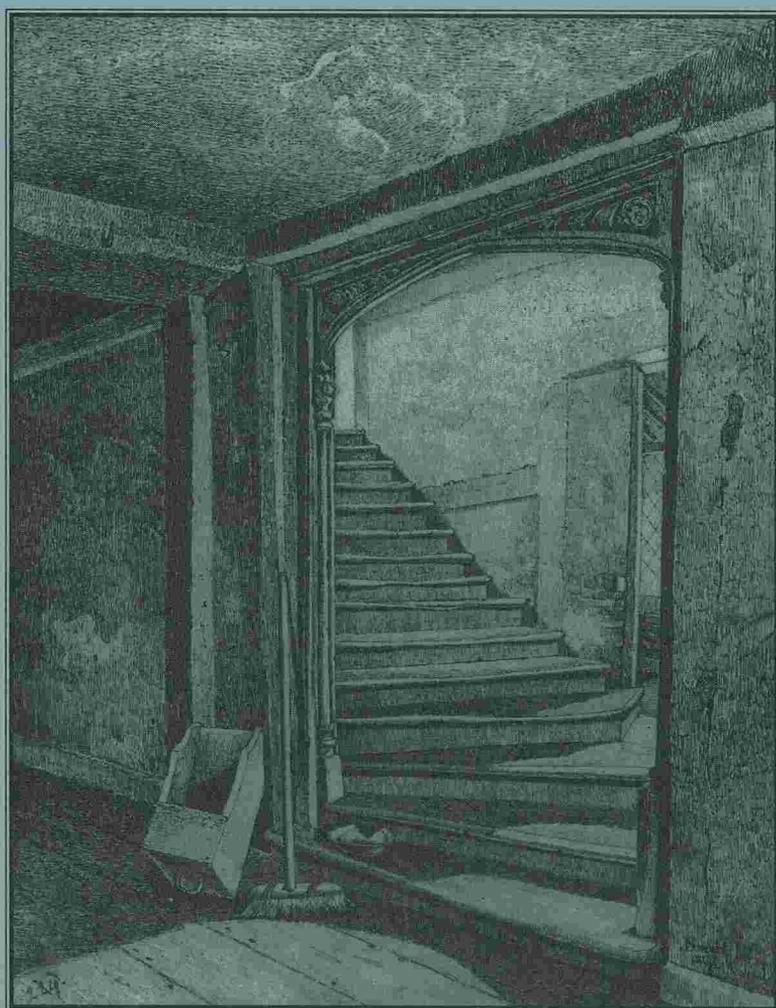


Proceedings of the
SUFFOLK INSTITUTE
of
ARCHAEOLOGY AND HISTORY



Volume XXXVIII Part 1 1993

Pen and ink drawing signed and dated J Smart 1843 of a doorway and staircase in the then Tankard Inn, formerly part of the Ipswich town house in Tacket Street of Sir Humphrey Wingfield (see 'A House Fit for a Queen' in this Part). John Smart (1791–1858), portrait painter, miniaturist and drawing master of Ipswich was the only son of another John Smart who combined the same artistic professions in the town (1752–1838) and Judith his wife, who in 1800 advertised as a milliner. For the elder John Smart, see Clarke's *History and Description of Ipswich* (1830), pp. 482–83. The original drawing is in the Fitch Collections of Suffolk Illustrations (S.R.O.I., HD 480/30, f. 224) whose acquisition for the Institute in 1856 is told in these Proceedings, II, 219 – 180 guineas from the nobility and gentry and the remaining 40 from the other members. There is perhaps a parallel here with the Iveagh manuscripts saved for the county in the 1980s.

Proceedings of the
SUFFOLK INSTITUTE
of
ARCHAEOLOGY AND HISTORY

Volume XXXVIII Part 1

1993

A FOURTEENTH-CENTURY DIVORCE IN STOKE-BY-NAYLAND

by DAVID ALLEN

ORIGINAL DOCUMENTS RELATING to Suffolk divorce cases in the Middle Ages are rare, for the dissolution of a marriage was a matter for the ecclesiastical courts and very few medieval records of the Consistory Court of Norwich have survived. The chance discovery in the Ipswich Branch of the Suffolk Record Office, among the medieval evidences of title to the former Mannock estates in and around Stoke-by-Nayland, of a document of 1379 which, in effect, constitutes a divorce settlement, is therefore felt to be of sufficient interest to warrant publication in these *Proceedings*.

The document,¹ dated 16 July 1379, is written in Anglo-Norman French, in a reasonably clear, businesslike hand, on a piece of parchment of slightly irregular shape, measuring approximately 26cm x 18cm. It is sealed on a tag, in red wax, but the impression is so poor that no device or legend can be distinguished. It takes the form of one of a pair of bipartite indentures, made between Richard Withermarsh, one of the parties to the divorce, and Clement Spice, who acts to safeguard the interests of Richard's wife.² Its function is to declare the purposes of two mutually-dependent statutes merchant previously entered into by the parties to the indentures.

Taking its name from Edward I's Statute of Merchants of 1285, by which it was originally devised for the protection of the merchant community from defaulting debtors, the statute merchant had by this period become generally available as 'one of the common assurances of the kingdom'. It was a particularly rigorous bond of record, acknowledged before the chief magistrate of a trading town, which conferred upon the obligee the power to commit the obligor to prison and to seize his lands, should he fail to pay his debt at the appointed term (Ruffhead and Morgan 1773; Pickering 1762, I, 236-41).

The indenture, or 'settlement' (transcribed and translated in the Appendix), recites that Withermarsh is bound to Spice by statute merchant in the penal sum of £100, this penalty to be waived on performance of certain declared conditions. First, a divorce must take place between Withermarsh and his wife Cristien, formerly wife (and presumably widow) of John Peke. Secondly, Withermarsh must pay into Spice's hands the considerable sum of £33 6s. 8d. within fifteen days of the completion of the divorce proceedings, and a similar sum six months later. Both payments shall be deemed invalid if made elsewhere than in the church of Higham, the parish adjoining Stoke-by-Nayland on the east. It is laid down that the divorce must take place speedily, and that within eight days after its completion certain lands and tenements in Stoke-by-Nayland are to be made over to Cristien for life, with good title, and with remainder to the heirs of her previous husband Peke. Furthermore, Withermarsh is to enter into another bond, this time in £40, to provide for the children of the marriage and to indemnify Cristien for life from the expense of their maintenance. Finally, it is recited that Spice is similarly bound to Withermarsh by statute merchant, in this case in the penal sum of £50, the declared condition for its avoidance being that Cristien is to make no appeal 'whereby the judgment in the said divorce might be delayed'.

We can say with confidence, both that the divorce went through and that it took place without inordinate delay – at any rate within a year. There is another pair of indentures among the Mannock deeds,³ dated Monday before the feast of St Margaret in the fourth year of Richard II. Depending on whether the saint commemorated was Margaret, Queen of Scotland (feast day 8 July) or Margaret of Antioch (celebrated on 20 July), these documents were sealed on either 2 or 16 July 1380, that is, either two weeks under a year, or exactly a year, after the 'settlement'

between Withermarsh and Spice. They record the grant by Richard Withermarsh to Christina⁴ (now described simply as 'the former wife of John Peke', with no reference at all to their own dissolved marriage) of all his estate in the tenement called Pokes in Stoke-by-Nayland, and of a life-interest in all the lands lately held by Sarah atte Merssh in the same town, with remainder, after her death, to Clement Spice, Roger Wulverston and John Stanestede, Rector of Copford, a few miles across the county boundary in Essex.⁵ Peke's tenement was doubtless a former possession of Cristien's first husband, which she brought to Richard Withermarsh when she remarried. The lands of Sarah atte Merssh are specifically stated in the 1379 'settlement' to have been acquired by feoffment from Sir William Tendring (lord of the manor of Tendring Hall in Stoke-by-Nayland). These are precisely the properties which it was agreed were to be conveyed to Cristien within eight days after the divorce. Some departure appears to have been made from the terms of grant originally agreed, which were that the lands and tenements formerly John Peke's were to remain after Cristien's death to Peke's right heirs, while the former lands of Sarah atte Merssh were to remain to John, son of John Peke. There is nothing in the text of the grant of July 1380 to indicate that the Peke lands were not conveyed outright to Cristien in fee simple. The provision for remainder of the atte Merssh property to Wulverston, Stanestede and Spice, rather than to John Peke the younger, suggests that the latter may have been a minor for whom they were to act as feoffees. Whatever the reasons for these changes, however, it seems clear that the divorce had taken place by July 1380.

The Withermarsh family took its name from Withermarsh, the Domesday manor of 'Withermers' or 'Wivermers', meaning 'the quaking bog' (Ekwall 1960, 527). The family does not seem to have held the lordship of this manor in Stoke-by-Nayland before the second half of the 13th century. Early in that century William Constable confirmed to the chapel of St Nicholas founded by Richard Constable his father on his land of 'Wyveremers', and to Sir Adam de Polsted, chaplain there for life, and his successors, various tithes, lands and rents.⁶ It seems that the Constables were at that time lords both of Withermarsh and the adjacent manor of Gifford's Hall (Torlesse 1877, 57-58). By 1275 an unnamed member of the Withermarsh family owed suit to the Hundred court of Babergh for lands in Withermarsh, and presumably held the manor.⁷ In 1312 a Roger Withermarsh and his son Roger occur as parties to a deed;⁸ one or other of them appears to have been the lord of the manor in 1320.⁹

By 1371 the manor was held by the Richard Withermarsh who figures in the divorce case.¹⁰ The son of John Withermarsh,¹¹ his age at this time is not known, but he was certainly not a minor since, any other considerations apart, he had already been engaged in litigation on his own account in the King's court. On 20 May that year a royal pardon was issued at Westminster to Peter Hale, lately Vicar of Stoke-by-Nayland, who had now surrendered to the Fleet prison following his outlawry for failure to appear before the justices of the King's Bench to answer Richard de Withermarsh touching a plea of debt for £40 (*C.P.R.*, *Edw. III*, xv, 86). Sometime between 1378, when Simon Burley held it (Copingier 1905-11, I, 221), and 1389, Richard Withermarsh also acquired the lordship of Gifford's Hall, for in the latter year a deed of confirmation of property in Stoke-by-Nayland refers to him as being in possession of that manor.¹² He seems to have died either late in 1417 or early the following year. A charter of 31 January 1417/8 describes him as 'lately deceased'.¹³ Three weeks later, on 20 February, the feoffees to whom he had conveyed his manor of Holton Hall, the advowson of Holton [St Mary] church and various lands in Holton, Akenham, Bergholt, Stratford, Higham and Raydon (perhaps to enable his heir to avoid the feudal incidents which would otherwise have been incurred on succession) re-conveyed the property to his elder son, also named Richard, and to the legitimate heirs male of his body, with remainder, for lack of such issue, to his younger son John.¹⁴ A few days later, on 28 February, the manor of Gifford's Hall, along with other property, was released to John by the survivors of the feoffees to whom Richard senior had conveyed it in 1403.¹⁵ It is possible that Richard junior and John were the sons of a later marriage, for a child's

right of inheritance depended on the validity of the parents' marriage and, as will be shown in the concluding section of this paper, a marriage could only be dissolved by proving that it had been legally void from the beginning.¹⁶

Regarding Cristien herself little can be said. Apart from her mention in the divorce 'settlement' and the grant of July 1380, she is not referred to in any of the sources relating to the Withermarshes and their estates, and we have no clue to her ancestry. The fact that both instalments of the 100 marks obviously intended for her maintenance were to be paid to Clement Spice in Higham parish church suggests that Cristien may have intended to settle in Higham after the divorce. The dating of the 'settlement' itself at Higham possibly indicates that she was already living there, separated from her husband. In providing that Cristien was not to be burdened with the costs of maintenance of the children of the dissolved marriage, the 'settlement' clearly implies that she was to receive custody of them.

What can be learnt about the identity of Clement Spice, the other party to the 'settlement'? Since he acted in the interest of Cristien Withermarsh it is tempting to speculate that he may have been a kinsman; however, the evidence is entirely lacking and the possibility cannot be explored. As already noticed (in note 5), a Clement Spice, who in view of his connexion with Roger Wulverston is in all probability the same Clement, held property in Lexden in north-east Essex and also in Creekssea and Southminster, both in Dengie Hundred in the south-east of the county. His holdings in Essex were substantial. He was life-tenant, jointly with others, of the manor of Great Tey (in Lexden Hundred), and of an estate known as 'le Uphall' in the same parish, both held of the King as of the honour of Boulogne, by knight's service.¹⁷ He held lands in Black and White Notley in Witham Hundred.¹⁸ In 1376 Spice and his wife Alice received the manor of Spains Hall in Willingale Spain in Dunmow Hundred, in exchange for property in Colchester, Lexden, Stanway, [West] Bergholt and Horkesley, all in Lexden Hundred, and in Bocking, Stisted and Braintree in Hinckford Hundred (*C.C.R.*, *Edw. III*, XIV, 459). Spice's marked connexion with Lexden Hundred, in the north-east of the county near the boundary with Suffolk – Horkesley actually adjoins Stoke-by-Nayland – does much to strengthen the presumption that he has been correctly identified, as does his association (again with Roger Wulverston) in a fine levied of the manor of Polstead, a parish also adjoining Stoke-by-Nayland, in 1394 (Copinger 1905–11, I, 180).

Clearly, Spice was a member of that class which was now becoming known as 'gentry'. Moreover, it can be shown that he was not one of the 'mere' gentry, but rather one of that 'official' group to whom Bracton, writing more than a century earlier,¹⁹ had referred as the '*maiores de comitatu qui dicuntur buzones*'. From the instructions to the royal Justices in Eyre embodied in Bracton's treatise, it is evident that he expected *buzones* to be found among the suitors of the county court. These men, the forerunners of the Justices of the Peace of Spice's time, seem to have been a body of substantial and influential gentry, of officially-recognized position, accustomed to work together in the administration of local affairs. They were apparently qualified, not only by possession of landed property, but by a special interest in, and aptitude for public service (Lapsley 1932, 564–66; Allen 1974, x). Clement Spice acted frequently as a member of the Essex commission of the peace in the 1380s and 1390s, and also served as escheator between 1394 and 1399 (Ward 1991, 5, 12). Even earlier, during the decade in which the Withermarsh divorce took place, he was actively involved in the government of the county, as a member of a number of varied royal commissions. In June 1373 he was appointed to a commission of oyer and terminer to deal with offences committed against the King's tenants within the royal lordship of Havering atte Bower (*C.P.R.*, *Edw. III*, XV, 313–14). In 1375 he served on three separate commissions: that to enquire into the deaths of Thomas Wegg of Clare and John Cristeshale at Steeple Bumpstead in July; and two commissions *de wallibus et fossatis*, in July for the Abbess of Barking's marsh in Barking and in October for various marshes elsewhere in the county (*C.P.R.*, *Edw. III*, XVI, 158, 161). Again, in March 1377 he was commissioned to

enquire concerning the threat to the fishing industry posed by the use by fishermen in tidal waters of a device called a 'wunderthon', similar to a drag,

upon which so close a net is fixed that even the smallest fish cannot escape therefrom, so that the fishermen take such a great number of these small fish that they do not know what to do with them but give them to their swine for food, and moreover the net touches the ground under the water so evenly and heavily that the spawn of fish and flowers growing under the water and other things wherewith the greater fish might live and be nourished are destroyed (*C.P.R., Edw. III, XVI, 489*).

This threat sounds a strangely topical note in the last decade of the 20th century.

Presumably because of his substantial services to the Crown, in June 1377 Spice was granted exemption for life from serving on assizes, juries or recognitions, and from appointment as a mayor, sheriff, escheator, coroner, collector of subsidies, arrayer or leader of men-at-arms, or to any other royal office, against his will (*C.P.R., Edw. III, XVI, 482*). Even so, as we have seen, he continued to be involved in county government almost until the end of the century. Clearly, Cristien Withermarsh had found in Clement Spice a very influential protector.

Finally, what, if anything, can be learnt about the legal grounds for the divorce? Because matrimony was consecrated by the Church as a 'holy estate' its dissolution was, as stated at the outset, a matter for the ecclesiastical courts. The Withermarsh 'settlement' shows that the divorce took place by agreement; it was stipulated that the proceedings should not be delayed by appeal, and the conclusion of the matter within a year suggests that this condition was adhered to.²⁰ Two forms of divorce were possible in medieval times. In cases of adultery, cruelty or heresy, or if one partner was in fear of future injury, a divorce 'from board and bed' (*a mensa et thoro*) was permissible, though in modern terms this amounted only to a judicial separation, with neither party free to remarry. Since, however, the Church held that those whom God had joined together, no man could put asunder, a full divorce 'from the bond of matrimony' (*a vinculo matrimonii*), leaving both parties free to remarry, could only be obtained by annulment, that is, by establishing that there had been some impediment which rendered the marriage void from the beginning. For a marriage to be annulled, it was necessary to establish either a lack of consent or a lack of capacity to marry. Lack of consent might be because of duress, insanity, or because one or both partners were so young that they were presumed incapable of consenting. Lack of capacity might be on the grounds of precontract, consanguinity, affinity, or impotence at the time of marriage (Baker 1979, 402–04; Helmholz 1974, 74–107).

There is no doubt that the Withermarsh marriage was annulled, and that the couple did not merely separate, for as already noticed, the indentures of July 1380 which conveyed some of the real property comprised in the 'settlement', describe Cristien as 'the former wife of John Peke', the implication being that her dissolved marriage to Richard had never taken place. As for the grounds for that annulment, it seems most unlikely that lack of consent can have been alleged on either side. Both partners were adult – we have seen that Richard had already been involved in litigation, and Cristien, of course, was a widow. Insanity cannot have been an issue, for both former partners were subsequently party to land transactions, and therefore manifestly competent to manage their own affairs. The marriage can only therefore have been annulled on the grounds of lack of capacity. Impotence can be dismissed at once, for there were children of the union, who were to be maintained at Richard's expense. The impediment alleged must therefore have been either precontract (a valid prior commitment by one partner to marry another person), consanguinity (a relationship between the partners within the degrees prohibited by canon law), or affinity (a relationship created by one partner's sexual connexion, often irregular, with a relative of the other). In the absence of the lost records of the Norwich Consistory Court, this is the closest we are likely to come to establishing the grounds on which the annulment was granted. In any case, the technical grounds which were alleged in court

probably had very little to do with the real reasons why one or both partners *wished* to divorce. As Baker reminds us (1979, 403), 'some of the subtleties of the canonists . . . served only to facilitate divorces on flimsy grounds, by the discovery of forgotten indiscretions or genealogical obscurities'. The true reasons for the divorce can never now be known.

Much of the background to the case must inevitably remain conjectural. Nevertheless it is hoped that the 'settlement' of 1379 may be of interest, both because of the rarity of surviving divorce records for Suffolk in the medieval period and as an illustration of one way in which the practical arrangements might be made for the material requirements of a divorce in a landed family in the 14th century.

APPENDIX

THE 1379 'SETTLEMENT': TEXT AND TRANSLATION

(Suffolk Record Office, Ipswich, HA 246/B2/285. The document has been transcribed as written, except that standard abbreviations have been silently expanded. No attempt has been made to modernise punctuation, capitalisation, or the use of *i, j, u* and *v*.)

Text

Ceste endenture fait entre Richard Wythromerssh dune part et Clement Spys dautre part tesmoigne qe come le dit Ricard soit obligé a dit Clement en cent liuers desterlinges par vn estatut marchant come en le dit estatut plus pleinement apiert Nientmeyns le dit Clement voet et grante qe en cas qe dyuors soit fait entre le dit Richard et Cristien qi fuist la femme John Peke ore femme a dit Richard et le dit Richard le quynzisme iour prochin apres le dyuors fait entre les ditz Richard et Cristien paie al dit Clement ou a ses executours trent et trois liures sys soldz et opet deners de vsuel moneye dengleterre en lesglise parochiel de Heigham iuxte Reydon et trient et trois liures sis soldz et opet deners desterlinges en le lieu susdit en la fyn del demy an adonqes procheyn ensuant et pursewe tant qe le iugement soit rendu dil dit dyuors ouc tote le haste qil purra apres les proues ent pris et examinez et outre ceo face feoffament a dite Cristien de toutz les terris et tenementis qi furent a Sarre atte Merssh en Stoke Neilond et auxint de toutz les terris et tenementz qi furent a John Peke en mesme la ville deynz oepit iours procheyns apres le dyuors fait come desus est dit A avoir et tener al dite Cristien pur terme de sa vie issint qe apres soun desces toutz les ditz terres et tenementz qi feurent a dit John Peke remaignont as dreitz hers le dit John Peke et toutz les ditz terres et tenementz qi feurent a Sarre atte Merssh remaignont a John fitz a dit John Peke et a ses heirs sanz garantie et face tant qe touz les ditz tenementz soient adonqes deschargez de toutz charges et actions comencez puis estat ent fait al dit Richard et dilyure a dite Cristien sur le dit feffement la chartre qil ad dil feoffement de monsieur William Tendryng de les ditz tenementz qi feurent a Sarre atte Merssh et toutz autres faitz qil ad touchant les ditz terres et tenementz qi feurent a dit John Peke Et outre ce si le dit Richard apres le dyuors desus dit fait face seurte a dit Clement par obligacioun de qarant liures qil trouera les enfantz neez et engendrez dil corps la dite Cristien puis les esposaillez celebrez entre le dit Richard et luy issint qe la dite Cristien neit cause necessarie de mettre costagez pur lour sustinance durant la vie la dite Cristien qe adonqes le dit estatut soit voidé et autrement estoise en sa force et le dit Richard grante par y ceste qe paiement alberge en temps auener par luy ou ses executours de les Cent marcz auantditz ou de parcel de cco fait ailours qen lesglise de Heigham desusdit ne soit pas de value Et come le dit Clement soit obligé a dit Richard en Cynquant liures par vn estatut marchant Nientmeyns le dit Richard voet et grante par y cestes qe si la dite Cristien qi fuist la femme John Peke ne face null obiection encontre les proues qi serrunt examinez en le dit dyuors qi serrunt de bone fame ne apres le prouee dreiturement fait ne face null apel perount le iugement en le dit dyuors purreit estre delaié qadonqes le dit estatut de Cynquant lyuers soit voidé et autrement estoise en sa force En tesmoignance de quell chose a cestes presentes endentures les parties auantditz entrechangement ont mys lour seals Done a Heigham auantdit le xvj iour de Juyl lan du regne le Roy Richard second puis la conquest tierce.

Translation

This indenture made between Richard Wythremerssh of the one part and Clement Spys of the other part witnesseth that, whereas the said Richard is bound to the said Clement in one hundred pounds sterling by a statute merchant, as more fully appears in the said statute, nevertheless the said Clement wills and grants that, provided that a divorce be made between the said Richard and Cristien who was the wife of John Peke, now the wife of the said Richard; and that the said Richard on the fifteenth day after the divorce made between the said Richard and the said Cristien pay to the said Clement or to his executors thirty-three pounds, six shillings and eight pence of the usual money of England in the parish church of Higham by Raydon, and thirty-three pounds, six shillings and eight pence sterling in the abovesaid place at the

end of the half year then next following; and pursue [the action] until the judgment be given in the said divorce with all possible speed after the proofs have been taken and examined; and moreover that he make a feoffment to the said Cristien of all the lands and tenements which were Sarre atte Merssh's in Stoke-by-Nayland, and also of all the lands and tenements which were John Peke's in the same town, within eight days next after the divorce is made as is abovesaid, to have and to hold to the said Cristien for the term of her life, so that after her decease all the said lands and tenements which were the said John Peke's shall remain to the right heirs of the said John Peke, and all the said lands and tenements which were Sarre atte Merssh's shall remain to John, son of the said John Peke and to his heirs without warranty; and ensure that all the said tenements be then discharged of all charges and actions begun after the estate thereof was made to the said Richard; and deliver to the said Cristien upon the said feoffment the charter which he has of the feoffment of Sir William Tendryng of the said tenements which were Sarre atte Merssh's and all other deeds which he has relating to the said lands and tenements which were the said John Peke's; and furthermore if the said Richard, after the abovesaid divorce is made, give surety to the said Clement by a bond in forty pounds that he will provide for the children born and begotten of the body of the said Cristien after the marriage celebrated between the said Richard and her, so that the said Cristien should have no necessary cause to be put to charges for their maintenance during the life of the said Cristien; that then the said statute shall be void, and otherwise remain in force. And the said Richard grants by these presents that payment deposited in future by him or his executors of the aforesaid hundred marks²¹ or of part thereof anywhere but in the church of Higham aforesaid may be invalid. And whereas the said Clement is bound to the said Richard in fifty pounds by a statute merchant, nevertheless the said Richard wills and grants by these presents that if the said Cristien who was the wife of John Peke neither make objection against the proofs to be examined in the said divorce that shall be well founded, nor after the trial is rightfully made make any appeal whereby the judgment in the said divorce might be delayed, that then the said statute of fifty pounds may be void, and otherwise remain in force. In witness whereof, the aforesaid parties interchangeably have set their seals to these present indentures. Given at Higham aforesaid, the 16th day of July in the third year of the reign of King Richard the Second after the Conquest [1379].

ACKNOWLEDGEMENTS

I am very grateful to Mrs S.J. Carcas for her kindness in correcting my medieval French and identifying a number of words which puzzled me, and to Mr H.F.A. Engleheart and the Suffolk Record Office for permission to publish the text of the 1379 'settlement'.

NOTES

(All MSS cited are in Suffolk Record Office, Ipswich Branch unless otherwise stated.)

- 1 HA 246/B2/285.
- 2 The document gives their surnames as 'Wythremerssh' and 'Spys', but in view of the number of variant spellings which occur in the sources cited in this paper, the more modern versions are used throughout.
- 3 HA 246/B2/290, 291.
- 4 These documents are in Latin, rather than the French of the 'settlement'; hence the different form of the christian name.
- 5 It is interesting to note that Wulverston was almost certainly an associate of Clement Spice: inquisitions *post mortem* on Walter FitzWauter, knight, taken at Maldon and Coggeshall on 21 and 22 Jan. and at Spalding on 4 Feb. 1386/7, record that FitzWauter held the manors of Crixhetha [Creeksea], Cage [in Southminster] and Lexden in Essex, as well as a third part of the Lincolnshire manors of Malton and Beausolas and a life-interest in the manor of Flet (also Lincs.), jointly with Roger de Wolfreston, Clement Spice, John, parson of Great Tey and others (*C.I.P.M.*, XVI, Nos 378, 379, 381).
- 6 The deed of confirmation survives as HA 246/B1/3. A further grant made to the chapel by Bartholomew the clerk about the same time confusingly describes it as 'the chapel of William Constable in Wiuermers, which is of All Saints' (HA 246/B1/6). By 1418 the chapel (removed to a new site?) was known as 'the free chapel of St Nicholas of Giffordis' (HA 246/B2/367); its ruins are still visible in the grounds of Gifford's Hall.
- 7 Davy, Suffolk collections, B.L. Add. MS 19,077, f. 270.
- 8 HA 246/B2/79.
- 9 B.L. Add. MS 19,077, f. 270.
- 10 *Ibid.*; Copinger 1905-11, I, 226.
- 11 HA 246/B2/370.
- 12 HA 246/B2/318.
- 13 HA 246/B2/367.
- 14 HA 246/B2/368. Copinger's account of the descent of Holton manor (Copinger 1905-11, VI, 68) is very vague on this period and makes no mention of the Withermarsh connexion.

- 15 HA 246/B2/352, 370, 371. John himself was dead before 24 June 1426 (HA 246/B2/402).
- 16 On the other hand, the children of a marriage later found to be void were held by canon law to be legitimate provided that one or both parents had been unaware of the impediment at the time of marriage (Barton 1975, 30).
- 17 Inquisition on Sir Walter FitzWauter, 22 Jan. 1386/7, *C.I.P.M.*, XVI, no. 381.
- 18 In 1375 Spice and Alice his wife received a grant, to themselves and the heirs of their bodies, from (interestingly) Roger de Wolferston and Roger Keterich, of lands in Black and White Notley which Wolferston and Keterich had lately received from the Spices by fine levied in the King's court (*C.C.R.*, *Edw. III*, XIV, 200–01).
- 19 In his treatise *De Legibus et Consuetudinibus Angliae*.
- 20 Because of this condition the Court of Arches would not have been involved and the case would have been determined in the Consistory Court of Norwich.
- 21 I.e., the two payments of £33 6s. 8d.

REFERENCES

- Allen, D.H. (ed.), 1974. *Essex Quarter Sessions Order Book 1652–1661*. Chelmsford.
- Baker, J.H., 1979. *An Introduction to English Legal History*, 2nd edn. London.
- Barton, J.L., 1975. 'Nullity of Marriage and Illegitimacy in the England of the Middle Ages', in Jenkins, D. (ed.), *Legal History Studies 1972*, 28–49. Cambridge.
- Copinger, W.A., 1905–11. *The Manors of Suffolk*, 7 vols. London and Manchester.
- Ekwall, E., 1960. *The Concise Oxford Dictionary of English Place-Names*. Oxford.
- Helmholz, R.H., 1974. *Marriage Litigation in Medieval England*. London.
- Lapsley, G.T., 1932. 'Buzones', *Engl. Hist. Rev.*, XLVII, 177–93, 545–67.
- Pickering, D. (ed.), 1762. *The Statutes at Large, from Magna Charta to the End of the Eleventh Parliament of Great Britain, Anno 1761*. Cambridge.
- Ruffhead, O. and Morgan, J. (eds), 1773. *A New Law Dictionary . . . originally compiled by Giles Jacob*. Dublin.
- Torlesse, C.M., 1877. *Some Account of Stoke-by-Nayland, Suffolk*. London.
- Ward, J.C., 1991. *The Essex Gentry and the County Community in the Fourteenth Century* (Studies in Essex History, No. 2, Essex Record Office and University of Essex). Chelmsford.

Abbreviations

- | | |
|----------|---|
| B.L. | British Library. |
| C.C.R. | <i>Calendars of Close Rolls.</i> |
| C.I.P.M. | <i>Calendars of Inquisitions Post Mortem.</i> |
| C.P.R. | <i>Calendars of Patent Rolls.</i> |