X

THE BROKEN MARRIAGE IN EARLY MODERN ENGLAND: MATRIMONIAL CASES FROM THE DURHAM CHURCH COURTS, 1560–1630

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FRAGILITY OF personal relationships is not usually associated with our ancestors, who are commonly supposed to have persevered with conventional forms of family life for long periods without complaint. Yet recent research in Scotland and England suggest that, on the contrary, earlier periods were characterized by great uncertainty and variability in forms of family life: much of the problem centred around marriage.[1] Partly this was the inevitable outcome of imperfect secular or ecclesiastical regulation of the process of forming and recording marriages. As long as both state and church authorities accepted the medieval view that an informal, unrecorded and unsolemnized contracting of consenting partners, before any church ceremonial, constituted a valid marriage, there would always be some whose precise relationship would be open to question. Because of the popular uncertainty as to what form of words or actions constituted this mutual contract (spousals or "handfasting" as it was commonly called), there would also be doubt as whether even that ritual had been properly performed.[2] In addition, although the contract had been made, there might still be time for withdrawal or denial, something that would have been impossible, or at least difficult, after a full church wedding. The failure to establish either a church or state monopoly over marriage therefore left a hiatus between the contract and the wedding when a couple, though supposedly validly married, might yet repudiate or dissolve their relationship. The reasons why this occurred form the main focus here, though in addition the few genuine divorce cases will be examined to see what kinds of solutions were adopted to disastrous marital relationships. This will indicate therefore the different forms of marital breakdown at different stages in the relationships of couples who came before the courts.[3]

If a marriage contract had been made and then broken by one of the partners, the place to attempt a legal enforcement was the church courts. While many of the church courts, such as the touring visitations, dealt with the presentment and punishment of miscreants (especially sexual offenders and religious defaulters and dissidents), the Durham-based court of the consistory largely handled the crucial business of regulating and enforcing tithe payments, proving wills and testaments, and judging disputes such as slander and matrimonial suits. Most of the consistory cases were instigated by individuals rather than church officials. Thus many

disappointed people pursued their errant partners in cases which formed the bulk of the matrimonial causes brought before the consistory. Others were trying to deny rumours of their handfasting to particular persons (who presumably had spread them).[4] Consequently the court heard many details of private affairs which would otherwise have gone unremarked, and which provide some clues as to the hazards of forming successful (that is, enduring) unions during the early modern period. While it would be an exaggeration to describe England, or the north east in particular, as one largescale Gretna Green at this time, there was sufficient doubt about the exact marital status of some people, at least, to make the issue of marriage a perennial, though not a dominant, feature in church court business.[5]

One difficulty faced by couples was that of accidental rupture of their relationships. This was particularly likely when the men concerned were involved in dangerous occupations such as seafaring and military service. For example, two or three days after the contracting of Thomas Manwell and Helinor Colson in Newcastle (in the early 1570s), at which they plighted their troth and exchanged tokens of marriage, the couple were separated by Manwell's departure for sea. He was absent for more than two years, during which his brothers, believing him dead, seized his goods, and Helinor betrothed herself to another man on the assumption that she was now free. Returning unexpectedly, Manwell had to establish the validity of his marriage, drawing upon testimony from witnesses who expressed their belief that the couple were married "before God".[6] A similar case was brought in 1609 by John Reed, also of Newcastle, who had been contracted to Alice Brown two years previously. The contract had been properly made in the house of Alice's parents, and a property deed drawn up providing the couple with the house and land (Alice being the only child). They took possession immediately after the handfasting, and prepared for their wedding by buying the "wedding gear or garments"; but John was pressed into service in Ireland, and he persuaded Alice to remain behind. It was two years before he returned to claim his "wife". It is interesting to note how in this case witnesses used different terminology: one called the careful family ritual of handfasting a "marriage", whereas the other distinguished it from the church ceremony for which he reserved that name. Possibly there were few clear linguistic rules at this time to distinguish the two forms, either of which would create a binding union.[7]

There must have been many other instances of abrupt geographic movement producing breakdowns in apparently established relationships. So it was perfectly possible for alleged previous spouses to turn up alive and well many years later (fourteen or twenty-four years even, in two consistory cases).[8] While the accidental causes of breakdown may have been unusual, the essence of these cases—the attempt to enforce an alleged pre-contract after one partner had married a third person, is typical. Other causes of breakdown lay not with the chance physical separation of the couple but rather with the failure of the social process that was necessary to produce a successful union. There were a number of difficulties that could interrupt this process: one partner might have a change of mind, or be subject to familial pressure to withdraw, or both might be called upon to abandon the

relationship if there could be no agreement reached in the negotiations between the two sides on property endowments. For these and other, more idiosyncratic reasons, the union might never be fully established, socially if not legally: it was this fundamental conflict between social customs and the letter of the law that allowed these breakdowns to occur.

Personal betrayal or one-sided repudiation of the relationship was most often found in the predictable cases of men avoiding enforced marriages to their pregnant lovers. This naturally resulted in a number of women forlornly pursuing them in the courts, bringing witnesses to give evidence of the vacillatory and vague promises the men had made to them. Such cases sometimes involved servants which usually forced their masters or mistresses to take a hand in the proceedings, since it was an offence to harbour women with bastard children without presenting them to one of the visitations.[9] So, in one 1856 case from the Windlestone area John Eden tried to sort out the exact nature of the promises exchanged between two of his servants, one of whom had become pregnant. The man in the case admitted that the girl was married (but dodged the question if it was to him). Eden testified that the man had said "I will never marie other women but the so long as I live", but this promise did not constitute the direct pledge ("I take thee . . .") that made a valid union.[10] In other cases the negotiations were conducted by parents who were anxious to see their daughters property settled, and the threat of a case brought against the man (presumably for either fornication or maintenance) sometimes had the effect of inducing a promise to marry the girl.[11] Usually in these cases it was alleged by the woman's side that a private contract of marriage had been made (secretly in the case of servants forbidden to marry under the rules of their contracts with their masters and mistresses), and that the man had reneged on it. In one remarkable presentment of 1602 a woman, Elizabeth Marshall, pregnant by John Robinson, refused the offer of marriage and ordered the suspension of the banns. He had, she said, much wronged her and "dispoilled hir of hir virginity", and had, besides, two children by another woman to whom he had also offered marriage (on condition that she bring ten pounds with her). His mother testified that he had earlier despoiled this women of her virginity too. In these circumstances, Elizabeth Marshall clearly preferred a legal kind of vengeance and her freedom to the proffered marriage.[12]

More commonly, however, the interruption in an apparently established relationship stemmed from the complicated and delicate negotiations either between the couples and their friends or kin on both sides for permission and support, or among the latter over property settlements. The role of family and friends in the formation of marriages was not strictly accepted by church law, but the kinds of sanctions available to parents in particular meant that in practice marriages could be made or broken by the attitudes of kin. These sanctions, ranging from denial of inheritance to the threatened or actual use of force, were usually sufficient to guarantee that children chose spouses in accordance with their parents' or elders' wishes.[13] There is evidence from the Durham court cases that family pressures resulted in numbers of relationships which, while technically valid and

binding, had been forcibly broken: for family purposes, free choice was a distinct luxury. Thus there are a few cases of people being forced into marriage when minors (at eight years old in one instance), or forced out of one relationship into another.[14] Typical of the latter is the problem faced by Janet Barras of Whickham (Durham) in 1570: she had contracted herself to a man of her choice earlier in the year, in a ceremony held in the orchard behind the local parsonage. Yet at midsummer her father overrode this union and forced her into another match with a man he favoured. Both ritual contracts were performed with the correct verbal formula and witnessing of mutual pledges; but the first must have been her preference, for the man in the second had to bring a case against her to enforce his "marriage". Janet must have held out against her father.[15] A similar case was that of Anne Newbie of Farlam (Cumberland) in 1605, who secretly tried to contract herself to the local curate while her father forced her into a marriage with a man to whom he was master.[16]

As well as outright parental opposition, there was a more materialistic difficulty that often led to broken relationships, that is, disagreements over property. During this period it was normal for both sides to negotiate about the "worth" of each partner, so that a marriage would be based on mutual contributions that were seen to match in some way. The Durham cases do not reveal the rigidity of the aristocratic strict settlement as it evolved by the late seventeenth century, but it is clear that, even for the poorest, there was a norm of dowry for the brides and transference of parental property to the grooms to ensure the financial future of the couple. This had the inherent effect of tending towards class intra-marriage, with properties carefully calculated and rated equivalent so as to avoid ill-matched unions.[17] So it was not uncommon for an otherwise desirable relationship to founder if the promised and agreed contribution was not forthcoming. The content of the contributions seems to have varied, some items being interchangeable or substitutable within an agreed total monetary value. So a "bride wain" or wagon might be part of a woman's settlement from her parents, or ten pounds instead. In other instances different quantities of cattle or sheep were carefully assessed to make up the right totals.[18]

Such a procedure was bound to lead to difficulties if precise agreement had not been reached *before* the couples were handfasted. Sudden economic difficulties could result in the abrupt cancellation of the marriage by one side. One self-defensive father, a Newcastle tanner, admitted in 1570 that his natural son had suffered a steep decline in his fortunes, from twenty nobles (£6 13s 4d) to less than twenty shillings. The alleged bride brought ten pounds in goods, and was worth four pounds a year in land and houses. Her father-in-law would contribute five pounds, bringing the two sides into a rough parity. Despite the sudden imbalance, he said that he regarded the couple as evenly matched at the time, and confirmed the propriety of the contract, with the correct words and exchange of rings. This match was nevertheless broken by the woman after the financial circumstances had changed.[19] Other reasons for the rupture might be a straightforward failure to pay the full amount. So in a 1567 case one prospective father-in-law imposed a

condition of twenty marks on his daughter's suitor, half to be placed with a third party before the handfasting. Despite this caution, the second half was not produced, and the hopeful suitor asked his alleged father-in-law to lend him the money: the marriage was cancelled, with the suitor alone alleging that a binding union had been established.[20] Other deals broke down through misconduct or quarrels: in one 1606 case from the Newcastle area, a woman followed the handfasting by seizing some of her husband's goods (wool is mentioned), and converted them to her own use. His reaction to this seemingly led her to break off the relationship, leaving him to bring the case against her, a desirable bride since she brought with her father's goods and all his "household stuffe".[21]

Some negotiations followed the contract, providing an excuse for reneging as the bargaining turned to haggling. In 1608 a Houghton man, William Nicholson, asked for ten pounds from his wife's family, and was more than satisfied with the twenty marks promised by the father-in-law. However, he had clearly wronged his bride in some unspecified way, and was heard by one witness to say that there was one point in the negotiations as a result of which, if his wife and her friends could "sift" it, he might be forced and compelled to marry her. Clearly he was a man searching for an excuse to withdraw between the contract and the wedding, and must have done so since he is answering the women's case against him.[22] In these cases the property offered for a particular relationship was probably weighed against the alternatives. This seems to have occurred in 1620, when George Kirkbye of Durham City, whose family demanded forty pounds as a dowry for his marriage to Edith Veapond, was apparently settled for thirty pounds and two years "table" at Edith's father's house. However, George's family (amongst whom an uncle and a cousin were the key figures) were clearly unhappy with this; in addition, there were rumours of a rival prospective bride, which may have been true since Edith had to bring the case to enforce a union that had resulted from a four year long courtship.[23]

It should not be thought that all these handfastings were ambiguously worded or badly witnessed, leaving a loop-hole through which one or both parties could escape. There were sometimes great formality and careful organization in the ceremony, performed with maximum publicity so that it could be well known in the community.[24] The difficulty arose because while the contracting ritual was sufficient for the legal creation of a marriage, the practical, social, foundations required considerably more. Above all it was essential, if a union was to last, that there should be the full agreement and support of the kin and friends on both sides, for if there was the slightest dissent a defector could easily find support for breaking the relationship. Just as marriages were made in society not in heaven (let alone in church), so social factors led to their un-making, leaving the church courts to sift through the pieces for some solution that was both legal and socially acceptable.

While most of these cases involved an appeal to the consistory to enforce a contracted union after it had been allegedly broken, there were a few that concerned petitions for divorce arising from long-established and publicly accepted marriages. These usually resulted from the extravagant (and blatant) bad behaviour of one of the couple. Strictly, the cases were for judicial separation

rather than complete annulment which was rarely granted except on the grounds of coercion (especially of minors) and non-consummation.[25] Three cases before the Durham consistory in 1610 arose from the adultery of one partner (two women and one man), which in two of them resulted in the birth of an illegitimate child. Thus Ralph Carr of Felton (Northumberland) brought a case against his wife Jane because of her adultery with a Scotsman and the subsequent birth of a child that was publicly baptized.[26] Similarly Margaret Pigg finally lost patience with her husband William six years after he had brought a bastard son of his into church at Beltingham to be baptized. The child's mother, their servant Elizabeth Crewe, apparently stayed in their household for three or four years after this, and at the time of the court case the child was still living with his father. At the baptism William had had to admit the paternity and confess to adultery.[27] A more serious, and more unpleasant, case was that of William Newton against his wife Alice. She and Richard Waules had been found in adultery twice, first in her house, then in his. After the first time Waules had been whipped and she "carted" through the city of Durham. On the second occasion, outraged neighbours called the constable, and at the time of the divorce petition the couple were still in gaol. The witnesses, one of them a curate, seem unrelievedly harsh on the offenders, and made clear their sympathy for the husband of such an incorrigible woman who had once left the county with her lover and lived with him for more than a year.[28]

Some cases of adultery extended into bigamy, and then it was equally possible for a divorce suit or immorality charge to result. This is clear from the different legal fates of two bigamous men who came before the consistory to answer divorce cases brought by one of their wives. In 1572 one forty-year old man, Thomas Crawe, originally from Nottinghamshire, admitted that he had been previously married to Alice Harrington seventeen or eighteen years earlier, but had still contracted himself to a local woman, Alies Rose, in Witton-le-Wear some years later, after his arrival in Durham as a refugee from justice (he had wounded a priest). The case had arisen because the first wife had arrived and, after confronting the second, sued for divorce. Both marriages had been formed by church weddings, and the church brought a charge against Crawe and Rose, probably for bigamy or adultery.[29] Similarly, but with no hint of official action, Robert Piercy of County Durham admitted that he had married Agnes Davison from the Carlisle area who was then suing him for divorce; after being pressed into service in Berwick he had lost contact with her and was subsequently "driven and forced" to marry Agnes Neid under threat of penance. They were married in church, in contrast to the first union which was made by handfasting. Later, Agnes Davison caught up with him, and was maintained, according to the second wife, as his mistress ("hoore and harlett") in Berwick. Piercy was lucky to face nothing more than a divorce suit.[30]

There are few hints in these documents of any systematic use of popular divorces, such as those carried out by wife-selling, the subject of a recent comprehensive study.[31] While there are many cases before the courts (especially the visitations) of men living with women other than their wives, it is not clear exactly what had occurred. One presentment before the consistory shows this might be organized

within a single family. In 1619 Thomas Proctor was alleged to have "put away" his wife, and to be living "naughtily", to the scandal of his neighbours in Hesleden and Castle Eden, with his son and daughter-in-law. The latter was said to have both the charge of his milk parlour and the "government" of his house. His wife was living elsewhere, helped by their daughter; the allegation specifically stated that the daughter-in-law had supplanted the wife.[32] This case illustrates the considerable dangers of confining the study of family relationships to a single household, for frequently they were far more complex than appears at first sight.

One much-neglected aspect of the work of the church courts was their role as conciliators in troublesome marital affairs. It seems likely that the clergy were often used as mediators and organizers during handfastings, to judge from the number of occasions they appear as witnesses or masters of ceremonies.[33] So, too, it seems likely that reconciliation was a frequent aim of the judges in court, since few suits, matrimonial or slander, seem to have come to a decisive conclusion. In cases of differences between married couples, the courts had to listen to the *minutiae* of family squabbles while searching for some common ground. In the cross-cutting cases brought by Agnes and Thomas Carr of Durham City against each other in 1568, for example, witnesses testified to the mutual recriminations that led to the breakdown of their relationship. They had been in court previously, and Thomas had been ordered to take Agnes home with him and treat her properly as a wife deserved. But, a witness affirmed, he would not have her in the house or allow her to serve him food and drink, and sexually assaulted her (after which he insultingly gave her money). There was a hint that Thomas was living "suspiciously" (that is, in adultery) but the details were omitted or unknown.[34] In a 1573 case, too, a Morpeth woman was desperately trying to be reconciled to her husband by establishing in court that he had no just cause to be "sundered" from her: in this instance she brought evidence of the dubious and unreliable character of his witnesses.[35] Both these cases indicate the extent to which the status of marriage, and the public recognition of that status, was of vital importance to women.

These Durham cases illustrate the diverse difficulties faced by the church courts in the early modern period. The legal validity and social importance of the private contract of handfasting placed control of the creation and dissolution of marriages almost beyond the reach of the ecclesiastical authorities. The social processes of making and breaking unions therefore left the church holding inquests on what were essentially *faits accomplis*. Even when a marriage was arranged and made publicly, legally, binding through a church wedding, there would still be problems of apparently bigamous individuals and disputatious partners over whom the courts would have to pass unsatisfactory judgements. The policing of marriage in this system depended ultimately on the public reputation of the ecclesiastical courts; they could only continue to enforce contracts, sanction separations or exhort reconciliations as long as this trust lasted. There are signs that in the north-east of England, as elsewhere, the matrimonial business of the courts declined after 1660, mainly because of growing mistrust of, and contempt for, their decisions. As a result, according to Gillis, reliance on handfasting and private contracts was

replaced by manipulation of the official church wedding through many illicit, clandestine, marriages. While these were numerous in the earlier period, as records of visitations in the Durham diocese reveal, they became the dominant way of achieving a marriage free from external constraints. As Gillis points out, "the participants might be disciplined, but their unions were indissoluble".[36] Just as before, when failure to follow a private contract with a wedding was an offence which did not annul the union, clandestine marriages in the late seventeenth and early eighteenth centuries were valid but illegal. It seems, therefore, that in the course of the seventeenth century dubious private contracts were replaced by equally questionable weddings; the problem of family control and official certainty remained, but the form of the difficulty had changed. As Gillis comments, "by resorting to a clergyman or layman who was willing to perform a marriage service without the usual restrictions on time and place, couples were able to circumvent both parental and parish authority".[37] Only with the 1753 Act (Hardwicke's) that introduced stricter controls and an ecclesiastical monopoly into the marriage process was this situation significantly altered.[38]

Finally, there is a difficult problem of relating these features of this "underground" culture of marriage to the undoubtedly strict measures taken against immorality by the secular authorities. Studies such as that by Quaife show that in some circumstances the penalties imposed by magistrates for committing adultery or producing illegitimate children could be severe, involving both corporal and custodial punishment. This was particularly so for women in bastardy cases when, Quaife notes, "punishment of the male was rare".[39] The suspicion is that such severity was a tactic in forcing the mothers of bastards to identify the fathers, thus allowing the authorities to unburden themselves of any financial responsibility.[40] Yet in many bastardy cases the precise marital status of the couple must have been unclear, and any secular prosecutions must have awaited the judgements of the church courts. So far, no studies of parish records have established if children originally called "bastards" were later reclassified as a result of ecclesiastical legal proceedings.[41] While official actions against immorality required a swift and certain identification of the marital status of the accused, in some instances, as we have seen, this could be exceedingly difficult and necessitated a complicated sociological investigation of life-histories. Speedy justice would have been impeded by the complexity of personal relationships. In this respect the factors that led to broken marriages in early modern England also rendered more difficult the public enforcement of formal morality. This would have reinforced the impulse to reform marriage by taking it out of private hands and making it more firmly subject to public scrutiny and clerical control. Only then would the kinds of cases reviewed here become easily preventible and offenders readily identifiable for censure and punishment.

NOTES AND REFERENCES

[1] See R. B. Outhwaite, Ed., *Marriage and Society: Studies in the Social History of Marriage* (London, 1981), Introduction, Chapters II and IX.

[2] Outhwaite ibid.; P. Rushton, "The Testament of Gifts: Marriage Tokens and Disputed Contracts in North-East England, 1560–1630", *Folklife*, forthcoming.

[3] The research on which this article is based covered all the extant matrimonial and divorce cases identifiable in the depositions before the consistory court of Durham. There are 81 actual or probable matrimonial causes, 6 divorce and 5 intra-marital cases; all subsequent manuscript references are to documents in the Department of Palaeography and Diplomatic, Durham, unless otherwise specified.

[4] Cases described as "iactitation" of matrimony; they are comparatively rare. See R. Houlbrooke, *Church Courts and the People During the English Reformation, 1520–1570* (Oxford, 1979).

[5] F. Mount, *The Subversive Family—An Alternative History of Love and Marriage* (London, 1982), p. 75, "all England was one vast Gretna Green". In the Act Books (D.R., III, 5–9), there were about four cases a year: one hundred new cases in the twenty-four years 1595–1619.

[6] Thomas Manwell c. Helinor Colson, D.R., V, 4, f. 18; partially in J. Raine, *Depositions and Other Ecclesiastical Proceedings from the Courts of Durham*, Surtees Society, Vol. XXI (1845), p. 281.

[7] John Reed c. Alice Brown, D.R., V, 9 (unfoliated), 6th October 1609.

[8] Agnes Davison c. Robert Peircy (divorce), Raine *op. cit.*, p. 254; and the odd case of Janet Addamson (legal context obscure), D.R., V, 6 (unfoliated), 1st June 1594.

[9] See G. R. Quaife, *Wanton Wenches and Wayward Wives: Peasants and Illicit Sex in Early Seventeenth Century England* (London, 1979), for the use of this kind of source; also, for the enforcement of religious rituals, see P. Rushton, "Purification or Social Control? Ideologies of Reproduction and the Churching of Women after Childbirth", in E. Gamarnikow *et al.*, Eds., *The Public and the Private* (London, 1983).

[10] The direct pledge, *per verba de presenti*, was to be distinguished from a mere promise to marry later, *per verba de futuro*, which after the Reformation was not usually considered binding. Direct quotation from the case of Janet ——? c. Christopher Collinge, D.R., V, 3, f. 35 (1586).

[11] Janet Partus c. John Spaldforth, D.R., V, 8, f. 9v (1604).

[12] Evidence against John Robinson, on an unknown charge, D.R., V, 7 (unfoliated), 5th November 1602, exact residence of litigants unknown.

[13] See L. A. Pollock, *Forgotten Children: Parent–Child Relations from 1500 to 1900* (Cambridge, 1983), p. 266.

[14] Richard Hogg c. Anne Hogg and James Hogg, D.R., V, 7 (unfoliated), 5th November 1602.

[15] William Waldhoo c. Janet Barras, D.R., V, 2, ff. 212v, 219v, 220; note also D.R., III, 2, f. 336 a case of the office of the judge against Janet Barras and Richard Harrison (the first "husband").

[16] Published in great detail in Rev. Fr. J. B. Gavin, "Handley v. Newbie alias Shields: A Marriage at Farlam in 1605", *Trans. Cumberland and Westmorland Antiquarian and Archaeological Soc.*, LXX (N.S.), 1970; also in D.R., V, 8, f. 87 onwards.

[17] See L. Bonfield, *Marriage Settlements, 1601–1740: The Adoption of the Strict Settlement* (Cambridge, 1983); J. P. Cooper, "Patterns of inheritance and settlement by great landowners from the fifteenth to the eighteenth centuries", in J. Goody *et al.*, Eds., *Family and Inheritance: Rural Society in Western Europe, 1200–1800* (Cambridge, 1976); J. Goody and S. J. Tambiah, *Bridewealth and Dowry* (Cambridge, 1973).

[18] Henry Aire c. Jane Ridley, D.R., V, 8, f. 75v (1605); Anne Widdifield c. James Rose, D.R., V, 10b, f. 328 (1617).

[19] Christopher Robson c. Katherine Marshall, D.R., V, 2, f. 212v, or Raine *op. cit.*, p. 226.

[20] John Thompson c. Elizabeth Cowtman, D.R., V, 2, ff. 45v, 61, 65, 65v.

[21] Thomas Rey c. Chistable Brockett, D.R., V, 8, f. 137 (1606).

[22] Helinor Broughe c. William Nicholson, D.R., V, 9 (unfoliated), 3rd February 1608.

[23] Edith Veapond c. George Kirkbye, D.R., V, 11 (unfoliated), 9th March 1620; note that the contract had been witnessed by a curate, yet was still repudiated by Kirkbye.

[24] See Rushton, forthcoming, *op. cit.* For a

good published example of such a well-organized case, see Janet Ferry c. Martin Highe, D.R., V, 2, f. 293, or Raine *op. cit.*, p. 240.

[25] See Outhwaite *op. cit.*, Introduction, and F. J. Furnivall, *Child Marriages, Divorces and Ratifications etc., in the Diocese of Chester, A.D. 1561–6,* for the Early English Text Society (London, 1897).

[26] Ralph c. Jane Carr, D.R., V, 9 (unfoliated), March–October 1610.

[27] Margaret c. William Pigg, D.R., V, 9 (unfoliated), 19th October 1610.

[28] William c. Alice Newton, D.R., V, 9 (unfoliated), October–November 1610.

[29] Statement by Thomas Crawe, D.R., V, 2, f. 294v, or Raine *op. cit.*, p. 249; note the presentment of Crawe and Alice Rosse together, D.R., III, 2 (foliation destroyed, but dated to the end of October 1572).

[30] Raine *ibid.*, p. 254ff.

[31] S. P. Menefee, *Wives for Sale: An Ethnographic Study of British Popular Divorce* (Oxford, 1981).

[32] D.R., V, 11 (unfoliated), 17th April 1619; there seems to have been no anxiety about incest —see J. H. Blunt, *The Book of Church Law*, revised by W. G. F. Phillimore and G. Edwardes Jones (London, 1913) for the forbidden categories of kin in marriage. On household structure, see J. Hajnal, "Two kinds of pre-industrial household formation system", in R. Wall *et al.*, Eds., *Family forms in historic Europe* (Cambridge, 1983).

[33] J. R. Gillis, "Conjugal Settlements: Resort to Clandestine and Common Law Marriage in England and Wales, 1650–1850", in John Bossy, Ed., *Disputes and Settlements: Law and Human Relations in the West* (Cambridge, 1983); also Rushton *op. cit.*, forthcoming, for the presence of clergy as witnesses to Durham contracts.

[34] Agnes c. Thomas Carr, D.R., V, 2, f. 77; Raine *op. cit.*, p. 97 (1568).

[35] Alice Richardson's witnesses, Raine *ibid.*, p. 251; the witchcraft allegation in the testimony is discussed in P. Rushton, "Women, Witchcraft and Slander in Early Modern England: Cases from the Church Courts of Durham, 1560–1675", *Northern History*, XVIII (1982), p. 125.

[36] Gillis *op. cit.*, p. 265.

[37] *ibid.*, p. 264; he estimates that one quarter to one third of all marriages were clandestine by the early eighteenth century.

[38] Outhwaite *op. cit.*, Ch. VI, Roger Lee Brown, "The Rise and Fall of the Fleet Marriages".

[39] Quaife *op. cit.*, Chs. 9–11, especially; quotation p. 216.

[40] *ibid.*, pp. 218–220 for examples of this.

[41] T. P. R. Laslett *et al.*, Eds., *Bastardy and its Comparative History* (London, 1980).