take thee, Margaret, to my wedded wife,' and heard the said Margaret say to the said Thomas, 'I take thee, Thomas, to my wedded husband,' and of more words he cannot certainly depose. And further he says, gold and silver was put on the book, and a ring put on her finger by the priest. And sayeth further that to his knowledge there was no bodie by but this deponent, the parties, and the priest.' His evidence was corroborated by Edmund Levyer, the priest's servant, who looked through the half-open door.¹

THE PUBLIC COUCHER.

With what grace I may, I will in conclusion allude to a custom which prevailed in France, and perhaps to a limited extent in England. We saw that at the persuasion of the priest, John Bridge, aged 13-14, slept with his little wife on his wedding night, but turned his back upon her. In another case the young bridegroom was placed on one side of the bed and his bride on the other, her two sisters

¹ F. J. Furnivall, *op. cit.* p. 65.

being laid between them (p. 15), but otherwise I have not found mention of this custom in England. More commonly the couple separated, at least until they were of the ripe ages of 14 and 12.

In France two conspicuous instances were mentioned by Mr. Hugh Noel Williams in his books, *Unruly Daughters of the House of Orleans* and *A Princess of Adventure*. In December, 1720, Louise-Elisabeth, daughter of the duke of Orleans, and aged just 12, was married in Spain by cardinal Borgia to the prince of the Asturias, eldest son of king Philip V. In the evening, after a grand ball, there was a public coucher at the insistence of the French, but somewhat to the scandal of the sedate and dignified Spanish grandees, to whom the custom was strange. The whole court saw the young couple put to bed and the curtains drawn; but when the company had departed, the little prince, bitterly weeping, was pulled out of bed and sent to his own rooms. Nevertheless an officer was sent to Versailles to announce the due consummation of the marriage, and received from the French king a handsome reward for his welcome tidings.

On 17 June, 1816, Charles-Ferdinand, duc de Berry, nephew of king Louis XVIII of France, married at Paris Maria Carolina, aged 17½, daughter of king Francis I of the two Sicilies. 'After admiring the illuminations, his Majesty proceeded to the Elysée to assist at the last ceremony of the day, the public consummation of the marriage. The grand almoner, bishop of Amyclea, having pronounced the benediction of the nuptial couch, the newly wedded pair entered it in the presence of the king, the royal family, and their household, who then defiled past the bed in order of precedence, bade them good-night, and withdrew.' This was announced next day in the columns of the *Moniteur* and the *Journal des Debats*.

Autre temps, autres mœurs. In France, the land of change, it is likely that they say now '*Nous avons changé tout cela.*' Our grandfathers would have quoted *tempora mutantur et nos mutamur in illis*; at any rate no one of us, however much a *laudator temporis acti*, would care to revive all the matrimonial customs of our distant forefathers, or can conscientiously regard the medieval period,

with which in the main we have been concerned, as pre-eminently the golden age of matrimony.

The feudal system, which by its discipline made England strong, and by its chivalry made England noble, has passed away. Some of its products tended to the curtailment of liberty, and some, as we have seen, to the abuse of the sacrament of marriage, but I think we may allow that many of the best and most permanent characteristics of our race have resulted from that infusion of Norman blood which we drew from the Conqueror and his followers. They erected a vast and intricate scaffolding, behind which surely and silently a splendid edifice arose. The scaffolding has been removed, but the great building remains, and it is for us to adorn it with the virtues and graces of our modern civilisation.

The old order changeth, yielding place to new,
And God fulfils Himself in many ways,
Lest one good custom should corrupt the world.