

3. ‘She is but a girl’

Talk of Young Women as Daughters, Wives, and Mothers in the Records of the English Consistory Courts, 1550–1650

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Abstract

This exploration of litigation involving marriage and defamation indicates the ways in which early modern witnesses expressed ideas about young women within the institutional venue of England’s ecclesiastical courts. The archival evidence describes relationships interrupted and fractured by charges of sexual and social misbehaviour, demonstrates the ability of young women to mount spirited objections to family matrimonial strategies, and reveals voices of young female servants offering opinions on the actions and words of the surrogate families of masters and mistresses. Witness testimony illuminates the legal, social, and cultural expectations of and for young women as they passed through an identifiable stage between childhood and maturity.

Keywords: litigation; courtship; defamation; witness testimony; church courts; female youth

A remarkable document from England’s Consistory Court of Chester contains a harrowing account of young Katherine Prescott’s coming of age.² Her father, Henry, determined that twelve-year-old Katherine should marry William Bower, aged fifteen, who was ‘of a very good estate [...] in good[es], tenement[es] and land[es]’. Being ‘greatly perplexed and troubled in mind’,

¹ The author would like to thank the volume’s editors and readers for their helpful comments during the preparation of this manuscript, as well as audience members and panellists at sessions of the Rocky Mountain Medieval and Renaissance Association meeting and the Attending to Early Modern Women conference who offered feedback on earlier versions of this project.

² CALS EDC 5 1624, no. 17.

Katherine voiced dissent, saying she would 'leape into a worke pitt and drowne her self before she married William Bower'. Henry Prescott was unmoved; his 'p[er]suasions, threat[es], and menaces' as well as a promise to withdraw his financial support and paternal blessing forced Katherine into her parish church for a solemnization of marriage. Her display of opposition before the ceremony, though, prompted the minister and congregation to lobby Henry Prescott to abandon his plans. When they were unsuccessful, Katherine had no choice but to capitulate; yet her mumbling of the vows caused many present to question whether she had spoken the verbal formula required for a valid union. A battle of wills erupted after the ceremony between Katherine and the men responsible for her governance, her father and her new husband. Henry Prescott settled the young couple in his house and demanded they consummate their relationship – a demand echoed by the young bridegroom – but Katherine thwarted their plans through a variety of schemes, including enlisting young female servants to share her bed instead and locking her chamber door to prohibit her husband's entrance. Meanwhile, she pursued a sustained campaign to dissolve her marriage, having 'complayned and made her moane and greefe knowne to divers persons with whome she was familier or durst speake'. These objections reached the Commissioners for Causes Ecclesiastical in Wigan, who ordered her suit be heard before the Bishop's consistory court in Chester in 1624.

The cause papers of Katherine's case present a compelling and occasionally chilling narrative of a young woman alternatively defiant and cowed, both constrained and unbroken by her age and dependent condition. The final words of the allegation requesting that the court declare her 'pre[tend]ed marriage' invalid cast into stark relief the vulnerability of young women in early modern England: they claimed Katherine had been unable to secure justice 'by reason of the want of libertie, frend[es], and meanes'. Yet the documents of the consistory courts of northwest England reveal that young women were not so devoid of 'libertie, frend[es], and meanes' that they were ignorant of or barred from the courts' proceedings. Female youths instead appeared frequently as plaintiffs, defendants, and witnesses in child marriage suits, breach of contract suits, and requests for nullification. Just as courtship and matrimony offered young women an opportunity to demonstrate agency as they navigated the road to adulthood, legal action concerning the rupture of relationships also afforded female adolescents the opportunity to provide evidence about their lives in the courts.

Early modern consistory court records provide valuable commentary on female youths' experiences as daughters, wives, mothers, and labourers as voiced by adult witnesses of both sexes as well as by young women

themselves. Analysis of litigation heard by the diocese of Chester's two consistory courts at Chester and Richmond reveals contestation and negotiation over the words used to describe female youth as well as the values and expectations associated with the female stage of life between childhood and adulthood.³ Articulations both of legal theory and of the lived experience of young women in court records clearly demonstrate the constraints female youths faced in early modern English society. But to see in them evidence of the relentless oppression of patriarchy is to ignore the initiative that young women employed in using the institutional forum of the court to describe their memories, words, and actions. Witnesses and litigants communicated a multifaceted and often flexible conception of female youth, shaped by young women's socioeconomic and marital status, by their physical and social development, and by the definitions and requirements of ecclesiastical law.

Evidence and Method

Scholars have long wrestled with the problem of defining adolescence as a social category and as a distinct stage of life in the medieval and Renaissance periods. Philippe Ariès's assertion that concepts of childhood and adolescence were non-existent in the Middle Ages proved a boon to claims situating their emergence in the early modern period, but that developmental timeline was subsequently contested by several historians of youth, including Barbara Hanawalt and Ilana Krausman Ben-Amos.⁴ The prevailing scholarly discourse on early modern youth remains decidedly male in its orientation, drawing on evidence of apprenticeship and education to posit the existence of a male youth culture characterized by misrule and riot and associated particularly with urban areas.⁵ Prescriptive evidence for early

3 The Deposition Books for the Chester court consist of witness testimony, while the Cause Papers consist of procedural papers (libels, personal responses, interrogatories, depositions, articles, and sentences). Cause paper materials for Richmond's court are found at the West Yorkshire Archive Service, Leeds. Appeals material for both courts is housed at the Borthwick Institute for Archives, University of York. Furnivall's *Child-Marriages* includes transcriptions of additional matrimonial litigation.

4 Ariès, *Centuries of Childhood*; Shorter, *Making of the Modern Family*; Stone, *Family, Sex and Marriage in England, 1500–1800*; Hanawalt, 'Historical Descriptions and Prescriptions for Adolescence', and *Growing Up in Medieval London*; Ben-Amos, *Adolescence and Youth in Early Modern England*.

5 Yarbrough, 'Apprentices as Adolescents'; Houlbrooke, *English Family*; Shepard, 'Manhood, Credit and Patriarchy' and *Meanings of Manhood*; Archer, *Pursuit of Stability*; and Lamb, 'Youth Culture'.

modern conceptions of female youth exists in relative abundance, however, and the essays in this volume and other recent work argue persuasively in favour of a more complex theory and practice of female youth during the early modern period.⁶

My research seeks to redress a gap in extant scholarship by examining descriptions of the characteristics, behaviour, words, and memories associated with young womanhood as expressed within the jurisdiction of ecclesiastical law. Records of England's consistory courts are an underused but rich source for the study of youth. Alexandra Shepard indicates that at the height of their business, the courts may have hosted as witnesses as high a proportion as one in seven of the population over the age of fourteen, the minimum age accepted under ecclesiastical law for giving testimony at court, which perhaps purposely coincided with the canonical age of maturity for boys.⁷ The diocese of Chester's two consistory courts dealt with matters of ecclesiastical discipline, but also served as popular venues for the resolution of disagreements between private parties involving defamation, tithes, pews, probate, economic breaches of faith, and marriage. The richness of the Chester courts' documentary record, its mix of urban and rural litigants and deponents, and its representations of the testimony and circumstances of people of diverse social statuses make it an invaluable source collection for a consideration of female youth.⁸

Early modern adolescence had both biological and social definitions, identified by the onset of biological puberty and characterized by an absence of the status, property, and agency that came, at least for males, with the attainment of full adulthood. Traditionally, the signifier of female adulthood was marriage.⁹ Evidence of wives' distinct status is captured in the

6 Scholars of the English Renaissance have identified shifting ideas about young women's roles and bodies in contemporary moral, medical, and dramatic texts: Miller and Yavneh, *Gender and Early Modern Constructions of Childhood*; Read, *Menstruation and the Female Body*. In 'Fair Maids and Golden Girls', Jennifer Higginbotham demonstrates that the vocabulary associated with young womanhood in dramatic texts and dictionaries between 1500 and 1700 lost flexibility in communicating subtle social and cultural messages and values, and became instead more rigid in describing a particular developmental stage.

7 Shepard, *Accounting for Oneself*, 9. For the minimum age of witnesses, see Donahue, *Law, Marriage, and Society*, 40. Age was a qualification featured in Tancred's discussion of ecclesiastical procedure (cited by Donahue on the same page): 'Condition and gender, age and discretion / Fame and fortune and troth / If these aren't found in the *testes* / You should, to admit 'em, be loath'.

8 Thirty per cent of the witnesses in matrimonial litigation surveyed for this paper were women (of 326 deponents, 92 were female and 234 were male), and most witnesses were of the 'middling sort', below the level of the gentry but above that of landless labourers.

9 Mendelson and Crawford, *Women in Early Modern England*, 76; Erikson, *Women and Property in Early Modern England*.

court documents from Chester: a suit from 1640, for example, reiterates the Bishop's order 'that wiewes should sitt in pewes & seat[es] and that all yonge women vnmarried & children [...] should sitt or kneele in the iles [...] and not in pewes or seat[es]', revealing the physical separation of married and unmarried women within ritual and communal social space.¹⁰

England's failure to enact a comprehensive reform of its matrimonial law until Lord Hardwicke's Act in 1753, however, complicated marriage's function as a rite of passage. It remained possible to construct matches between children younger than the canonical ages of consent (twelve for girls and fourteen for boys) and to create binding marriage outside the authority of the Church of England through the exchange of matrimonial vows, both of which were considered spousals, or matrimonial contracts.¹¹ While child marriage and handfasting lost social and cultural legitimacy in many areas, they persisted in the diocese of Chester, and contested matrimony produced numerous legal actions.¹² To investigate the courts' documentary record for information on female youth, I selected a sample of 210 matrimonial cause paper files from the Chester courts (dated from 1545 to 1653) that included witness testimony: 138 deal with irregular marriage between parties over the ages of consent, and 72 feature matrimonial contracts for children under the canonical ages of maturity.

Sixteenth-century lawyer Henry Swinburne in his posthumously published *Treatise of Spousals* identifies three developmental categories for females – infants, children, and women – although his discussion of the ages associated with each reveals considerable diversity of contemporary opinion.¹³ The canonical impediment concerning age, however, meant that matrimonial law was conclusive in its definitions of stages of the female life-cycle. Marriage contracted for those under the age of seven ('infants') was invalid due to the parties' inability to give mental or physical consent. Matrimonial contracts made on behalf of children between the ages of seven and twelve (girls) or fourteen (boys) became binding if the parties

10 CALS EDC 5 1640, no. 94.

11 The practice of exchanging consent by speaking words of marriage was identified by additional terms including 'trothplighting' and 'handfasting'.

12 See, for example, Ingram, *Church Courts, Sex and Marriage in England*; Houlbrooke, *Church Courts and the People during the English Reformation*; Cressy, *Birth, Marriage, and Death*; Out-hwaite, *Rise and Fall of the English Ecclesiastical Courts*.

13 Swinburne notes, for example, that under civil law, young people were considered 'infants' until the age of 21, and, based on a survey of classical and contemporary texts, he identifies childhood with the period under 14, 18, 21, 22, and 25, depending on the authority and circumstance. Swinburne, *Treatise of Spousals*, 19 and 24.

engaged in sexual intercourse or if, after reaching the legal age of maturity, they demonstrated matrimonial consent.¹⁴ For courting couples over the ages of consent, the speaking of present-tense words of matrimony had performative force to enact valid marriage. When the words exchanged were uncertain or disputed, however, other signs of consent – including consummation, cohabitation, giving gifts, or even simply appearing as ‘man and wife’ in social and economic contexts – assumed significance in witness testimony. As a result of these legal provisions, friends and family carefully assessed young women’s behaviour for evidence of consent or dissent from marriage and reported their findings in court when compelled to do so.

An important consideration for the value of information on young women provided by these matrimonial suits centres on the issue of irregularity itself: how useful is evidence from accounts of irregular relationships in reflecting experiences of average female youths?¹⁵ To answer that question, this essay also investigates more general commentary on marriage provided by 2200 non-matrimonial suits from the diocese of Chester. That evidence suggests that when matrimonial contracts functioned as expected, the resulting unions never appeared as abnormal in the documentary record, apparently escaping either the notice or the censure of authorities. For example, an adultery suit from 1593 filed against Marie Cragg includes Richard Cragg’s assertion that he ‘was but tend[e]r of yeaeres by the p[er]swasion & p[ar]tlye by the threatning[es] of his fath[e]r [when] he did intermarie w[i]th the said Marie’.¹⁶ Both parties subsequently consented to marriage, and the couple had two children. Had Marie’s adultery not later come to light, evidence of this child match would be non-existent. Clearly the tactics of Richard Cragg’s father had worked as he (and countless other fathers, mothers, kin, and guardians) intended; the child spouses validated their marriage upon attainment of the ages of majority. Incidental talk of marriage in the cause papers suggests that irregularities frequently yielded enduring, unremarkable matches. Lawsuits requesting confirmation or dissolution of marriages

14 Swinburne, *Treatise of Spousals*, 18–47. For an assessment regarding regionalism and child marriages, see Ingram, *Church Courts, Sex, and Marriage*, 128–29.

15 Historians have discussed in considerable detail the difficulties facing a scholar who studies court documents. For some of the more eloquent discussions of both the caveats of and strategies for using such records, see Davis, *Fiction in the Archives*; Kuehn, ‘Reading Microhistory’; Gowing, ‘Language, Power and the Law’; and O’Hara, *Courtship and Constraint*, 10–16. Charles Donahue reminds readers that court cases recount subjective stories rather than objective truths about marriage, and identifies and labels particular story patterns in his examination of late medieval marriage: *Law, Marriage, and Society*, 10–11 and 46–62.

16 CALS EDC 5 1593, no. 9.

made outside the prescribed formula for matrimony can be considered somewhat atypical in that they required judgment of ecclesiastical authorities. Evidence from other types of litigation, however, confirms that the strategies and practices of irregular marriage were widely recognized and accepted as culturally legitimate in England's northwest and, by extension, that the young women whose lives are documented in the suits examined below should not be considered rare or deviant.

Talk of Young Women by Adults

The application of matrimonial law in Chester's consistory courts both informed and complicated the question of what constituted female youth. Depositional evidence provided by adults in child marriage suits offers little indication witnesses considered young brides women by virtue of their premature advancement to wifehood. Edward Hopwood, for example, claimed his rebellious granddaughter, Anne, was 'but a girle' whose desire to nullify her child marriage revealed her ignorance of what was best for her and for her family.¹⁷ The most common label for child brides in the records was the one attributed to Hopwood, yet 'girl' is a developmental category absent from Swinburne's treatise on matrimonial law. The great range of words found in early modern literary and prescriptive sources to describe young women is absent from the court papers: none is referred to as a 'lass' or 'damsel', and 'maid' is a term reserved for household servants in child marriage suits.¹⁸ The usage of 'girl' may have been the preference of recording court clerks rather than a reflection of deponents' spoken words, although it is clear that clerks were responsive to the precise language witnesses used in their oral testimony, as the court papers indicate numerous corrections made to written accounts when testimony was read back to witnesses to secure their assent to its accuracy.¹⁹

While the testimonial procedures of ecclesiastical law may have inhibited the documentation of an extensive vocabulary for female youth, deponents appear to have exercised linguistic agency in discussing young women in other ways. Numerous witnesses reported their assessments of girls' bodies to determine biological preparedness for intercourse and childbirth, and

17 CALS EDC 2/9, f. 303v.

18 The term 'wench', a popular label in literary sources for female children, made only a single appearance in these records.

19 For an overview of procedure, see Donahue, *Law, Marriage, and Society*, 33–41.

to ascertain age as related to canonical stipulations concerning consent.²⁰ Deponents described young brides as 'small' or 'little', as when in a suit from 1570 deponent Thomas Smyth judged child bride Joan Higgenson 'not marriageable' by virtue of her being 'a litle girle'.²¹ In 1570 Alexander Worthington recalled the child marriage of Elizabeth Orrell and Richard Elston, when Elizabeth was so young she had been carried to the church in Preston 'in tharmes of one Henry Wolderne'.²² The most striking descriptor comes from an action from 1586 when witness Randolph Crokson called eleven-year-old groom Thomas Wadde 'boy' but referred to Thomas's eight-year-old bride, Frances, as a 'woman'.²³ Writers of early modern conduct and household manuals did acknowledge that girls matured more quickly than boys, but instead of demonstrating popular acceptance of that point, Crokson's label performs more valuable service as a reminder that deponents employed descriptions of young brides purposefully, since age, physical readiness for intercourse, and ability to demonstrate consent were all integral to the law of marriage.²⁴ Crokson was a witness on the part of young Thomas Wadde, and his testimony emphasizes Thomas's immaturity as grounds for dissolution of the marriage.

Quantitative data further support the conclusion that young brides attained little of the status and few, if any, of the domestic or maternal responsibilities associated with adulthood. This evidence clearly confirms child marriage both as the product of strategies by adults responsible for the governance of youngsters and as an arrangement between children, rather than between a child and a mature adult: 75 per cent of the child marriage suits in Chester featured underage girls, while grooms had not reached the age of consent in 79 per cent of such suits. In the remaining suits, the incompleteness of case files obscures the age of one or both parties. When considerable disparity did exist between spouses' ages, witnesses voiced strong objections absent from other suits. In 1573, for example, Thomas Shostworth described the 'disorderly marriage' of eleven-year-old Anne

20 During the early decades under investigation, witnesses often used variations on the phrase 'bie viewe of hir bodye' to introduce perceptions of girls' physical development. See, for example, CALS EDC 2/7, f. 142r; EDC 2/8, ff. 136v, 143r; and EDC 2/9, 508. By the early seventeenth century, the parish register of baptisms provided evidence of age.

21 CALS EDC 2/9, 11.

22 CALS EDC 2/9, 47.

23 CALS EDC 2/8, f. 154v.

24 Mendelson and Crawford, *Women in Early Modern England*, 83. For early modern legal commentary on the theory that girls matured more quickly, see Swinburne, *Treatise of Spousals*, 48–49.

Goodshawe and William Stephenson, aged 22.²⁵ He reported that he would never have gone to the Goodshawe house on the afternoon in question had he known he would be called upon to witness a marriage, as 'he thought the whole matter wold growe to some trouble after' since Anne was 'not at lawfull yeres'. Other witnesses echoed Thomas's misgivings, which stemmed from the alleged spouses' unequal levels of maturity rather than Anne's age alone.

Testimony provides few indications of the independence of child spouses. For example, 82 per cent of child marriage suits identify individuals whose approval and actions worked to arrange the union. Deponents discussed the active role taken by parents of female litigants in 61 per cent of the suits and by parents of male litigants in 57 per cent; 42 per cent mention the actions of 'friends' and non-parental kin of female litigants; and 43 per cent identify 'friends' and non-parental kin of male litigants.²⁶ Perhaps unsurprisingly, men were more frequently identified as masterminding child marriages than women. Fathers, uncles, grandfathers, and male guardians all worked to create matches for their young offspring, heirs, and charges, with female approval or influence actively sought only when male authority was absent.²⁷ Cohabitation of young spouses, usually in the house of one set of parents, is indicated in 34 per cent of child marriage suits. The living arrangements and experiences of spouses who did not cohabit diverged sharply according to gender: boys were commonly sent to school or apprenticed, while girls remained in the homes of parents or guardians.²⁸ This evidence, combined with the vocabulary identifying child brides as 'young', 'small', and 'girls', makes clear that merely being married did not catapult girls to the ranks of adulthood.

25 CALS EDC 2/9, 640–41.

26 These numbers reflect the fact that multiple parties, both kin and non-kin, were sometimes discussed in individual suits as playing important roles in bringing a marriage to completion. The category 'friends' is a reflection of language used in the records themselves, where the identities of such individuals are seldom given. See Rushton, 'Property, Power and Family Networks', 211, and Gowing, *Domestic Dangers*, 148–59, for the composition of 'friends' mentioned in early modern matrimonial suits. O'Hara equates 'friends' with the concept 'fictive kin', noting the connections among 'family and the surrogate family of masters, mistresses, and fellow servants, from biological kin, affines, and a range of what may loosely be termed fictive kin'. See O'Hara, 'Ruled by my Friends', 22.

27 The mother of George Hanson, for example, took on a key role in the negotiations concerning her son's child marriage to Anne Drackeford because her husband died during George's minority. CALS EDC 5 1616, no. 71.

28 In only a single instance was a child bride described as being put into service 'abroad' after the exchange of vows. CALS EDC 2/9, unnumbered deposition in a cause between Anthony Mettershed and Anne Rowcroat [1573–1574?].

Young women over the age of consent whose fractured relationships prompted breach of matrimonial contract suits faced uncertainty about their status that also destabilized the traditional tripartite division of female lives into the stages of maid, wife, and widow. If properly married, these young women crossed the all-important physical and social boundaries from maid to wife resulting from the initiation of sexual relations and adoption of duties ranging from household management to childbirth and childrearing. If the courts did not ratify claims of matrimony, however, the performance of these wifely actions was deviant rather than normalizing, and exposed young women to censure. During the courts' review of suits alleging irregular unions – a process that could take years – young women found themselves stuck in a suspended developmental state. They were denied the ability to live as a maid advancing toward adulthood through marriage with an alternative partner, as well as the financial, social, and cultural security and status afforded by wifehood.²⁹

The practical challenges of such an interruption are provided by the account of Margaret Launcelot in 1604.³⁰ In refuting John Holmes's contention that the pair married thirteen years before, Margaret confessed she 'spoke in a merie maner' to John as a young woman, but not with the intent of binding herself in marriage. She stated that she had since been 'in talke of marriag w[i]th two or three' others, but suggested that John's continued claims deterred these suitors and constituted a form of 'molestat[i]on'. It is worth noting that while consequences of matrimonial uncertainty for young women included a prolonged, often troubled period of adolescence like that suffered by Margaret, none of the suits suggest that rumours of marriage similarly derailed male youths' quest for manhood.³¹

Quantitative analysis of Chester's breach of contract suits reveals a more gendered pattern of oversight than that indicated in the child marriage suits. Nearly one-third contain evidence of the direct involvement of young women's parents in the establishment of alleged marriages, twice the number featuring the actions of young men's parents. Almost half of the suits describe the kin, friends, and guardians of young women helping shape the process of

29 After Joann Whitworth gave birth to an illegitimate child in 1588, Ellen Brooke employed her 'to spinne' for the space of one year, during which time Joann's suitor, Thomas Bostock, came often to visit her and the child. CALS EDC 5 1598, no. 20. The breach of contract suit was filed a full ten years after the contract had been established, a period for which no information on Joann's employment or living conditions is provided.

30 CALS EDC 5 1604, no. 30.

31 The jactitation of marriage suits in the Chester courts invariably feature young women refuting rumours of marriage, as in CALS EDC 5 1618, no. 77.

alleged matrimony, while a smaller proportion, one-third, discusses the role of the young man's kin, friends, and other parties. Young men appear to have had more independence in initiating and advancing courtship than young women, by virtue of either social or legal custom. The evidence of courtship as a male-engineered activity for the northwest is complicated, however. While scholars have identified the giving of courtship and matrimonial gifts as a male practice in other areas of England, in the diocese of Chester, nearly 60 per cent of the suits discussing gift exchange include accounts of female giving, meaning young women were often active participants rather than passive receivers in the gift economy.³² It further demonstrates that female youths could procure and proffer items that deepened and displayed couples' commitment.

Talk of Young Women by Young Women

Consistory court records include first-hand accounts provided by young women themselves in the forms of litigants' personal responses and witness testimony. Young women seeking nullification of marriage constructed narratives that either exploited problems of proof and legitimacy inherent in irregular marriage or professed ignorance of matrimonial law in the attempt to secure a favourable judgment. In 1567 Alice Davenport reported that she was 'of so smalle discrec[i]on and age [...] that she cannot remember whether she was married to the said Ranulph [Grasly] eu[er] or neu[er]', and her claims of ignorance by virtue of age were echoed by numerous child brides.³³ Dorothy Wright admitted to a consent-based contract with Thomas Clutton in a suit from 1608, but tried to persuade the court that the match was invalid by noting that it took place in a private house without a licence or the required public reading of the banns, suggesting an understanding of

32 Rushton, O'Hara, Peters, and Gowing emphasize male giving in both theory and practice, while Houlbrooke's examination of sixteenth-century Norwich indicates male givers outnumbering female givers 'nearly three to one', and Carlson's study of Ely and York reveals a disparity of five to one. Rushton, 'Testament of Gifts', 26; O'Hara, *Courtship and Constraint*, 65; Houlbrooke, 'Making of Marriage', 344; Carlson, *Marriage and the English Reformation*, 111; Gowing, *Domestic Dangers*, 160; Giese, *Courtships, Marriage Customs, and Shakespeare's Comedies*, 85–86 and 130–43; and Peters, 'Gender, Sacrament and Ritual', 87.

33 CALS EDC 2/8, f. 127r. For similar talk about the inability to signal consent by virtue of age or to remember the occasion of marriage, see also personal responses from Elizabeth Tilston, EDC 2/8, f. 3r; Elizabeth Low *alias* Mason, EDC 2/8, f. 119r; Isabel Orrell *alias* Lathom, edc 2/8, f. 155r; Alice Watson, EDC 2/8, f. 269r; Helen Gleave, EDC 2/8, f. 336v; and John Rambotton, EDC 2/9, 508.

the legal requirements for marriage. More typical, however, was Elizabeth Mather's claim in 1640 that she contracted matrimony without understanding the contract's implications, 'being vnskillfull in the lawes of God and man'.³⁴ Young men, in contrast, did not cite ignorance of legal requirements, which suggests gender-specific pleading strategies that would have aligned with contemporary perceptions of male and female understandings of the law.

Young female plaintiffs and defendants offered details of their relationships that allow us to reconstruct social expectations and practices associated with early modern marriage. They recounted the circumstances through which they expressed consent to matrimony, often stressing the particular formula of words employed, as when Cicely Haughe, aged 22, confessed in 1569 to taking Richard Shene by the right hand and saying 'vnto him there and then I Cicilie take the Richard to my wedded husband and the reste of the wordes of matrimony', after which the pair kissed to ratify their contract.³⁵ Elizabeth Nibbe's account in 1583 of her relationship with William Sefton reveals her cautious consideration of making a binding commitment: 'because the pl[aintiff] was a straunger' whose material prospects were unknown to her, Elizabeth sent a messenger to his home county, and upon learning he was a younger son with limited means, she 'did breake w[i]th him', having never spoken the legal words of marriage.³⁶ Katherine Prescott, whose story opened this essay, swore she had not consummated her marriage to William Bower to signify her continued refusal of the union, and other young women offered testimony concerning their own sexual activity or its absence in pursuit of legal claims as well. In 1637 Christiana Williamson, for example, listed a variety of physical and material exchanges with Robert Wainwright she thought constituted proof of a valid union:

[T]he said marriage was ratified and confirmed betwixte them as she beleeves by lying and being in one and the same bedd together, by continued cohabitac[i]on, by guift[es], by kisses, by imbracement[es], by kinde language, and good vsage as man and wife.³⁷

Young women also appeared before the courts as witnesses in matrimonial suits. Because present-tense words of matrimony were the key legal measure

34 CALS EDC 5 1608, no. 50; EDC 5 1640, no. 49.

35 CALS EDC 2/8, f. 217r.

36 CALS EDC 5 1583, no. 62.

37 CALS EDC 5 1637, no. 14.

of early modern marriage for those over the ages of consent, female deponents who witnessed matrimonial contracts formed in domestic spaces and reported memories of the precise language employed provided valuable testimony as to a match's legality. When accounts of the exchange of marital vows between Radcliff Kelsall and sixteen-year-old Catherine Fallows varied, several young women in Catherine's life were called to testify in a matrimonial suit filed in 1641. One, sixteen-year-old Margaret Moores, recounted an afternoon she spent with Catherine and Radcliffe, during which time 'she did not observe any passages betwixt the s[ai]d Ratcliffe & Catheren purporteinge any contract of matrimonie'.³⁸

Young female servants, friends, and neighbours also commented at great length on couples' physical and material displays of affection and the performance of typical spousal behaviours.³⁹ Unmarried female servants witnessed the words and deeds of members of their households in the course of their duties, so they frequently offered evidence concerning the sentiments of alleged spouses. A deponent in a child marriage suit between Ellis Broughton and Joan Jones recalled, for example, that as a 21-year-old servant in the Broughton household, she overheard the child groom signify his desire to dissent from marriage after coming to the age of majority, stating 'he would shewe no curtesie or token of love toward [...] Joan'.⁴⁰

Because consummation transformed matrimonial intent into an indissoluble union, young female witnesses' observations on physical relations between reputed spouses was vital. In a child marriage suit from 1570, 'seruinge woman' Elizabeth Gerard, aged eighteen, testified that Jane Broke's mother 'gaue [her] sheet[es] [...] purposelie to be laid upon a bed to be made for [Jane and defendant Edward Butlor] to lye in', a task Elizabeth remembered completing with the assistance of another servant.⁴¹ She further reported, however, that Mistress Broke's plan for the union's consummation did not succeed that night or any other night, a fact Elizabeth knew to be true since she was Jane's 'chamberfellowe' throughout her time in service. Such depositional evidence signals the law's treatment of young female servants as expert witnesses, courtesy of their knowledge of domestic activities.

38 CALS EDC 5 1641, no. 13.

39 For the symbolic capital of informational 'markers' of marriage, see O'Hara, *Courtship and Constraint*, and Cressy, *Birth, Marriage, and Death*.

40 CALS EDC 2/8, f. 74v.

41 CALS EDC 2/9, 58.

Young Women, Words, Sex, and the Law

Historians have noted that women seeking redress for assaults on their sexual reputations made plentiful use of the ecclesiastical law prohibiting defamatory speech.⁴² Married rather than single women dominate defamation litigation, a factor that stems in part from husbands subsidizing costs of litigation to exonerate their wives and safeguard their own reputations as effective masters of their household. If unmarried young women had sufficient material support to initiate suit, however, they could and did take their causes to court in hopes of recovering good name and fame.

Accounts of fornication and defamation, which dominated the business of the Chester courts during the decades considered here, provide glimpses of the agency and vulnerability of female youth and reveal three important points. First, defamation suits initiated by unmarried women make clear that accusations of sexual incontinence could inflict significant damage to young women seeking to advance to adulthood through marriage: a witness in 1595 noted, for example, that he believed Katherine ap Roger would have 'byn maried before nowe yf thees speaches [alleging misbehaviour] had nott byn'.⁴³ Second, defamation suits contain a stylized vocabulary for female youth: young women are commonly described as 'maids'. The descriptor is often formulaically coupled with the modifier 'honest' for women claiming their reputations had been unfairly tarnished by accusations of misbehaviour, but records do not demonstrate an elaborate or complicated terminology to distinguish the characteristics of individual young women.⁴⁴ Finally, the same association of young women with the household that allowed them to claim authoritative knowledge of purported spouses' behaviour also made them key witnesses in cases of defamation, as insulting speech was frequently uttered in residential spaces or in the company of other women. Anne Eaton, aged fifteen, for example, recounted hearing Dorothy Harrison report that Margaret Bryce was 'naught' with Hugh Pulford during a visit to the home of Margery Hilton.⁴⁵ Defamation

42 The law, cited in Helmholz, 'Canonical Defamation in Medieval England', 256, reads: 'We excommunicate all those who, for the sake of hatred, profit, or favor, or for whatever cause, maliciously impute a crime to any person who is not of ill fame among good and serious men, by means of which at least purgation is awarded to him or he is harmed in some other manner'.

43 CALS EDC 5 1595, no. 22.

44 In a suit from 1640, for example, insult victim Martha Grey was described as 'a maide vnmarried and of a single condic[i]on and of good and modest conv[er]sac[i]on'. CALS EDC 5 1640, no. 33.

45 CALS EDC 5 1625, no. 3.

litigation thus empowered young female witnesses to share their opinions, while the pleading strategies they employed in support of defamed young women sought to mitigate the language of insult through descriptions of female honesty.

Court documents demonstrate that early modern adults and ecclesiastical authorities considered the premature initiation of sexual activity a violation of the socially approved passage from girlhood to womanhood. Churchwardens of Guilden Sutton presented cleric William Darnall in 1582 as 'notoriously deformed' in his behaviour, for example, citing as evidence his attempt to 'intise one [Elizabeth] the daughter of William Rogerson to have com[m]ittid fornicasion w[i]th him, [...] she being but a girle of x yeres of age' – an age, incidentally, by which many child spouses were contracted to one another with the full approval of their adult guardians.⁴⁶ The Bishop's court censured William Jackson in 1640 for his 'wickedness and sinne' in impregnating Elizabeth Reade, and the charge's description of Elizabeth as 'the yonge woman whom you had deflowered and overthrown' clearly portrays her as William's victim.⁴⁷ These descriptions demonstrate the courts' role as a protector of young women who had fallen victim to predatory men.

Accounts of single young women's illicit pregnancies in the records underscore the perils of motherhood without the safety and legitimization of marriage. In 1572, for example, Robert Shenton confessed that he and Margery Pole 'hath talked and consent togeth[er] aboute marriage to be had betwene them', conversations that led to intercourse and resulted in the birth of a child, although Robert failed to fulfil his promise to formalize their union.⁴⁸ Ellen Swann learned in 1591 that Peter Fearnhead, the man with whom she had contracted marriage and to whom she had borne a child, had contracted marriage with another.⁴⁹ Historians of early modern England have concluded that many brides were pregnant at the time of marriage in the sixteenth and seventeenth centuries, a circumstance that could prompt the mutually desired formalization of a coupling through marriage or, as happened with a degree of frequency in the diocese of Chester, the initiation of legal action seeking the courts' requirement of that regularization.⁵⁰ The

46 CALS EDC 5 1582, no. 8.

47 CALS EDC 5 1640, no. 93.

48 CALS EDC 2/9, 229–30.

49 CALS EDC 5 1591, no. 22.

50 Adair, *Courtship, Illegitimacy and Marriage*, especially 48–60, 107–12; and Wiesner-Hanks, *Christianity and Sexuality*, 100–104.

volatile combination of words and sex empowered some young women even as it endangered others.

The documents generated by Chester's courts help illuminate the ideals and realities associated with female youth in early modern England. Testimony demonstrates the employment of a narrow legal vocabulary for young, unmarried women that litigants and witnesses could nonetheless adjust in support of certain claims and desired outcomes. England's ecclesiastical courts, which represented a nexus of early modern religious, social, and legal ideals and realities, also imbued the narratives of young women themselves with a degree of publicity and authority often denied them in other settings and circumstances. Further, the evidence witnesses offered to the courts clearly recognized female youth as a particular stage of life: girls did not become women in a single ritual or developmental moment, but passed through an intermediate stage on the way to adulthood. A concept of youth, marked by opportunities to express consent or dissent, to pass judgment and offer opinion, and to initiate an exploration of their sexuality existed for young women in early modern England as they moved toward the world of adults.

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