Marriage in Medieval England

Presented by: Sally Keil
How is the ‘Marriage Bond’ formed?

• Began by the families’ mutual agreement
• No third party needed to create a marriage
• A private, secular affair
Johannes Gratian

? - 1159 (?)

• Benedictine monk
• Taught at the Monastery of Saints Felix & Nabor in Bologna
• Father of the study of canon law
Gratian’s *Decretum*

- Produced around 1140
- Compilation of nearly 4,000 canonical decisions
- Fundamental text on medieval canon law
Canon Law Concerning Marriage

per Gratian

• Mutual Consent of Bride and Groom is fundamental
Canon Law Concerning Marriage

per Gratian

• Mutual Consent of Bride and Groom is fundamental: cannot be coerced!
Canon Law Concerning Marriage

per Gratian

• Mutual Consent of Bride and Groom is fundamental

• Proper age: above 7 years old
Canon Law Concerning Marriage
per Gratian

• Mutual Consent of Bride and Groom is fundamental
• Proper age: above 7 years old
• Indissoluble after consummation (unless there were impediments)
Impediments to a valid marriage

• Believers vs non-believers
• Those publicly vowed to celibacy
• Children under 7
• Those related within 7 degrees by blood, affinity, or baptism
Peter Lombard’s ‘Sentences’
1095-1160

• No ecclesiastical formality nor ritual act needed to be married
• ‘Words of present consent’ **alone** are sufficient.

Verba de presenti
“I, John, take you, Mary, to be my wife”
“I, Mary take you, John, to be my husband”

Done deal!!!!!!
Definitive judgement on how the marriage bond is formed (1140):

- Consent in the present tense OR....
- Future consent followed by consummation
‘Verba de Futuro’
King Edward IV’s marriages

• Eleanor Talbot
  • Verba de Futuro

• Elizabeth Woodville
  • Verba de Presenti
Evolution of Marriage by 4th Lateran Council 1213

- Marriage was elevated to become a ‘sacrament’
- Forbidden degrees went from 7 to 4
- Called for endowments of brides
- Called for public weddings at the church door, with public declaration of consent
- Called for posting of banns, 3 times
What about divorce?

- No such thing!
- The marriage bond, created with ‘Verba de Presenti’ or ‘Verba de Futuro’ followed by consummation, is indissoluable
- Only option is annulment: invalid from the start
Marriage Bond creates 2 obligations:

• Conjugal debt
• Marital debt
Annulment of the conjugal debt: ‘A Mensa et Thoro’

- Granted in cases of adultery, cruelty or heresy (‘spiritual fornication’)

[Image of a medieval scene with two figures]
Annulment of the marital debt

• Marriage invalid from the start due to:
  • A precontract
Invalidity of the marital debt

• Based on precontract
• Based on forbidden degrees

Decretium by Gratian
Copy in Florence Italy
Invalidity of the marital debt

• Forbidden degrees based on:
  • Blood kin: descended from same great-great-great grandfather
  • Affinity: become ‘of one flesh’
    • in-laws
    • sexual relations
    • Spiritual ties
Invalidity of the marital debt

• Based on precontract
• Based on forbidden degrees
• Based on impotence/nonconsummation
7 Honest Women
Invalidity of the marital debt

• Based on precontract
• Based on forbidden degrees
• Based on impotence/nonconsummation
• Based on age: child younger than 7 years old
Why child marriages? How did they work?

• Marriage contracted by a child under 7 years old: void.

• Between 7 and puberty: optional acceptance by the child once they reach puberty, or renouncement
  • Puberty (age of consent) for a boy: 14
  • Puberty (age of consent) for a girl: 12

• Marriage contracts arranged assets, land exchanges, family relationships so parents know child has been taken care of
Isabella of Valois (6) & Richard II (29)
Richard Duke of York (4) and Anne de Mowbray (5)
Considerations in Marriage

• Church courts had jurisdiction over determining if a marriage bond had been formed

• Secular law concerned itself with property, assets, inheritance, etc.
Medieval marriage = marriage contract

Two key components:

• **Dowry**, or marriage portion
  - Assets brought to the marriage from the brides family
  - **Trousseau**
• **Dower**
  - ‘Insurance’ given by the grooms family to the bride
The search for a wife: Cast of characters

• Sir John Paston: older brother
• Margery Paston: mother
• John Paston II: prospective groom

The Paston Letters (1422-1509)
William the Conqueror
1066

Bayeux Tapestry
Bayeux France
“After his coronation, William the Conqueror claimed that all the land in England now belonged to him. William retained about a fifth of this land for his own use. Another 25% went to the Church. The rest were given to 170 tenants-in-chief (or barons), who had helped him defeat Harold at the Battle of Hastings. These barons had to provide armed men on horseback for military service. The number of knights a baron had to provide depended on the amount of land he had been given.”
King

The king owned all the land. He retained about 20% of this land for his own use. The king granted the rest of this land to the church and the barons.

Church

About 25% of this land is granted to the Church. The Bishops (tenants-in-chief) granted land to their under-tenants. These men promised to supply knights when the king needed them.

Barons

About 55% of this land is granted to his Barons. The Barons (tenants-in-chief) granted land to their under-tenants. These men promised to supply knights when the king needed them.

Under-Tenants

Under-tenants granted land to the peasants. In return, the peasants provided rent or labour services.

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Peasants

In return for land peasants provided labour services (serfs)

In return for land peasants provided rent (free peasants)
‘Inheritance’ in Medieval England

• SUBJECT TO...Lord’s acceptance of the heir as his tenant
  • Ceremony of homage
  • Payment of ‘relief’ to the lord
• ‘Inheritance’ secured by Magna Carta
• Primogeniture
  • Land and title passes to oldest son
Assets in Medieval England

- Land creates wealth
- Tenant rents
- Agricultural crops/minerals
- Other fees, charges
  - Toll roads & bridges
  - Milling fees
Assets in Medieval England

• Land creates wealth
• Wealth enables power
  • Drawn from proximity to the King
  • Paid to influence decisions: ‘Good Lordship’
• Drawn from family relations
• Regional hegemonies
• Drawn from number of retainers
  • ‘Standing armies’ of the barons
Assets in Medieval England

• Land creates Wealth
• Wealth enables Power
• Power creates additional ‘assets’:
  • Control over marriage decisions of adult heirs and heiresses
  • Control over marriage decisions of wards
When heirs become wards...

- Wardship created upon the death of the father
- May or may not include physical custody of the heir
- A wardship is a financial asset
  - Can be sold, given, leased, etc.
- Originally incorporated feudal military obligations
  - Evolved into payments instead
What about widows?

- **Dower** insured(\*) 1/3 of the husband’s estate to his widow
- Remarriage options controlled by her lord

**Jointures** and conditional grants, or **entails**, emerge in the 13\(^{th}\) century to control passage of assets through inheritance
The Paston's search for a wife for John II
Effect of marriages and births in asset transfers

... creates a wealth of lawyers!

• How was the property initially obtained, whether as marriage portion, inheritance or dower?
• Who were all the children, from each subsequent marriage?
• Who was the eldest male child?
• How many daughters or sisters inherited?
• Who died without heirs?
“It is reasonable to assume that, within limits, families knew their kinship relations, were well aware of the possibilities of inheritance attached to them, and sought marriage alliances accordingly.”
Contract & Consent
Medieval Period Ends & Tudor Era Dawns - 1485
Henry Marries Catherine of Aragon

June 1509

Henry VIII

Catherine of Aragon
..along comes Ann Boleyn in 1522...
Henry VIII Wants an Annulment: Prohibited Degree of Affinity

Henry VIII

Catherine of Aragon
Prince Henry and Megan Markle
Married St Georges Chapel Windsor
May 19, 2018
Nothing and everything has changed!