

Women, Marriage and Sex in Early Tudor Ireland: Evidence from an Irish Act Book

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Preserved among the so-called 'Armagh registers' is an act book of the consistory and metropolitan court of Armagh that was compiled in the early sixteenth century. Its fortuitous survival facilitates a systematic study of how an Irish church court processed litigation concerning women's marriages or other sexual relationships, and their sexual reputations, and in doing so reveals a great deal about important aspects of the lives of women in early Tudor Ireland.

In 1985 Art Cosgrove published a pioneering paper on 'marital behaviour' in Ireland based on 'incomplete and haphazard records' of marriage litigation garnered from the early fourteenth to the early sixteenth century in a collection of essays on *Marriage in Ireland* which he edited.¹ He concluded that 'marriage practices in Anglo-Ireland did not differ markedly from those elsewhere in Latin Christendom'.² Reflecting the lack of progress in the subject in the interval, Cosgrove's paper was reprinted more than two decades later, 'with minor revisions', in a collection of essays on marrying in western Christendom.³ This article uses the

¹ Art Cosgrove, 'Marriage in medieval Ireland', in Art Cosgrove (ed.), *Marriage in Ireland*, Dublin 1985, 25–50 at p. 28. See also Margaret MacCurtain, 'Marriage in Tudor Ireland', which focused on marriage patterns from the Irish Reformation Parliament of 1536/7 onwards: Cosgrove, *Marriage*, 51–66.

² Cosgrove, 'Marriage in medieval Ireland', 47.

³ Idem, 'Marrying and marriage litigation in medieval Ireland', in Philip L. Reynolds and John Witte (eds), *To have and to hold: marrying and its documentation in western Christendom, 400–1600*, Cambridge 2007, 332–59. There has been more detailed

fortuitous survival of an act book of the consistory and metropolitan court of Armagh as the basis for a more systematic study of church court litigation involving women, concerning in particular their marriages or other sexual relationships, and their sexual reputations, in order to explore important aspects of the lives of women in a part of Ireland that was subject to the English crown in the early sixteenth century.

I

Among the so-called ‘Armagh registers’ is an act book of the consistory and metropolitan court of the diocese of Armagh dating from 1518 to 1522.⁴ It was one of seventeen volumes of records from the diocese to have survived into the seventeenth century before being bound c.1630 with another to form the ‘Register of Primate Cromer’.⁵ George Cromer was the archbishop of Armagh and primate of all Ireland from 1521 until 1542.⁶ Armagh’s consistory court operated in County Louth, the most northerly shire of the English Pale in Ireland, an area subject to English royal

investigation of the differences in the laws relating to marriage in Gaelic Ireland and Anglo-Ireland, and how they affected women, especially those women who crossed the cultural divide during love affairs, concubinous relationships or marriage: Gillian Kenny, ‘Anglo-Irish and Gaelic marriage laws and traditions in late medieval Ireland’, *Journal of Medieval History* xxxii (2006), 27–42, and ‘When two worlds collide: marriage and the law in medieval Ireland’, in Cordelia Beattie and Matthew Frank Stevens (eds), *Married women and the law in pre-modern northwest Europe*, Woodbridge–Rochester, NY 2013, 53–70; Sparky Booker, ‘Intermarriage in fifteenth-century Ireland: the English and the Irish in the “four obedient shires”’, *Proceedings of the Royal Irish Academy*, 113C (2013), 219–50. See also Gillian Kenny, ‘The power of dower: the importance of dower in the lives of medieval women in Ireland’, in Christine E. Meek and Catherine Lawless (eds), *Studies on late medieval and early modern women: pawns or players?*, Dublin 2003, 59–74; Clodagh Tait, ‘Serial marriage in Tudor and early Stuart Ireland’, in Salvador Ryan (ed.), *Marriage and the Irish: a miscellany*, Dublin 2019, 44–6.

⁴ The original text survives in the Public Records Office of Northern Ireland (PRONI), MS DIO 4, 2, 11. Transcripts made by William Reeves may be consulted in Armagh Public Library (D. 4) and Trinity College, Dublin, MS 557, 12. An edition of the text has been published by the Irish Manuscripts Commission: *The act book of the diocese of Armagh, 1518–1522*, ed. John McCafferty, Dublin 2020. The folio references that follow are drawn from PRONI, ‘Cromer’s register, book 1’. The calendar entry numbers, indicated by brackets, are drawn from McCafferty’s edition of the act book.

⁵ W. H. G. Quigley and E. F. D. Roberts (eds), *Registrum Johannis Mey: the register of John Mey, archbishop of Armagh, 1433–1456*, Belfast 1972, pp. xvi–xxi; John McCafferty, ‘Defamation and the church courts in the early sixteenth-century Armagh’, *Archivium Hibernicum* xlvi (1994), 88.

⁶ Henry A. Jefferies, ‘Dr George Cromer, archbishop of Armagh (1521–1543), and Henry VIII’s reformation’, in Art J. Hughes and William Nolan (eds), *Armagh: history and society*, Dublin 2001, 217–44.

authority.⁷ The shire's landed and mercantile élites were English by descent and identity.⁸ Its structures of landholding and its economy were comparable with those of England. Its institutions of government at central and local levels, and its law courts, were modelled on those in England.⁹ In County Louth Armagh's consistory court operated within the aegis of English common law.

On the other hand, most of the people who lived in County Louth were Gaelic Irish, a fact reflected in the Armagh act book because most of the individuals named within it had Irish surnames. Sixty per cent (55 of the 91) of the women named had Irish surnames. Indeed, most of them incorporated the Gaelic prefix *Ní* in their surnames to denote the female gender. Women form a more representative sample of data for determining the ethnic balance in the county than the many more men named in the act book because the propertied élites and the office-holders who featured very disproportionately in the book were mostly of English descent. Among the parish clergy of County Louth in the early sixteenth century 36 per cent of the rectors and vicars who can be identified had Irish surnames, and they tended to be confined to the poorer benefices by anti-Irish discrimination in the colony, while 75–83 per cent of the even more poorly-paid unbeneficed parish priests who served most of the parishes and chapelries in the county had Irish surnames.¹⁰ The number of priests and people with south Ulster surnames is striking, and reflects Irish migration into County Louth while many of its English inhabitants had been migrating to England since the Black Death.¹¹ Sparky Booker has shown that although there was a significant degree of cultural exchange between the two ethnic communities across the Pale, '[a] fundamental characteristic of the ... region was its considerable and growing Irish population'.¹²

None the less, such was the English character of County Louth that the Church there was designated as the diocese of Armagh *inter Anglicos* in the archiepiscopal registers. It was organised and operated very much like

⁷ Brendan Smith, *Crisis and survival in late medieval Ireland: the English of Louth and their neighbours, 1330–1450*, Oxford 2013; Sparky Booker, *Cultural exchange and identity in late medieval Ireland: the Irish of the four obedient shires*, Cambridge 2018; Steven G. Ellis, *Ireland's English Pale, 1470–1550: the making of a Tudor region*, Woodbridge–Rochester, NY 2021.

⁸ For a discussion of this colonialist *mentalité* see Ellis, *Ireland's English Pale*, 10.

⁹ D. B. Quinn and K. W. Nicholls, 'Ireland in 1534', in T. W. Moody, F. X. Martin and F. J. Byrnes (eds), *A new history of Ireland, III: Early modern Ireland 1534–1691*, Oxford 1976, 21, 23; Steven G. Ellis, *Reform and revival: English government in Ireland, 1470–1534*, Woodbridge–Rochester, NY 1986, and *Ireland's English Pale*, 1–13.

¹⁰ Henry A. Jefferies, *Priests and prelates of Armagh in the age of reformations, 1518–1558*, Dublin 1997, 19–56.

¹¹ Smith, *Crisis and survival*, 200–1, 219–20.

¹² Booker, *Cultural exchange*, 45–86 at p. 45.

the Church in England.¹³ Its bishops were almost invariably English-born. John Kite, archbishop of Armagh (1513–21), was educated at Eton College and Cambridge University, and graduated with a degree in canon law.¹⁴ He became a chaplain to Henry VIII and a confidant of Cardinal Thomas Wolsey. He was the king's ambassador to Charles V in 1518/19.¹⁵ When he found a return to Ireland uncongenial he was translated to the diocese of Carlisle in 1521. Kite's successor at Armagh was another of Henry VIII's chaplains, Dr George Cromer, an Oxford graduate. Interestingly, he was provided to the Irish diocese by Pope Leo X at the same time as Henry VIII was granted the title of 'Defender of the faith' in acknowledgement of his *Assertio* against Luther.¹⁶ It cannot be proved that that conjuncture was more than a coincidence, but Cromer's Catholic convictions were manifest subsequently when he was implicated in the Kildare rebellion of 1534/5 wherein the rebels subscribed to oaths in favour of the pope and the Holy Roman emperor against the by-then 'accursed' Henry.¹⁷

The judges of Armagh's consistory court were almost invariably graduates of Cambridge or Oxford universities.¹⁸ Alexander Plunkett, Archbishop Kite's vicar-general, was a local man of English descent who graduated from Cambridge.¹⁹ Cormac Roth, Armagh's official principal from 1521 to 1540, was a local man of Gaelic Irish descent who graduated from Oxford.²⁰ Other judges, most notably James White, archdeacon of Armagh, and Thomas Noter, cannot be traced in the Cambridge or Oxford registers but they were titled 'magister' in contemporary records, denoting that they too were university graduates, as was the court's notary, William Lukin.²¹

Not surprisingly, given the English training of the senior officials of Armagh's church court, its procedures directly matched those of English

¹³ Jefferies, *Priests and prelates*, passim.

¹⁴ D. G. Newcombe, 'John Kite, archbishop of Armagh and bishop of Carlisle, d. 1537', *ODNB*, <<https://doi.org/10.1093/ref:odnb/15693>>.

¹⁵ Kite was, in fact, typical of the men of high calibre promoted to Irish dioceses by the English crown in the early Tudor era: Henry A. Jefferies, *The Irish Church and the Tudor reformations*, Dublin 2010, 40–1.

¹⁶ Jefferies, 'Dr George Cromer', 218.
¹⁷ Richard Stanihurst, 'The description of Yreland, from the first originall, until the yeare 1547', in Raphael Holinshed, *The chronicles of England, Scotlande and Irelande*, London 1577, 91; Jefferies, *Priests and prelates*, 135–7.

¹⁸ That was also the case in England's contemporary church courts: R. H. Helmholz, *Marriage litigation in medieval England*, Cambridge 1974, 142–3.

¹⁹ *Act book of the diocese of Armagh*, p. xix.

²⁰ A. B. Emden, *A biographical register of the university of Oxford, 1501–1540*, Oxford 1974, 492; Jefferies, *Priests and prelates*, 45.

²¹ Archdeacon White: Cromer's register, i, fos 6r (18), 8r (21), 17r (37), 40r (58), 42r (59), 43v (61), 47r (65), 48r (66), *et seq.*. Thomas Noter: Cromer's register, i, fos 50v (67), 54v (72), 55v (74), 56r (75), 57r (76), 58r (77), 59r (78), 60r (79), 61r (80) *et seq.*. William Lukin: Cromer's register, i, fos 55v (74), 100v (126).

courts.²² Instance suits, which may be likened to civil suits in secular courts, were initiated by individuals on their personal volition with the submission to the court of a libel, a statement outlining the charge made against the defendant(s), which was read aloud in the court.²³ A court officer called an apparitor was then commissioned to issue citations to the plaintiff(s), the defendant(s) and any known witnesses, ordering them to appear before the court on a specified day.²⁴ The accused was given a written copy of the libel, together with a citation.²⁵ Every defendant had to be given sufficient time in order to prepare her/his defence.²⁶ Documentary evidence was highly valued by Armagh's church court.²⁷ However, the predominant form of evidence, as elsewhere, comprised oral statements taken from witnesses on oath. Depositions were taken in open court, with deponents liable to further questioning if it seemed that they were withholding evidence.²⁸ The depositions were recorded for the court by a notary and copies could also be made available to the defendant(s).²⁹ If, perchance, any witnesses were unable to attend the court for any legitimate reason the judge could establish a commission to take depositions outside the court.³⁰ Alternatively, the court itself could be transferred to a more convenient location to process a case.³¹ The court issued *aggravatoria* whenever it was necessary to compel reluctant witnesses to give testimony.³² Each party in an instance case was free to choose a proctor to represent them in the court.³³ The judge had to weigh the proffered

²² Helmholz, *Marriage litigation*, remains the best introduction to the subject. See also R. H. Helmholz, *The profession of ecclesiastical lawyers: an historical introduction*, Cambridge 2022 edn; Ralph Houlbrooke, *Church courts and the people during the English Reformation, 1520–1570*, Oxford 1979, and Martin Ingram, *Church courts, sex and marriage in England, 1570–1640*, Cambridge 2008 edn. The most sophisticated analysis of the records of marriage litigation is found in Charles Donahue, *Law, marriage and society in the later Middle Ages: arguments about marriage in five courts*, Cambridge 2007.

²³ Cromer's register, i, fos 18v–19r (40), 66v, 67v (63); Charles McNeill (ed.), *Calendar of Archbishop Alen's register, c. 1172–1534*, Dublin 1950, 274, Houlbrooke, *Church courts*, 40.

²⁴ Cromer's register, i, fos 17r (37), 18v–19r (40), 35v (53), 40r–v (58), 54v (972), 60r–v (79), 66v–67v (88), 84r (105), 93r–v (117), 97r–98r (122); *Alen's register*, 288–9.

²⁵ Cromer's register, i, fos 18v–19r (40), 45r–v (63); Houlbrooke, *Church courts*, 28.

²⁶ Cromer's register, i, fos 45r–v (63), 55r (73); *Alen's register*, 274.

²⁷ Cromer's register, i, fos 4v–5r (13), 30r (50), 66v, 67v (88), 85r (108), 107r (135).

²⁸ *Ibid.* i, fos 9v, 10r, 14r–15r (26), 75v (97), 76r–v (98).

²⁹ For examples of defendants receiving copies of depositions cf. *ibid.* i, fos 106r–v (134), 119v (141). See also where the defendant was offered a written copy of the depositions in his case, but refused them: fos 63v–64r (82).

³⁰ *Ibid.* i, fos 2v (7), 6v, 9r, 10r (20), 83r–v (104).

³¹ *Ibid.* i, fos 14r–15r (26).

³² *Ibid.* i, fo. 82v (103).

³³ McCafferty showed that the proctors were often well-known to their clients: *Act book of the diocese of Armagh*, 16–17.

evidence before issuing his decree or sentence. The sentence was recorded in a notorial instrument of judgement, a copy of which was issued to the plaintiff.³⁴

By contrast, office suits, which have been likened to criminal cases in secular courts, were initiated by the ecclesiastical authorities.³⁵ They were dealt with by summary process. Defendants were charged upon oath to give a true answer to any articles exhibited against them. If they denied the charge they were ordered to purge themselves by means of their oath(s) and those of a number of compurgators who would swear on their behalf.³⁶ If the defendant were not purged they would be obliged to perform an act of penance decreed by the court. Given the summary nature of most of the records in the surviving Armagh act book it is not always easy to distinguish the office cases from the instance suits.³⁷ None the less, very few of the entries in the act book concerned office suits.

The surviving act book was essentially the work of William Lukin.³⁸ He identified himself as the notary who recorded the original transcript of the proceedings of a consistory court case in 1518.³⁹ From 1520 he was titled *magister*, an honour generally reserved for university graduates.⁴⁰ He was probably the registrar of Armagh diocese until Thomas Metame succeeded him *c.* 1535/6.⁴¹ Lukin resided in a house on the archiepiscopal manor of Termonfeckin, County Louth, and kept there some of the materials necessary for his work,⁴² though Armagh had a dedicated metropolitan registry located within an archiepiscopal residence 7.6 kms away in Drogheda.⁴³ Interestingly, the best collections of church court records to survive in England were also housed in metropolitan registries, those of Canterbury and York.⁴⁴

When compiling the surviving act book *Magister* Lukin's initial intention was to record summaries of the court proceedings in the first part of the book, with court depositions confined to the 'third quarter of this volume' or 'the end of the book'.⁴⁵ However, he soon abandoned that

³⁴ No discrete instrument was recorded in the Armagh act book, but a number of near-contemporary instruments were preserved among the Ormond manuscripts: Jefferies, *Irish Church*, 52.

³⁵ Helmholz, *Marriage litigation*, 70–2.

³⁶ R. N. Swanson, *Church and society in late medieval England*, Oxford 1989, 175–8.

³⁷ See also Helmholz, *Marriage litigation*, 71–2.

³⁸ *Act book of the diocese of Armagh*, p. xvii, though McCafferty notes that five other hands were each responsible for one or two entries in the act book.

³⁹ Cromer's register, i, fo. 3r (9).

⁴⁰ *Ibid.* i, fo. 55v (74). For later references cf. i, fo. 100v (126), and ii, fo. 60v (147). The entry numbers for part II of Cromer's register are drawn from Laurence P. Murray (with Aubrey Gwynn), 'A calendar of the register of Primate George Cromer', *Louth Archaeological Society Journal* viii–x (1938–43).

⁴¹ National Archives of Ireland, Exchequer inquisitions, Dublin, iii, fo. 436r.

⁴² Cromer's register, i, fo. 100v (126).

⁴³ *Mey's register*, xxxix, xliiii.

⁴⁴ Helmholz, *Marriage litigation*, 6, 12.

⁴⁵ Cromer's register, i, fos 2v (7), 3r (8), 14r (26).

plan and instead incorporated summaries of the depositions into the trial records. He generally recorded the court proceedings in chronological order according to the date of the first hearing of each suit. However, the chronological sequencing became more irregular over the course of the act book. None the less, what makes the Armagh act book particularly useful is that in most cases it summarised the cause papers as well as the depositions and the sentences.

The Armagh act book is incomplete, with transcripts of depositions for trials of which no other record now survives,⁴⁶ and sentences for cases whose records are otherwise lost.⁴⁷ At this stage it is impossible to calculate the extent of the loss of records from the period of time covered by the act book, but it may have been significant. The fact that 30 per cent of the recorded cases for 1520 had their first hearing on a single day – 30 October 1520 – suggests that a very considerable volume of documents may have been lost. The fact that Armagh's consistory court generally held sessions twice a month suggests that it processed a significant case-load.⁴⁸ Possibly the act book was the product of an attempt to consolidate the court archive and save space being occupied by a mass of loose, redundant manuscripts deposited in a chest.⁴⁹ The 1537 presentments from south-eastern Ireland show that church courts in that region charged 12*d.* for searches of court records for matrimonial suits.⁵⁰ No such fee is mentioned in the Armagh act book, but a fee of some kind would have incentivised a notary to keep the court records in some kind of order.

Its incomplete character raises questions about the degree to which the entries in the Armagh act book may be regarded as representative of the normal business of the court. None the less, the litigation processed by the Armagh court was very comparable with that of contemporary English church courts. For instance, while 90 per cent of the instance suits brought before the consistory courts of Norwich and Winchester in the sixteenth century concerned matrimonial, defamation or testamentary suits, or disputes about ecclesiastical revenues, approximately 86 per cent of the instance suits in Armagh's act book concerned the same subjects.⁵¹ That suggests that the operation of the church court in County Louth was similar to that of such courts over much of England, and that the act book is

⁴⁶ *Ibid.* i, fos 74r (94), 78r–79r (100), 108r (136), 108v–109r (138), 110r (141).

⁴⁷ *Ibid.* i, fos 8r (22), 9r (25), 21r (42), 29v (48), 37r, 46r–v (64), 52v (69), 100v (126). Armagh's judges sometimes retained the record of sentences in their own possession: i, fos 79r (100), 93r–v (117), 99 (124).

⁴⁸ This can be shown by a review of the court records, bearing in mind the fact that they are incomplete, but see especially *ibid.* i, fos 49r–51v (67).

⁴⁹ For contemporary references to Irish church records being kept in chests cf. *Alen's register*, 291, 294, 299 *et al.*

⁵⁰ Presentments of the commons of County Waterford, 1537, The National Archives, SP 60/5/85, pres. liii.

⁵¹ Houlbrooke, *Church courts*, 39.

broadly representative of the business it routinely conducted. That suggestion finds striking support in the fact that while the ‘bread and butter’ business of Armagh’s consistory court, like that of English church courts, had been dominated by suits alleging perjury because of breach of contract in the mid-fifteenth century, the bulk of such business was subsequently lost: only ten such suits are recorded in the Armagh act book for 1518–22. The most plausible explanation for the loss of perjury business by Armagh’s consistory court in the second half of the fifteenth century is that, just as in England at the same time, the common law courts began to offer the possibility of financial redress for would-be plaintiffs whereas the church courts treated the defendants as alleged sinners who might be rehabilitated through repentance if found guilty.⁵² One of the perjury suits recorded in the Armagh act book was rejected because the defendant was simply unable to pay the promised sum.⁵³

John McCafferty, the modern editor of the Armagh act book, has identified 145 entries within it. Seventeen entries relate to appeals to Armagh’s metropolitan court from some of its suffragan sees, most of them from the neighbouring diocese of Meath. Six more entries may be identified as records relating to office cases. Eleven entries consist of a miscellany of records, including the record of a diocesan synod, that is of limited value for studying the operation of the consistory court. That leaves 111 entries that pertain to instance cases. Of the latter thirty-one (28 per cent) pertain to marriage litigation, twenty-eight (25 per cent) pertain to defamation suits, eighteen (16 per cent) concern ecclesiastical revenues and/or services, seventeen (15 per cent) pertain to testamentary suits and ten (9 per cent) to perjury suits. Women, inevitably, featured as litigants in all twenty-seven of the marriage suits. They also featured in nineteen of the twenty-four defamation suits, in six of them as plaintiffs allegedly defamed by being called a ‘whore’, almost invariably by another woman. On the other hand, women were far less likely than men to be involved in litigation concerned with testamentary disputes (three of seventeen suits) or perjury (one of nine) or disputes about ecclesiastical revenues (one of eighteen).

Bearing in mind that instance suits were initiated in the church courts at the behest of private individuals, not the ecclesiastical authorities, the records in the Armagh act book featuring women as litigants form a significant volume of evidence from one Irish county about the main issues that brought women to the court: their marriages, their sexual relationships and their sexual reputations. It also facilitates an analysis of the manner in which the church court processed suits that pertained to

⁵² *Mey’s register*, acta for 1440, 1441, 1444; Swanson, *Church and society*, 167–8; Christopher Harper-Bill, *The pre-Reformation Church in England, 1400–1530*, 57–9.

⁵³ Cromer’s register, i, fos 97r–98r (122).

women, and the manner(s) in which the court treated women either as litigants or witnesses. Furthermore, being comprised of a body of records from a narrow time-frame, 1518–22, the Armagh act book forms a more satisfactory basis for a systematic study than one drawing on ‘incomplete and haphazard’ references garnered from centuries which can generate a misleading impression of stasis.⁵⁴

II

James Murray claimed that ‘sexual expression was uninhibited’ in Gaelic Irish society in the sixteenth century, but that arresting assertion was based on no evidence.⁵⁵ Indeed, it is contradicted by a critical fact of human biology: uninhibited sexual expression before the age of modern contraceptives was very likely to result in pregnancy, and no woman could risk such a life-changing event without some consideration of its repercussions for herself and her baby – not least of all the very real risks to the mother’s life during childbirth.⁵⁶

Unrestrained reproduction in any pre-modern society would have exposed it to the probability of positive Malthusian checks leading to increased mortality.⁵⁷ As it was, society in County Louth in the early sixteenth century lived on the threshold of subsistence. The Henrician *Valor in Hibernia* shows that only nine of the twenty-four parish benefices in the shire were worth more than £5 sterling *per annum*, while five were worth less than £2 10s. sterling, at a time when £15 sterling was reckoned to be a ‘desirable and reasonable’ income for a parish incumbent in England.⁵⁸ Since the values of benefices reflected economic outputs in each parish they offer a useful indicator of the relatively low productivity in County Louth in the first half of the sixteenth century. The near-contemporary monastic extents confirm that same impression.⁵⁹ The variable weather patterns in Ireland resulted in variable harvests, with implications

⁵⁴ Cosgrove, ‘Marriage’, 28. The limitations of such evidence were commented upon in Helmholz, *Marriage litigation*, 23–4.

⁵⁵ James Murray, *Enforcing the English reformation in Ireland: clerical resistance and political conflict in the diocese of Dublin, 1534–1590*, Cambridge 2009, 35.

⁵⁶ David Cressy, *Birth, marriage and death: ritual, religion and the life-cycle in Tudor and Stuart England*, Oxford 2010 edn, 15–94.

⁵⁷ Thomas Malthus, *An essay on the principle of population*, London 1798, ch. vii; Peter Laslett, *The world we have lost – further explored*, Abingdon 2005 edn, 122–52.

⁵⁸ *Valor beneficiorum ecclesiasticorum in Hibernia: or, The first fruits of all the ecclesiastical benefices in the kingdom of Ireland, as taxed in the king’s book*, Dublin 1741; Jefferies, *Priests and prelates*, 33; Peter Heath, *The English parish clergy on the eve of the Reformation*, London 1969, 173.

⁵⁹ Newport B. White (ed.), *Extents of Irish monastic possessions, 1540–1*, Dublin 1943, *passim*.

for incomes, nutrition and susceptibility to disease. In such a context, where a secure supply of surplus food could not be guaranteed, the survival of the family unit was paramount. People in England constrained reproduction by restricting sexual intercourse before marriage, and by delaying marriage for long after the onset of puberty.⁶⁰ Across England, France and Italy, and presumably elsewhere, post-partum abortions, mostly in the form of female infanticide, were routine whenever food was scarce.⁶¹ At a time when the population generally lived close to subsistence, an unmarried woman with a child was very vulnerable because there was neither a surplus of resources available nor a societal will to take responsibility for other people's bastards.

Economic necessity, and not simply societal expectations, compelled young women to marry: staying at home with parents indefinitely was not an option. Life expectancy in England at the time was generally less than forty years of age.⁶² It can hardly have been better in Ireland. As late as the mid-seventeenth century half of all English fathers did not live long enough to attend their children's first wedding.⁶³ In most of the suits promoted by women in Armagh's church court their fathers are conspicuous by their absence. With the death, or even the incapacity, of the father his family ceased to be a viable economic unit: it was imperative that his children become independent. For a son that meant securing access to land, or some other source of income. For a daughter, given the economic structures of the time, it meant marriage.

For a marriage to be viable the couple had to secure access to sufficient economic resources.⁶⁴ A man had to have an assured source of income, while a woman was expected to bring resources of her own, usually in the form of a dowry, to the marriage.⁶⁵ Hence marriages normally necessitated negotiations that involved the families of both would-be partners to ensure that they could support themselves and any children they might have.⁶⁶ In one case in the Armagh act book a man made his marriage conditional on receiving a dowry, and he subsequently denied the validity of the marriage in order to force his father-in-law to provide the dowry.⁶⁷

⁶⁰ Laurence Stone, *The family, sex and marriage in England, 1500–1800*, London 1979 edn, 42–54; Laslett, *The world we have lost*, 81–122.

⁶¹ Gregory Hanlon, *Death control in the West, 1500–1800: sex ratios at baptism in Italy, France and England*, London–New York 2022, and *Human nature in rural Tuscany: an early modern history*, New York–Basingstoke 2007, 118–23.

⁶² Laslett, *The world we have lost*, 109–12; Stone, *Family*, 42–6.

⁶³ Stone, *Family*, 48.

⁶⁴ *Ibid.* 42–6; Ingram, *Church courts*, 130–1, 138.

⁶⁵ M. A. Kaplan, *The marriage bargain: women and dowries in European history*, New York–London 1985; Stone, *Family*, 50, 72.

⁶⁶ Cressy, *Birth*, 256; Diana O'Hara, *Courtship and constraint: rethinking the making of marriage in Tudor England*, Manchester–New York 2000, 30–8.

⁶⁷ Cromer's register, i, fo. 59r (78).

In that instance the dowry was duly promised once it was agreed that the couple would marry in *facie ecclesiae*. In another suit a man sued his parents-in-law for his wife's dowry which they withheld because they disapproved of her choice of husband.⁶⁸ The values of dowries are rarely specified in the Armagh act book, but in the latter instance a sum of thirteen and a half marks had been set aside for the dowry.⁶⁹ In another case the dowry comprised two cows and the price of a sheep.⁷⁰ When one woman's dowry was deemed too small the father of the man she wished to marry negotiated with an aunt of hers for additional resources as part of the marriage settlement.⁷¹ It seems not to have been unusual to expect a woman's kin to contribute towards her dowry if her parents were struggling to muster sufficient resources for her to marry.⁷² No doubt the size of a woman's dowry reflected on the status of the marrying couple, but it was often a crucial part of the economic arrangements made to try to ensure that the new family unit would be self-sustaining.

Parental involvement in marriage formation sometimes went far beyond negotiating the financial arrangements underpinning the relationship. Cosgrove highlighted a case from County Louth in the mid-fifteenth century in which a young woman was compelled by her father to marry a man against her wishes.⁷³ Her father subsequently regretted his actions and he supported her suit to have the marriage annulled. He explained to the consistory court that he had many daughters and not very much money, and that the match he arranged was financially favourable. He was, it seems, simply the antithesis of Jane Austen's Mr Bennet.

There were times too in which a young woman's 'friends', which at the time included familial relations, might be over-zealous in arranging a match for her, whatever her private reservations. In the act book is a record of a suit by Margareta Nystaly to have her marriage annulled by the Armagh court on the grounds that she had not given her consent.⁷⁴ Her husband insisted that they had both recited the words of consent *per verba de praesenti*, which she denied, but both parties agreed that they had not had sexual intercourse with each other. The priest who officiated at the wedding deposed that the 'common voice' in their respective parishes was that they had not consummated the marriage and there was 'hatred' between them. The judge accepted the plaintiff's claim that she had been pushed in to marriage by interfering friends without her consent, and he annulled the marriage and allowed both parties to marry in future if they so wished. It is possible that the young woman's father had

⁶⁸ Ibid. i, fo. 5v (17).

⁷⁰ Ibid. i, fo. 60r-v (79).

⁷² Ibid. i, fos 59r (78), 101r-v (127).

⁷⁴ Cromer's register, i, fo. 83r-v (104).

⁶⁹ Ibid. i, fos 5v (17), 6v-9r (20).

⁷¹ Ibid. i, fo. 101r-v (127).

⁷³ Cosgrove, 'Marrying', 349-50.

died, as was very common at the time,⁷⁵ and her friends were so keen to see her married that they over-stepped the boundary between cajoling and coercing – or maybe she simply got cold feet at the wedding. In the act book there are depositions for a second suit for an annulment on the grounds of a lack of consent, one in which two witnesses deposed that the bride was weeping and tearing her clothes as she was being escorted to the house in which her wedding was to take place.⁷⁶ Unfortunately, no further record of that suit survives.

There were, unsurprisingly, couples who would brook no interference in their marriage, even from parents. However, that sometimes meant forfeiting the assets that their parents might otherwise have transferred to them for their marriage. The Armagh act book has records of the parents of one young woman who refused to hand over the dowry they had allocated for her because they disapproved of her choice of husband. As has been mentioned above the husband in question successfully sued them in the consistory court for the dowry.⁷⁷ In another case a man named John McCann was recorded as having married Anisia FitzJohn against his father's wishes.⁷⁸ When his father threatened him the younger man declared that even if his father cut off his head and denied him his inheritance, he would not deny his wife. He told Isabella Lales, a neighbour, that even if he lost a foot or a hand because of Anisia he would not deny that she was his wife. However, FitzJohn subsequently petitioned Armagh's consistory court to confirm the validity of their marriage. Two possibilities to explain that course of events come to mind: either McCann could simply not afford to live independently without his father transferring assets to him to sustain the marriage, and it may be significant that his brother found him in the haggard or barn of Walter FitzJohn, a relation of Anisia FitzJohn, or alternatively the young couple may have hoped to force the father's hand by presenting him with a church-sanctioned *fait accompli*. The validity of the marriage was duly upheld by the court, but what happened subsequently is unknown. None the less the suit reflects the fact that a marriage contracted without parental support was best avoided. Ingram found that among 'middling' English folk parents usually won in the end in cases of outright conflict.⁷⁹ Among the poor, who had few if any assets to transfer to their children, free choice was more common, but the good will of the parents was still desirable.⁸⁰

⁷⁵ Stone, *Family*, 50. Nystaly's mother attended her church court case, but there is no reference in the court record of her father. ⁷⁶ Cromer's register, i, fo. 75r (94).

⁷⁷ Ibid. i, fos 5v (17), 6v–9r (20).

⁷⁸ Ibid. i, fos 102r–103r (128).

⁷⁹ Ingram, *Church courts*, 139. Parental hostility often resulted in marriage litigation in the church courts: Houlbrooke, *Church courts*, 63.

⁸⁰ Ingram, *Church courts*, 138; O'Hara, *Courtship*, 31–3.

It is possible to confirm that, as in England, people in County Louth normally found their marriage partners nearby.⁸¹ In half of the sixteen records of marriage suits in the Armagh act book in which both litigants are identified with a parish they are both identified with the same parish.⁸² In a further four cases the litigants were identified with parishes lying within 10 kms of each other, and none was more than 20 kms apart.⁸³

It is not possible to determine the ages of men and women contracting first marriages in County Louth in the absence of parish registers. The act book does not record the ages of marriage litigants, but it sometimes records the approximate ages of deponents. Of the seven deponents in marriage suits whose ages were recorded in the Armagh act book, most were aged between twenty and the early thirties, with a median between twenty-three and thirty.⁸⁴ They were generally well-known to the litigants, and probably of a similar age. For example, Isabella Lales, who deposed in favour of Anisia FitzJohn, not only repeated in court the words spoken to her by FitzJohn's husband affirming that they were indeed married, but she was also present in the court when the sentence was read out by the judge. According to the act book Lales was aged about twenty and more, and it seems safe to assume that FitzJohn was probably about the same age.⁸⁵ One of the other deponents, a friend of the husband's, was twenty-three years old. The evidence is indirect, and the sample size is extremely small, yet it is not inconsistent with data on English marriage ages.⁸⁶

The records of a failed marriage suit brought before Armagh's consistory court is instructive in terms of how a courtship might be conducted.⁸⁷ Kalaghpatrick Kalan and Henry Fulsagh, the man she hoped to marry, may have met at a market or fair in Drogheda, roughly half-way between their respective parishes. Fulsagh would have known that Kalan was unmarried if her head was covered since unmarried women in County Louth at the time were expected to cover their heads in public – or risk being called a 'whore' by other women for not doing so.⁸⁸ The couple went fishing together at Kilclogher (Clogherhead), where he lived, for gubbins

⁸¹ O'Hara, *Courtship*, 124–7.

⁸² Cromer's register, i, fos 3r (8), 3v (10), 43v–44v (61), 59r (78), 63r–64r (82), 68r (89), 86r (109), 101r–v (127).

⁸³ Parishes within 10 kms of each other: *ibid.* i, fos 20r (41), 41v–42r (59), 53r–v (70), 92r–v (116). Between 10 kms and 20 kms: fos 60r–v (79), 62r–63r (81), 83r–v (104), 84r (107).

⁸⁴ The old man gave evidence *ibid.* i, fo. 53r–v (70); a forty-year-old gave evidence, fos 62r–63r (81), while the others deposed in fos 59r (78), 60r–v (79), 62r–63r (81), 102r–103r (128).

⁸⁵ *Ibid.* i, fos 102r–103r (128)

⁸⁶ Cressy, *Birth*, 242; O'Hara, *Courtship*, 159–61, 164.

⁸⁷ Cromer's register, i, fos 63v–64r (82).

⁸⁸ *Ibid.* i, fo. 35r (52).

(derived from the Gaelic, *Goibín(i)*, signifying small sand eel[s]).⁸⁹ During their time together Fulsagh seems to have given Kalan the impression that he would marry her at some point in the future, and she told the court that he gave her 3*d.* to mend her girdle in what she interpreted as a token of his commitment to marry her. Tokens were a common feature of courtship in England at that time.⁹⁰ Fulsagh, obviously aware of the significance of tokens, told the court that he only gave her 2*d.* and no other gift. They had sexual intercourse. Normally once an eligible couple were espoused to marry in the future, they were considered to be married as soon as they consummated their relationship with carnal knowledge.⁹¹ However, in this instance Fulsagh was adamant that he had not used the customary words for marriage before he had sexual intercourse with Kalan and, crucially, there were no witnesses. Kalan must have heard nothing from him thereafter because a year later she sent the first of three intermediaries to Fulsagh to get him to confirm his intentions towards her. Since she lived at Julianstown, County Meath, 20 kms from Kilclogher, that was a significant imposition on the intermediaries. After a second year she sent a second intermediary, and a year later a third. Kalan's last intermediary pointed out that while she was waiting for his answer she was missing out on another opportunity to marry, but Fulsagh remained steadfastly evasive. He told each of the intermediaries that as far as he was concerned there was no need to hurry. Although Fulsagh admitted to having had sexual intercourse with Kalan, he had not committed himself to the responsibilities entailed in supporting a wife and children. Having listened to the two litigants and interviewed Kalan's intermediaries, the court decided that the couple were not, in fact, man and wife.

A number of depositions in the Armagh act book show that for a marriage to be considered valid by the court the couple had to use these 'customary words': 'I take you as my husband' or 'I take you as my wife'.⁹² A number of deponents mention handfasting while those words were being recited.⁹³ Witnesses were essential for the court to validate a marriage. That is why clandestine marriages posed headaches for the church courts. A 'clandestine' marriage is best understood as a private marriage contracted outside the church without necessarily connoting an illicit relationship: according to canon law once an eligible couple had exchanged consent *per verba de praesenti* they were, *de jure*, married.⁹⁴ It was not until

⁸⁹ I owe this information to my good colleague Fearghal Mag Uiginn, Head of Irish at Thornhill College, Derry.

⁹⁰ Laslett, *World we have lost*, 82–4; Stone, *Family*, 40–4; Cressy, *Birth*, 263–6; O'Hara, *Courtship*, 57–98.

⁹¹ Helmholz, *Marriage litigation*, 51.
⁹² Cromer's register, i, fos 43v–44r (61), 53r–v (70), 59r (78), 60r–v (79), 102r–103r (128). In the latter case the form of words used was: 'I take you as my husband till death do us part.'

⁹³ *Ibid.* i, fos 59r (78), 60r–v (79), 102r–103r (128).
⁹⁴ Helmholz, *Marriage litigation*, 27–31.

1563 that the Catholic Church decreed that the presence of a priest was required for a valid wedding.⁹⁵ It was not until 1753 that the English parliament declared that only church weddings were legally valid.⁹⁶ The problem was that clandestine marriages were very vulnerable to challenge if one of the partners, almost invariably the husband, subsequently denied that it had taken place. There are records of marriage suits in the Armagh act book in which no witness to the alleged marriage was presented to the court or, as in one case, the only putative witness was the alleged wife's own mother.⁹⁷

When the court was asked to choose between validating a clandestine marriage with no witnesses or a public marriage that had been solemnised in church before witnesses it invariably sanctioned the latter at the expense of the former, even if a clandestine marriage had probably been contracted. Hence, in the case of Katerina Brenagh *versus* Robert McEmce, the Armagh court confirmed the validity of McEmce's second, public marriage to Sabina Nykerule because there were no witnesses to the earlier clandestine marriage – despite the fact that the man admitted in court to having made a marriage contract with his first wife, and having had carnal knowledge of her subsequently.⁹⁸ Significantly, though, there was no mention of children. The court demonstrated flexibility in favour of Brenagh by ordering McEmce to return the endowments that she brought to their relationship, presumably her dowry, and declared her free to marry again if she so wished.

Another example of the court showing flexibility in favour of female plaintiffs was its decision in a suit by a widow who petitioned for the return of her dead daughter's dowry.⁹⁹ The court used the fact that the marriage had not been solemnised in *facie ecclesiae* to order the husband to return the dowry, perhaps swayed by the consideration that the widow needed it more than the husband who was, after all, free to marry again. A particularly interesting feature of that suit is the reference to the attendance on the wife of three women who took care of her while she was dying, and noted her final arrangements for the health of her soul.

In the Armagh act book petitions to the consistory court to validate clandestine marriages constitute the single largest type of marriage suit

⁹⁵ *Ibid.* 72–3.

⁹⁶ Stone, *Family*, 32.

⁹⁷ For clandestine weddings with no witness see Cromer's register, i, fos 43v–44r (61), 60r–v (79), 62r–63r (81), 63v–64r (82). In one of those suits the woman claimed that there were witnesses, but she was unable to produce any of them in court because they had left the country: fos 43v–44r (61). For clandestine weddings with one witness only: fos 59r (78), 94v–95r (119), 102r–103r (128). There is a case in which the bride's mother was one of three witnesses present: fo. 53r (70). In one suit the only witness was the plaintiff's mother: fo. 83r–v (104).

⁹⁸ *Ibid.* i, fos 43v–44v (61).

⁹⁹ *Ibid.* i, fo. 101r–v (127).

presented to the court, as was the case in England also.¹⁰⁰ However, one should not form an exaggerated impression of their prevalence. There were only nine such suits in the Armagh act book, representing an average of less than two a year, from the sixty or so parishes and chapelries in County Louth. Why women agreed to clandestine marriages despite their vulnerability is nowhere recorded. Charles Donahue has suggested that in England clandestine arrangements were often a stage in the formation of marriages, used by couples to indulge in sexual intercourse without much social stigma before they solemnised their marriage in a church: about a fifth of English brides were pregnant at the altar in Tudor times.¹⁰¹ There are no comparable figures available for Ireland. However, it seems significant that there is no record in the Armagh act book of a contested marriage in which children were involved. In other words, one could suggest that the responsibilities entailed in parenthood bound couples together more firmly than any other consideration.

A private wedding celebrated in a house or garden would have been far cheaper than one celebrated publicly with many kin, friends and neighbours.¹⁰² Yet, although clandestine weddings, by their nature, involved a small number of people they could still be celebrated with festivity. In one wedding the husband provided four bottles of wine, and his wife provided beer for the occasion, which is a nice illustration of the companionate nature of the wedding.¹⁰³

Interestingly, the Armagh act book shows that seven of the eight women (87.5 per cent) who petitioned the consistory court to validate a clandestine marriage were Gaelic Irish.¹⁰⁴ In the context of the colonial society in the English Pale, and the embedded discrimination practised against the indigenous population, that signifies that the women who contracted clandestine marriages tended to be poorer. The poverty, or relative poverty, of their parents meant that they were less constrained by parental preferences since there would have been little by way of resources to forfeit by defying their parents' wishes. Only one man petitioned the court to have a marriage validated.¹⁰⁵

Richard Helmholz found that there was 'very little divorce litigation in medieval England'.¹⁰⁶ The term 'divorce' was used in the act book to signify either the annulment of a marriage that had been invalid *ab initio*, or a judicial separation *a mensa et thoro* of a couple who were permitted

¹⁰⁰ Helmholz, *Marriage litigation*, 25; Houlbrooke, *Church courts*, 55–6.

¹⁰¹ Donahue, *Law, marriage and society*, 216; Cressy, *Birth*, 277.

¹⁰² Cromer's register, i, fos 43v–44v (61), 53r–v (70), 60r–v (79), 63v–64r (82), 75r (94), 83r–v (104). One of the alleged weddings was contracted in a garden: fos 102r–103r (128).

¹⁰³ Ibid. i, fo. 53r (70).
¹⁰⁴ Ibid. i, fos 3r (8), 43v–44v (61), 53r (70), 59r (78), 60r–v (79), 62r–63r (81), 86r (109). For the only woman with an English surname to do so see fos 102r–103r (128).
¹⁰⁵ Ibid. i, fos 63v–64r (82).
¹⁰⁶ Helmholz, *Marriage litigation*, 74–5.

to live apart though still officially married to each other.¹⁰⁷ Compared with England, though, the eight suits for divorce in the Armagh act book for 1518–22, as against nine suits to enforce marriage contracts, were proportionately far more common in County Louth.¹⁰⁸ The only man to petition the Armagh court to have his marriage annulled did so on the grounds of pre-contract, the most common excuse used in England; that he had married someone else eleven years earlier and therefore had been ineligible to marry his second wife.¹⁰⁹ He provided a witness to his first wedding, but no first wife. His second wife told the court that she knew nothing of her predecessor. The judge rejected the man's petition for an annulment without demanding proof that his first wife had died.

There were two suits promoted by women who petitioned the court to annul their marriages because of a lack of consent. One was granted,¹¹⁰ while the sentence for the other has not survived.¹¹¹ One woman secured a judicial separation, *a thoro et mensa* without the right to remarry, from a husband who was psychotically violent towards her.¹¹² In the case of another violent husband the court took a bond to ensure his future good behaviour towards his wife.¹¹³

In the Armagh act book there are records of four suits by women to have their marriages dissolved because of their husbands' alleged impotence and the wives' desire to have a child.¹¹⁴ All such allegations were carefully examined by Armagh's court, partly for fear of collusion between the couple but also because an impotent man would not be able to contract a lawful marriage thereafter. The court's initial response was to ensure that the couple had married in *facie ecclesiae*.¹¹⁵ They were then directed to share the same bed and attempt sexual intercourse two or three times a week over a trial period of a number of weeks in front of witnesses who could testify as to how they managed.¹¹⁶ In one suit the man confessed privately to the judge that he was unable to know his wife carnally and that he suspected that she had cast a spell on him. Yet the judge insisted on the testimony of witnesses, and only after they testified to his inadequacy was the marriage annulled.¹¹⁷ In another suit the husband claimed to have succeeded in having intercourse with his wife often during the trial period, but the court

¹⁰⁷ Ibid. 74; Houlbrooke, *Church courts*, 67–8, 71–2.

¹⁰⁸ Suits to enforce marriage contracts: Cromer's register, i, fos 3r (8), 43v–44r (61), 53r–v (70), 59r (78), 60r–v (79), 62r–63r (81), 63v–64r (82), 86r (109), 102r–103r (128). Suits for divorce: fos 20r (41), 21v–22v (43), 41v–42r (59), 68r (89), 75r (94), 75r (95), 83r–v (104), 94v–95r (119).
¹⁰⁹ Ibid. i, fos 94v–95r (119).

¹¹⁰ Ibid. i, fo. 83r–v (104).

¹¹¹ Ibid. i, fo. 75r (94).

¹¹² Ibid. i, fos 2v (7), 3v (9), 75r (95).

¹¹³ Ibid. i, fo. 9r (25).

¹¹⁴ Ibid. i, fos 20r (41), 21v–22v (43), 41v–42r (59), 68r (89).

¹¹⁵ One couple were directed, repeatedly, to solemnise their marriage: ibid. i, fo. 20r (41), whereas the others had done so already: fos 21v–22v (43), 41v–42r (59), 68r (89).
¹¹⁶ Ibid. i, fos 21v–22v (43), 41v–42r (59).
¹¹⁷ Ibid. i, fos 21v–22v (43).

insisted on being given the testimony of witnesses and a further trial period was scheduled.¹¹⁸ Unfortunately, that trial record does not include a sentence.

In the case of Nicholas Conyll, his wife's suit for an annulment because of his alleged impotency led to a physical examination carried out by a panel of nine men who scrutinised his penis on behalf of the court.¹¹⁹ English church courts regularly employed 'wise women' in such cases to examine the husband's potency, either by manipulating the genitals with a warmed hand, or by exposing their breasts or vaginas to see if they could arouse a response.¹²⁰ English courts sometimes employed 'wise women' also to subject the wives of allegedly impotent men to intimate scrutiny to determine whether their virginity was still intact.¹²¹ No record of any such examinations is included in the Armagh act book and in this particular suit the wife, Anisia Gowin, had already admitted to carnal knowledge of another man, Thomas Palmer, two weeks before her wedding.¹²² The panel found Conyll's penis to have been sufficient in size and potency.¹²³ The court therefore directed the husband and wife to live together and to diligently and frequently engage in carnal union. Meanwhile Gowin's lover, Palmer, was warned to avoid meeting her in any suspicious place. The couple were ordered to have six masses celebrated in the Augustinian church in Drogheda, and to fast for three Fridays, in what seems like an effort to secure some spiritual reinforcement for its decision. However, Conyll failed to fulfil the court's instructions and the judge decreed that he should be imprisoned for defying it. No further record survives from the suit, unfortunately, but it seems clear that Conyll had no wish to have sexual intercourse with Gowin after learning that she had intercourse with Palmer just before their wedding, and supported Palmer's suit to have the court recognise her as his wife and not Conyll's. The physical examination for impotency was unlikely to ameliorate any disdain Conyll may have felt towards his wife.

Much ink has been spilled discussing the medieval theology of sex¹²⁴ – but the act book reflects a more pragmatic approach by Armagh's ecclesiastical judges when dealing with the real-life individuals who came before it. They were conscious of the importance of sexual relations for sustaining a marriage and therefore insisted that couples who approached it with marital difficulties share a bed in the hope, if not the expectation, that sexual intercourse would help to bind the couple together. None the

¹¹⁸ Ibid. i, fos 41v–42r (59).

¹¹⁹ Ibid. i, fo. 68r (89).

¹²⁰ Helmholz, *Marriage litigation*, 89; Jacqueline Murray, 'On the origins and role of "wise women" in causes of annulment on the grounds of male impotence', *Journal of Medieval History* xvi (1990), 235–49.

¹²¹ Murray, "Wise women", 239.

¹²² Cromer's register, i, fos 63v–64r (82).

¹²³ Ibid. i, fo. 68r (89).

¹²⁴ Conor McCarthy, *Marriage in medieval England: law, literature and practice*, Woodbridge 2004.

less, no court could ensure that an unhappy couple would ‘live happily ever after’ after a sentence was decreed. Normally the sentences validating marriages leave one wondering what transpired subsequently. However, in the case of Isabella Kerulan we know that the Armagh consistory court validated her marriage to John Bridin on 8 May 1520 at her request,¹²⁵ but she was cited to return to the court on 18 July 1521 to face an allegation of bigamy after she married a man named John McEgull.¹²⁶ Since no sentence survives of the latter suit it is unclear whether she produced a death certificate for Bridin as the court directed or whether, as seems more likely, she had indeed formed a bigamous relationship when the validation of her previous marriage by the court failed to result in a reconciliation. Again, it is hard to imagine a happy outcome in the case of Gowin *versus* Conyll wherein the court ordered Conyll’s imprisonment if he persisted in refusing to have sexual intercourse with a wife who loved another man.¹²⁷ Though the Armagh judges strove conscientiously to resolve the disputes brought before it, there were inevitably limits to what could be achieved.

The Gowin *versus* Conyll suit highlights another feature of the Armagh act book – the absence of records of prosecutions for fornication. It is possible that such cases were dealt with by the archdeacon’s court, as Anthony Lynch suspected, but there is no evidence to prove that was the case.¹²⁸ On the other hand, the archdeacon of Armagh as the *oculus episcopi*, the bishop’s eye, was obliged to conduct visitations of the diocese and seek out sins. We may assume that visitations were conducted because archidiaconal procurations were levied in the fifteenth and early sixteenth centuries.¹²⁹ However, a woman named Christina Alin was clearly not impressed by the manner in which Archdeacon White carried out his supervisory functions for she called him ‘the blind archdeacon’.¹³⁰ The reason why she was so outspoken is suggested by the fact that she alleged that another woman was a ‘priest’s whore’.¹³¹ Alin was successfully sued for defamation in the consistory court by the woman in question. The archdeacon also sued Alin for defamation on the same day, and though he won his suit against her his proved to be a pyrrhic victory in that he ended up paying the court’s expenses, possibly because she was too poor to do so.

The consistory court of Armagh, like its English counterparts, was not in the business of law enforcement.¹³² It did not seek out delinquents. It had no investigative powers but depended on individuals to give sworn

¹²⁵ Cromer’s register, i, fo. 53r–v (70).

¹²⁶ *Ibid.* i, fo. 84r (107).

¹²⁷ *Ibid.* i, fos 63v–64r (82), 68r (89).

¹²⁸ Anthony Lynch, ‘The archdeacons of Armagh, 1417–71’, *Journal of the County Louth Archaeological and Historical Society* xix (1979), 222.

¹²⁹ *Ibid.*; Jefferies, *Priests and prelates*, 90.

¹³⁰ Cromer’s register, i, fo. 94r (118).

¹³¹ *Ibid.* i, fos 104v–105v (132).

¹³² Donahue, *Law, marriage and society*, 215.

testimony in court. In England churchwardens as well as priests regularly brought sexual miscreants to the attention of the church courts.¹³³ Yet while churchwardens promoted suits in Armagh's consistory court about ecclesiastical assets, revenues and services, there is no record in the act book of them delating individuals to the court for sexual misdemeanours.¹³⁴ One probable reason for their reticence is that the accuser could easily find himself the subject of a defamation suit. There is a record in the Armagh act book of one man suing a husband and wife for defaming him by saying that he had sexual intercourse with the wife – though why the couple would have said so if it wasn't true is hard to imagine.¹³⁵ It is more likely that the suit was designed to deflect his accusers. The same seems to be true of the suit in which *Dominus* Robert McLaghlin, rector of Rathdrummin, sued Thomas McLaghlin for defamation for saying that he had carnal knowledge of his wife. The priest also accused him of carrying off goods from the parish church and rectory.¹³⁶ Given the coincidence of surnames, the defendant's access to the rectory and the priest's alleged access to the defendant's wife, it is probable that the two men were closely related. The defendant offered to prove to the court that the priest was guilty of sexual misconduct with his wife. However, it was extremely difficult to secure a conviction in the consistory court without a confession, or without catching a couple *in flagrante delicto*, as Robert White, a merchant of Drogheda, discovered when he sued a woman named Anisia for facilitating illicit relations in her house between his wife and *Dominus* Bowdin.¹³⁷ White produced a witness in court who testified that on three occasions he saw White's wife and the priest entering Anisia's house, and on another occasion he saw the pair meet in White's garden. However, the witness could not say what happened between them at either location. Another deponent reported seeing White's wife and the priest entering and leaving Anisia's house one after the other but again he could not say what they did while inside the house. White had already brought the priest's relationship with his wife to the attention of the church authorities and had previously secured an injunction to prevent the priest meeting his wife in 'suspicious' places – evidently to no avail.

Shortly after White discovered the priest's latest assignations with his wife, and learned that one of his servants had been directed by his wife to take *aqua vitae* from his house to the priest, he and a number of other men accosted Bowdin and castigated him as a 'fornicating priest'.¹³⁸

¹³³ Ingram, *Church courts*, 324.

¹³⁴ For churchwardens in County Louth promoting the interests of their churches in the consistory court see Cromer's register, i, fos 36v (55), 49r–51r (67), 55r (73).

¹³⁵ *Ibid.* i, fo. 8v (23).

¹³⁶ *Ibid.* i, fo. 57r (76).

¹³⁷ *Ibid.* i, fo. 89r (112).

¹³⁸ *Ibid.* i, fos 75v (96), 87v (111).

One man drew his dagger on the priest. Bowdin sued his assailants for defamation and assault, but his case was thrown out of court because he was excommunicated at the time. Yet there was no follow-up on the accusations made against the priest nor against those who assaulted him. It seems as though the court officials were content to turn a blind eye to the extrajudicial justice inflicted on the errant priest. *Dominus* McLaghlin was badly beaten by a number of men shortly after his suit for defamation – perhaps for the same reason as Bowdin.¹³⁹ It is no coincidence that the assaults on the two priests were carried out by a number of men, not the cuckolded husband only. It was a shared concern.

Martin Ingram found that priests' sexual incontinence was 'an issue of salient concern to the laity' in England at that same time, and that '[o]ccasionally the ecclesiastical authorities worsened the situation through neglecting cases of misconduct, treating them with scandalous leniency or even turning a blind eye'.¹⁴⁰ There too priests who were guilty of sexual incontinence could find themselves assaulted.¹⁴¹ Simon Fish's *Supplication for the beggars* implies that a lot of men were anxious about the sexual appeal of priests for their wives, daughters and maids.¹⁴² One can only speculate as to why some women were so attracted to priests, as White's wife clearly was. Perhaps priests were simply accessible: when *Dominus* James Whitberry was assaulted in St George's Chapel, in St Peter's Church, Drogheda, he produced three witnesses, all women, who witnessed the assault.¹⁴³ Perhaps the priestly office enhanced his status and appeal in the eyes of some women. Perhaps a celibate priest was more susceptible to their attentions. The Armagh act book offers no evidence to posit an answer.

Christopher Haigh encouraged historians to understand clashes between priests and people as isolated instances of contention prompted by specific circumstances rather than as symptoms of anticlericalism.¹⁴⁴ Peter Marshall, however, argued convincingly that Haigh over-stated his case.¹⁴⁵ The evidence from the Armagh act book can support the argument that the priests on the receiving end of the ire of laymen often brought trouble on themselves. However, the number of assaults on priests recorded in the act book for a period of less than five years, no fewer than seven assaults from a county of only sixty-two or so parishes and chapelries, suggest that hostility towards errant priests, especially

¹³⁹ *Ibid.* i, fo. 111r (144).

¹⁴⁰ Ingram, *Carnal knowledge*, 239–66 at p. 246.

¹⁴¹ *Ibid.* 242.

¹⁴² Peter Marshall, 'Anticlericalism revested? Expressions of discontent in early Tudor England', in Clive Burgess and Eamon Duffy (eds), *The parish in medieval England*, Donington 2006, 376.

¹⁴³ Cromer's register, i, fo. 90r (113).

¹⁴⁴ Christopher Haigh, 'Anticlericalism and the English Reformation', in Christopher Haigh (ed.), *The English Reformation revised*, Cambridge 1987, 56–74.

¹⁴⁵ Marshall, 'Anticlericalism revested?', 365–80.

those suspected of sexual incontinence, and frustration with how the church authorities dealt with them, were real problems in that part of early Tudor Ireland.¹⁴⁶

Of course, for every priest who engaged in sexual intercourse with women there was at least one woman willing to sin with him. Ralph Houlbrooke found that in defamation suits promoted by women in England ‘the most popular single term of abuse was “priest’s whore”’.¹⁴⁷ Four women whose suits were recorded in the Armagh act book claimed that they were defamed by being called ‘a priest’s whore’.¹⁴⁸ It may be that calling a woman a ‘priest’s whore’ was the worst slur imaginable, but it may also hint at a popular perception of a problem with priestly incontinence. In one record in the Armagh act book a married woman named Magina Fenan was accused of being the whore of a specific priest, *Dominus* John Salmon, and she sued a man and two women for publicly saying so.¹⁴⁹ No sentence for that suit has been recorded, and without more evidence it is impossible to establish the truth. However, Salmon was just one of four named priests in the Armagh act book for 1518–22 who were alleged to have engaged in sexual intercourse with women, at least three of whom were married.¹⁵⁰

However, sometimes it is clear that defamatory terms were used in anger. During one argument John Syke called Patrick Cunneghty a ‘rogue and a thief who deserved to be hanged’, and he called Cunneghty’s wife a ‘whore’.¹⁵¹ Yet two months later the case was settled out of court. Armagh’s consistory court regularly adjourned defamation cases to give the litigants time to calm down and settle their differences amicably. When Margaret Netervele called Margaret Duff the ‘whore of a priest’ the latter retorted by calling Netervele a ‘common whore to priests, friars and to all other men besides’.¹⁵² The two women subsequently settled their suits out of court. Margaria Tyrell accused Isabella Ugan of defaming her as the whore of *Dominus* Radulphi Brainok, a chaplain of St Mary’s, Drogheda.¹⁵³ However, in court it was reported that Tyrell had earlier called Ugan a ‘common whore’ and even a ‘Spanish whore’. Evidently the term ‘whore’ was bandied about all too readily at the time, especially in heated confrontations. It seems to have been more commonly resorted to by women of English descent in urban areas.

¹⁴⁶ Cromer’s register, i, fos 2r (6), 28r (46), 54v (72), 75v (96), 87v (111), 90r (113), 111r (144).

¹⁴⁷ Houlbrooke, *Church courts*, 81.

¹⁴⁸ Cromer’s register, i, fos 12v (29), 35r (52), 104v–105v (132), 110v (143).

¹⁴⁹ *Ibid.* i, fo. 110v (143).

¹⁵⁰ Married women also comprised a very high proportion of the women in England accused of sexual misconduct with priests: Ingram, *Carnal knowledge*, 248.

¹⁵¹ Cromer’s register, i, fo. 1v (3).

¹⁵² *Ibid.* i, fos 12v (29), 13v (32).

¹⁵³ *Ibid.* i, fo. 35r (52).

In all there are records of six suits in the Armagh act book that were initiated by women who were allegedly defamed by being called whores, and three others by women who claimed to have been defamed by allegations that they had illicit sexual relations.¹⁵⁴ It was normally women who called other women whores.¹⁵⁵ One woman claimed to have been defamed by being called a ‘witch’, again by another woman.¹⁵⁶ Men were more likely to have their honesty impugned.¹⁵⁷ Only one man claimed to have been defamed by a sexual slur, in that instance by a husband and wife who said that he had had carnal knowledge of the man’s wife.¹⁵⁸ One man was accused by a woman of defaming her by saying that her husband would still have been alive if she had not denied him wine and *aqua vitae*.¹⁵⁹ He counter-sued by accusing her of calling him a ‘false peasant’.¹⁶⁰ The court was not impressed by either of the latter suits and found both parties equally liable for the expenses.

It is noticeable that some female defendants who were married, especially in defamation suits, chose to have their husband represent them in court.¹⁶¹ Yet that may reflect their personal preferences rather than any institutional bias. One illustration of the court’s impartiality where gender was concerned is a suit in which a well-off man employed a proctor to promote his case against a woman of lesser means.¹⁶² She asked Archdeacon James White, oft-times judge of Armagh’s consistory court, to represent her. He did so and won the case for her.

The evidence from the act book does not support an assumption that the Armagh court employed a ‘double standard’ regarding the sexual behaviour of men and women. There are a number of records in the act book of men and women admitting to the court to having carnal knowledge in irregular circumstances without any indication of fear of being punished as a consequence.¹⁶³ In the singular record of a case of incest the

¹⁵⁴ Alsona Nygewoyll sued Thomas Dawe for saying that she had sexual intercourse with John Dawe, who must have been related to the defendant: Cromer’s register, i, fo. 95v (120). In English church courts female plaintiffs in defamation suits were even more likely to sue because of being called a whore or its equivalent: Ingram, *Church courts*, 302; Houlbrooke, *Church courts*, 79–80.

¹⁵⁵ Cromer’s register, i, fos 12v (29), 13v (32), 35r (52), 104v–105v (132), 110v (143). English evidence shows that the female litigants in defamation suits were usually married: Houlbrooke, *Church courts*, 80.

¹⁵⁶ Cromer’s register, i, fo. 103v (130).

¹⁵⁷ *Ibid.* i, fos 1v (3), 6v (19), 14r (33), 56r (75), 91r–v (114), 98v (123), 103v (130), 104r (131). The same pattern has been found in English church court records: Ingram, *Church courts*, 303.

¹⁵⁸ *Ibid.* i, fos 79v–80r (101).

¹⁵⁹ Cromer’s register, i, fo. 8v (23).

¹⁶⁰ *Ibid.* i, fos 81v–82r (102).

¹⁶¹ *Ibid.* i, fos 8v (23), 11v (28), 12v (29), 67r–v (88), 104r (131). No husband in the Armagh act book was represented by his wife.

¹⁶² Cromer’s register, i, fos 99v–100r (125).

¹⁶³ *Ibid.* i, fos 43v–44r (61), 59r (78), 62r–63r (81).

delinquent man was punished severely, but his mother-in-law with whom he sinned had no penance recorded.¹⁶⁴ The court took his wife's feelings into account when passing judgement: after imposing a penance on him it directed that thenceforth he could only claim his 'conjugal debt' at a time of his wife's choosing, which is ambiguous enough to suggest that she was entitled to withhold the 'conjugal debt' if she wished.

It may be suggested that the church courts were 'institutionally sexist' – if such a concept has any value for a study of the sixteenth century – in that the judges and other court officers were invariably men, the canon law they applied was compiled by men, and the biblical texts underpinning the Church's regulations were written many centuries earlier by men who claimed divine sanction for their own gendered beliefs and viewpoints. Yet the evidence of the Armagh act book shows that in practice the court was not inherently biased against female litigants or witnesses, a finding that tallies with that of P. J. P. Goldberg's study of English church courts.¹⁶⁵ Indeed, it is striking that, as in England, female litigants were far more successful in marriage suits than men were.¹⁶⁶ Donahue reckoned that English church courts were biased in favour of plaintiffs, regardless of gender, and the fact is that most plaintiffs in marriage litigation were female.¹⁶⁷ This study of the surviving Armagh act book confirms that the same pattern held true in County Louth.

The fortuitous survival of the Armagh act book from the early sixteenth century has facilitated a study of the operation of an Irish church court in unprecedented detail. It has been possible to calculate the composition of the court's business and make meaningful comparisons with the church courts in contemporary England. Indeed, given that the Armagh court's senior officials were graduates of English universities, and they operated within the aegis of English common law in the most anglicised region in Ireland, it is not altogether surprising that it should have been so comparable with its English counterparts in the early Tudor period, despite the fact that most of the people in County Louth were Irish.

While no records exist to show what Armagh's English archbishops thought of its consistory and metropolitan court in the early sixteenth century the operation of its counterpart in Dublin, which was based just 56 kms south of Armagh diocese, was judged to require 'reform rather

¹⁶⁴ Ibid. i, fo. 92r–v (116).

¹⁶⁵ P. J. P. Goldberg, 'Gender and matrimonial litigation in the church courts in the later Middle Ages: the evidence of the court of York', *Gender and History* xix (2007), 43–59.

¹⁶⁶ Donahue observed that the single most common story-pattern in marriage litigation in English courts was that of the 'wronged woman', and it was the most successful too: *Law, marriage and society*, 216.

¹⁶⁷ Ibid. 215.

than censure' and was in some aspects found 'deserving praise' by Dr John Alen, an Englishman who held doctorates in civil and canon law when he was appointed as the archbishop of Dublin at Cardinal Thomas Wolsey's behest in 1529.¹⁶⁸ The qualifications of the senior officials of Armagh's court, the regularity of its sessions, its adherence to the procedures of canon law and the persistence of its judges in pursuing cases of import to a definite conclusion, as reflected in the act book, all point to its efficient operation before Henry VIII's breach with Rome.

The act book reveals that the experiences of women in the most northerly shire of the English Pale in Ireland were remarkably similar to those of their *consoeurs* in England in terms of their marriages and sexual relations. It shows that the Irish church court offered women there an effective forum in which they could defend their interests in important areas of their lives: their marriages or other sexual relationships, and their sexual reputations. However, just as in England, there were limits as to what the Armagh consistory court could achieve, as for example when marital relations broke down, and its limitations were nowhere more contentious than in its dealings with priestly incontinence.

¹⁶⁸ *Alen's register*, 274–5.