St Albans Abbey and the Law, *c.* 1327–1396

Jacob Maren Rutledge Currie

Trinity College, Cambridge

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This dissertation is the result of my own work and includes nothing which is the outcome of work done in collaboration except as declared in the Preface and specified in the text. It is not substantially the same as any that I have submitted, or, is being concurrently submitted for a degree or diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared in the Preface and specified in the text. I further state that no substantial part of my dissertation has already been submitted, or, is being concurrently submitted for any such degree, diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared in the Preface and specified in the text. It does not exceed the prescribed word limit for the relevant Degree Committee.

Abstract

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To see law's social effects, one needs to understand both the operation of law and the relationships in which law was invoked. Few actors from fourteenth-century England are sufficiently well documented for this to be possible: the Benedictine monastery of St Albans is a major exception. This dissertation therefore looks at the legal relationships of St Albans in four spheres: church, realm, town and manor. In each of these spheres, it investigates in detail the role played by legal concepts and remedies in a series of well-evidenced interactions.

This approach is novel in several ways. This is the first work to study the legal interactions of an actor in every legal system. This is possible only for an ecclesiastical institution and is not how such institutions have hitherto been studied. It is the first to study these several legal systems together in search not of comparison, evidence for borrowing, or the like, but of their combined contribution to social structure. And it is the first attempt at a complete legal biography of a medieval (corporate and fictive) person.

The chapter on the church studies the abbey's legal interactions within the Benedictine order, within its archdeaconry, with its diocesan, and with the pope. That on the realm discusses the protection, acquisition and exploitation of the monks' estates. That on the town studies the revolts of 1327 and 1381 and the abbey's relationship with the townsmen. That on the manor offers a new assessment of the St Albans court books and discusses the manor courts' function as a land registry, the management of the manor, and the settlement of disputes.

This dissertation concludes that previous descriptions of the social function of law in fourteenth-century England do not accurately reflect the evidence for legal interactions that survives. It argues that in the world of the monks of St Albans, law was more than a matter of governance, power and rights. It was more importantly a manner of thinking, of rationalising their place in society and of making sense of a complex social world.

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Abbreviations

BI	Borthwick Institute for Archives, York
BL	British Library, London
Cal. Chart. Rolls	*Calendar of Charter Rolls*
Cal. Fine Rolls	*Calendar of Fine Rolls*
Cal. Pap. Let.	*Calendar of Papal Letters*
Cal. Pap. Pet.	*Calendar of Papal Petitions*
CCCC	Corpus Christi College, Cambridge
CCR	*Calendar of Close Rolls*
Clem.	*Corpus Iuris Canonici*, ii, *Clementis Papae V. Constitutiones*
Codex	*Corpus Iuris Civilis*, ii, *Codex Iustinianus*
CPR	*Calendar of Patent Rolls*
CUL	Cambridge University Library
Decretum	*Corpus Iuris Canonici*, i, *Decretum magistri Gratiani*
Digest	*Corpus Iuris Civilis*, i, *Digesta*
Extrav. Comm.	*Corpus Iuris Canonici*, ii, *Extravagantes Decretales*
HRO	Hertford Record Office
Institutes	*Corpus Iuris Civilis*, i, *Institutiones*
Liber extra	*Corpus Iuris Canonici*, ii, *Decretalium D. Gregorii Papae IX. Compilatio*
Liber sextus	*Corpus Iuris Canonici*, ii, *Liber Sextus Decretalium*
ODNB	*Oxford Dictionary of National Biography*
Sidney Sussex	Sidney Sussex College, Cambridge
Stat. Realm	*The Statutes of the Realm*
TNA	The National Archives, Kew

VCH	*Victoria County History*
YB	[Year Books] *Les Reports des cases en Ley […]*
YB (Rolls Series)	*Year Books of the Reign of King Edward the First* and *Year Books of the Reign of King Edward the Third*

Standard abbreviations of Biblical books (e.g. Ps. for Psalms) are also used.

Preface

This dissertation builds on work done in my Cambridge MPhil dissertatation on 'St Albans Abbey and the Peasants' Revolt of 1381'. Three passages are drawn from that earlier work, in a modified form: on the state and historiography of the abbey; on the revolt of 1381 itself; and on the abbey's management of four of its manors.[1]

I am grateful to Christine Carpenter for her help with this project over the years. She alone knows how difficult its genesis has been and without her support, generosity and patience it would certainly never have been completed. I should also like to thank David Ibbetson for welcoming me into the world of legal history and for many stimulating discussions. Finally, I thank Richard Sharpe for all his encouragement and support.

My fellow legal historians at Cambridge have helped at every stage and I thank Joe Sampson, Lorenzo Maniscalco, Andreas Televantos, Joanna McCunn, Jef Thomson, Emily Gordon and Julia Kelsoe for their generosity and friendship.

I wish to thank Trinity College, Cambridge, for electing me to the Research Studentship which funded much of this work; the Cambridge Commonwealth Trust for its support; and the Institute of Historical Research at the University of London for electing me to a Scouloudi Fellowship to support its completion.

The project began when I first read through the several hundred pages of records of legal disputes in the St Albans *Gesta abbatum* and wondered 'What on earth is going on here?' I hope that this dissertation will leave its reader better able to access and understand this rich (if sometimes rebarbative) source for fourteenth-century life.

The dedication of a work of medieval legal history is perhaps not a gift to be wished for. But, for what it is worth, I dedicate this dissertation to my sister, Espe, who has been always not only my sister but also my friend.

[1] Below, pages 4ff., 159ff. and 198ff.

* * *

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CHAPTER 1

Introduction

> History is difficult because people never state their assumptions or describe the framework in which their lives are led. To the extent that you do not unthinkingly supply these from your own experience, you can only guess at them from what your actors said and did.
>
> — Milsom, *The Legal Framework of English Feudalism*.[1]

A seagull flying over modern London sees low suburbs, densely-packed commercial streets and sudden ranks of towers, sheer glass protuberances, while outwards and in between snake the thin lines of roads and rails. Seen from the air, the physical shape of the city mirrors the flows of its wealth and the placement of its social power: weak trickles in exurban lanes, coursing streams gathering strength as they run in towards the great railway termini, and in the centre the heaped, upward-driving, dense-packed mass into which all pours. A seagull could identify quite easily where the focus is.

Six hundred years ago in southern Hertfordshire its ancestor would have had no more trouble. Only here everything was lower, meaner, a finer tracery stretched more thinly across the landscape. The little surplus scraped from the earth still flowed along the lanes, ending and amassing in a stone church, a lord's house, in granaries and tithe barns. Across the face of the land cut the great road of Watling Street, into which hundreds of paths spilled and turned their forces mostly south, towards London. And in the middle, set beside the old road, atop a slight rise which slopes up from the scattered ruins of a Roman town and the little River Ver, rose a vast mass of reused ancient brick and stone:

[1] S. F. C. Milsom, *The Legal Framework of English Feudalism* (Cambridge, 1976), 1.

the abbey of St Alban. Towards this central pile the thin streams of wealth poured from miles around and from it outwards radiated the church's web of influence and power. The topography of social strength was just as clear.

1.1

Law and money

One force that gave reality to that strength, that kept the money flowing as it ought and held it in its streams, was law. At times that force was obvious in its effects. In 1353 Nicholas Tybbessone sued Abbot Thomas de la Mare and another monk of St Albans for assaulting and beating him; they had then, he said, imprisoned him for two days until he gave them 76s. The abbot did not bother to respond to the charges: his attorney declared to the court of King's Bench that Nicholas was a villein tenant of the abbey; the case was quickly dismissed.[2] Whatever the true facts of the case, that one man should not have to answer for beating another is an important part of 'the framework in which their lives are led'. But generally things were not so clear.

To see the rules, structures and ideas which governed and which constituted social relationships is difficult. Ask the question, 'What was Tom's relationship to Harry?': beyond the often irrecoverable details of personal idiosyncrasy, the common substance of social relationship is made up of religious beliefs, family structures, economic systems, remedies legal and extra-legal, ideas of history and identity. Among the constituents of that common substance is law. First, the existence of a set of formalised and enforceable remedies interposes (whether doing so actually or only potentially) a third party which mediates between actors. Secondly, legal remedies are shaped by other constituent elements of social relationships (religion, economy and the rest) and give those elements coercive purchase in relationships. Thirdly, the ideas expressed by or growing out of the set of remedies available themselves affect perceptions of how social relationships should operate. Take the simple case of Nicholas Tybbessone. Nicholas' behaviour was, we may assume, influenced by a belief that the law would provide him with a remedy. This belief created a disjunction between his and the abbot's understanding of their relationship which no doubt exacerbated their conflict: the potential for legal mediation, whether

[2] *Gesta abbatum monasterii Sancti Albani*, ed. H. T. Riley, 3 vols. (London, 1867–1869), iii, 39. TNA, KB 27/377, m. 60d.

realised or not, formed part of their relationship. Secondly, his belief grew out of the fact that societal disapproval of violence, kidnapping and extortion was given coercive force through legal remedies: the law provided (or so he thought) a medium for that disapproval to intercede between the two men. Finally, the abbot's ideas about his relationship to Nicholas were partly a product of the limitation of the new common-law remedies of the twelfth and early thirteenth centuries to 'free tenants': ideas of villeinage were not simply expressed in the remedy structure then created, but partly formed by it.[3] Law cannot provide a complete and sufficient description of Tom's relationship to Harry, but it is a necessary piece of the puzzle.

'Law mediates social relationships'; so what is law?[4] In this context, it is not—or not primarily—a group of rules and principles. Nor is it the set of remedies theoretically available (or their correlative rights). Law as a social mediator is rather the sum of all the instances of legal intervention in society: of all cases in which legal ideas and legal remedies are realised. An analogy with language may make this clearer. English is not a dictionary, nor a grammar, nor any other actual or conceivable description of English. The language is not an abstract form of which spoken words are reflections but is rather constituted of all the instances of the language's realisation (spoken, written, telegraphed, etc.). So too with law: as a social force, law is exactly coterminous with its realisation in society.[5] What matters is what happens. Just as with language, prescriptive norms (dictionaries and grammars, statutes and procedures) will shape that realisation, perhaps determinatively, but they do not constitute it.[6]

Where did the money come from? In the abbey's first age '[k]ings and nobles brought treasure in huge sacks and poured it under the earth'.[7] But the great age of endowment was now over and it was not by gifts but by rights that the monks were sustained and

[3] P. R. Hyams, *King, Lords and Peasants in Medieval England: the common law of villeinage in the twelfth and thirteenth centuries* (Oxford, 1980), 221–265.

[4] This is a much controverted and not always useful question. See in particular H. L. A. Hart, *The Concept of Law*, 2nd ed. (Oxford, 1994), 1ff. What follows is simply a limited working definition for the purposes of this dissertation, making no claim to be a wider jurisprudential truth.

[5] Formal legal procedures are not necessary for law to be realised: my abstaining from an action because of potential remedy is just as much a realisation of law in society as my being punished for doing it.

[6] The utility of this idea should become clear in the many cases which follow.

[7] V. Woolf, *A Room of One's Own*, new ed. (London, 1931), 29. She writes (ibid., 15) of King's College, Cambridge: 'An unending stream of gold and silver, I thought, must have flowed into this court perpetually to keep the stones coming and the masons working; to level, to ditch, to dig and to drain.'

their house kept in repair. Those rights were large but, although assessing the abbey's financial position is difficult, it is clear that they were never enough. The assessment for the tax granted by Pope Nicholas IV in 1291 was used for more than two centuries and in the formulary book of St Albans there is thus a statement of the values at that date of the lands assigned to the abbot, convent and various obedientiaries, to calculate their respective contributions to taxes.[8] The total given of £967 8s 6d includes £49 belonging to other clergy within the monastery's exempt jurisdiction and the abbey's assessment thus comes to *c.* £920; the well-known inaccuracies of the 1291 valuation, however, mean that this can be no more than a rough approximation.[9] A second piece of evidence comes from the 1370s, when the abbey undertook to secure exemption from the requirement that newly elected abbots be confirmed in Rome.[10] Among the arguments with which it armed its representatives to the papal curia was a statement of the abbey's income: a total at that date of £1,053 8s 6d, of which just under half was assigned to the needs of the abbot.[11] The revenues of the monastery had thus increased by a little over £100 in nearly a century and, with the erosion of inflation, that may have been functionally no increase at all. According to the 'basket of consumables' used by Campbell, prices were much the same in 1380 as they had been ninety years earlier: by that measure an increment in income of ten percent may have brought a real increase in purchasing power. Yet in the same period wages rose by perhaps fifty percent, and the high labour costs of many products consumed by larger landowners meant that their purchasing power was less than first appears.[12] In sum, it seems likely that St Albans' economic position was in

[8] CUL MS Ee.4.20, ff. 215r et sqq.

[9] Similar figures can be arrived at through the printed text of the exchequer rolls in *Taxatio Ecclesiastica Angliae et Walliae Auctoritate P. Nicholai IV, circa A.D. 1291*, ed. T. Astle, S. Ayscough and J. Caley (London, 1802); but, as R. Graham, 'The taxation of Pope Nicholas IV', *The English Historical Review*, 23 (1908), 453, points out, the totals found in monastic registers are usually more accurate. L. F. R. Williams, *History of the Abbey of St. Alban* (London, 1917), 246, working from the printed text, comes up with a round estimate of £850; this is very close to the total of £853 19d given by CUL MS Ee.4.20 as the total value of the goods of the monastery and of other clergy of the liberty within the diocese of Lincoln. M. Still, *The Abbot and the Rule: religious life at St Albans, 1290–1349* (Aldershot, 2002), 81, is unaware of the formulary's valuation and follows Williams' estimate. Graham outlines too some of the inaccuracies of the assessment, ibid., *passim*.

[10] Letters in support of exemption were written by both Richard II and Archbishop Simon Sudbury, dating the beginning of the process to between 1377 and 1381. On this process, see below, pp. 66ff.

[11] *Gesta abbatum*, iii, 148–149.

[12] B. M. S. Campbell, *English Seigniorial Agriculture, 1250–1450* (Cambridge, 2000), Fig. 1.01. A. R. Bridbury, 'The Black Death', *The Economic History Review*, new series, 26 (1973), 581.

the 1370s no better, and probably slightly worse, than it had been in 1290, though there were after 1348 of course fewer monks to feed.[13] The incomes of comparable houses, moreover, show just how narrow St Albans' financial base really was. The revenues of Canterbury Cathedral Priory, for example, reached £2,500 by the 1330s and remained at that level for much of the century.[14] That figure includes oblations—averaging £545 *per annum* in the years 1370 to 1383—which the St Albans statement does not, but the difference is nevertheless very great.[15] The income of Westminster Abbey, assessed in 1291 as £1,294, had increased to £2,407 by *c.* 1400.[16] And no Benedictine house could compare with the wealth of the greatest bishoprics: Levett estimated the total revenue of the bishop of Winchester in 1316 at £5,000 to £6,000.[17]

The *Gesta abbatum* and its anonymous continuator provide a better sense of the changes in the abbey's financial position. Thomas de la Mare's abbacy, from 1349 to 1396, is presented as a time of financial improvement and his acquisitions set out in some detail: the total increase in the monastery's rents from appropriations, purchases and donations came, according to this measure, to over £100 *per annum* in this period.[18] Yet this came at a cost: for the manor of Meriden he paid £260; for that of Gorham, worth annually forty marks, he paid 800 marks; for the appropriation in 1349 of the church of Appleton in Yorkshire, worth £20 *per annum*, more than £200; for half of the manor of Norton in Yorkshire, £50; and for the manor of Snelleshalle £80—a total outlay of more than £1,100.[19] But it was on the side not of income but of expenditure that most needed to be done: Abbot John of Berkhamsted had in 1301 obtained a charter substitut-

[13] *Gesta abbatum*, ii, 370.

[14] R. A. L. Smith, *Canterbury Cathedral Priory: a study in monastic administration* (Cambridge, 1943), 12–13.

[15] Smith, *Canterbury Cathedral Priory*, 12. The offerings at the shrine of Beckett are likely to have been at all periods very much higher than those at St Albans.

[16] B. F. Harvey, *Westminster Abbey and its Estates in the Middle Ages* (Oxford, 1977), 58 and 63. The figure '*c.* 1300' of £1,641 given by Harvey, 63, is corrected from other sources and is thus not strictly comparable to the St Albans assessment of that date. The fact that the *Taxatio Ecclesiastica* substantially underestimates Westminster's revenues suggests that the income of St Albans may even have declined in this period.

[17] A. E. Levett, *Studies in Manorial History*, ed. H. M. Cam, M. Coate and L. S. Sutherland (Oxford, 1938), 66–67.

[18] *Gesta abbatum*, iii, 375ff.

[19] *Gesta abbatum*, iii, 375–376. The appropriation of Appleton is recorded in *Cal. Pap. Let.*, iii, 332, where the annual value of the church is given as £46 13s 4d. This does not include, however, the cost of maintaining five monks at university with which the church was burdened. Snelleshalle is erroneously given as 'Suelsale' in the Rolls Series edition of the *Gesta abbatum*.

ing a fixed payment of 1,000 marks for royal appropriation of the abbey's revenues during vacancies but the death between 1301 and 1349 of five abbots led to enormous outlays.[20] Still worse were the costs of obtaining papal confirmation of a new abbot's election in Rome: John of Berkhamsted's successor, John de Maryns, paid 2,258 marks to the pope and cardinals alone (besides the many other expenses incurred) and the total given to king and pope upon de la Mare's election was said to have exceeded 3,000 marks.[21] The abbot consequently undertook to commute these irregular exactions, 'fatal to any organisation of the Abbey's finances', in Galbraith's phrase, to fixed annual sums and in 1380, with the help of John of Gaunt, he obtained exemption from the payment due to the king in exchange for fifty marks *per annum*.[22] Release from attendance at Rome was not so easily gained: the process, begun in the late 1370s, dragged on endlessly and expensively and it was not until 1396 that the privilege of free confirmation was finally granted in exchange for twenty marks yearly.[23] Something of the value of this privilege to the abbey can be seen in de la Mare's first directions to his agents at Rome, whom he authorised to spend £1,000 in pursuit of their aim—and, if it could not be attained for such a sum, they were to write to him explaining how much was needed.[24] However grand the abbey seemed from without, in short, managing the monastic economy was a persistent struggle.

1.2

Previous work and the present problem

This dissertation aims to show the role that law played in the social relationships of the abbey of St Albans in four spheres: in the institutional church; in the English realm at large; in the town of St Albans; and on the abbey's manors, and in so doing to illuminate the action of legal ideas, legal structures and legal remedies in fourteenth-century

[20] *Gesta abbatum*, ii, 32–34. Discussed by V. H. Galbraith, *The Abbey of St. Albans from 1300 to the Dissolution of the Monasteries* (Oxford, 1911), 18ff.

[21] John de Maryns: *Gesta abbatum*, ii, 56–58. Thomas de la Mare: *Gesta abbatum*, iii, 413.

[22] Galbraith, *The Abbey of St. Albans*, 20. *Gesta abbatum*, iii, 135–146. *CPR, 1377–1381*, 545.

[23] *Gesta abbatum*, iii, 378. Something of the difficulties which de la Mare had with his agents at Rome is evident from the *Gesta abbatum*, iii, 397–398 and many of the documents associated with this protracted process are printed ibid., 146–184 and discussed below, pp. 66ff. In 1396 the king wrote again in favour of the abbey and his request was at last granted: *Cal. Pap. Let.*, iv, 293–294.

[24] *Gesta abbatum*, iii, 150–151.

English society. Curiously, this question has not been addressed before in such terms. But that is not to say that there is not work on which to build.

First of all, on St Albans itself. Unsurprisingly, the abundant materials available on so important a house have attracted a great deal of scholarly attention. Much has naturally focused on the figure of Thomas Walsingham, one of the most prolific and influential historical writers of the fourteenth century. The genesis of modern studies of Walsingham was the work of Galbraith, who conclusively refuted earlier misconceptions of the authorship of his works and laid the basis for a sound critical understanding of the surviving manuscripts.[25] This work has recently borne fruit in a new edition of Walsingham's *Chronica maiora*, formerly scattered erroneously across several Rolls Series volumes.[26] Walsingham's style, historical value and models have been explored in some detail, most notably by Gransden, Taylor, Rigg and Given-Wilson.[27] Thomas de la Mare has also attracted attention (though his great obedientiary John Moot has remained obscure).[28] The abbey itself has long been of interest to antiquarians, receiving extensive treatment in Dugdale's *Monasticon Anglicanum* and in accounts of Hertfordshire by Chauncy and Clutterbuck, as well as being the subject of an antiquarian monograph by Newcome in its own right.[29] Modern study again begins with Galbraith, who in 1911, long before he turned to the manuscripts of Walsingham, wrote a short essay on the later history of St Albans, in which he argued for an important fourteenth-century revival in the abbey (both intellectual and moral) followed by steep fifteenth-century decline; shortly afterwards Williams published a useful, if limited, monograph on the

[25] The fundamental works are V. H. Galbraith, 'Thomas Walsingham and the Saint Albans Chronicle, 1272–1422', *The English Historical Review*, 47 (1932), 12–30; and idem, ed., *The St. Albans Chronicle, 1406–1420* (Oxford, 1937).

[26] *The St Albans Chronicle: the 'Chronica Maiora' of Thomas Walsingham, 1376–1422*, ed. and trans. J. Taylor, W. R. Childs and L. Watkiss, 2 vols. (Oxford, 2003–2011).

[27] A. Gransden, *Historical Writing in England*, 2 vols. (London, 1974–1982). J. Taylor, *English Historical Literature in the Fourteenth Century* (Oxford, 1987). A. G. Rigg, *A History of Anglo-Latin Literature, 1066–1422* (Cambridge, 1992). C. Given-Wilson, *Chronicles: the writing of history in medieval England* (London, 2004).

[28] E. Woolley, 'A study of the character of Abbot Thomas de la Mare', *Transactions of the St Albans and Hertfordshire Architectural and Archaeological Society* (1928), 163–171. D. Knowles, *The Religious Orders in England*, 3 vols. (Cambridge, 1948–1959), ii, 39–48.

[29] W. Dugdale, *Monasticon Anglicanum*, rev. J. Caley, H. Ellis and B. Bandinel, 6 vols. in 8 (London, 1817–1830), ii, 178–255. H. Chauncy, *The Historical Antiquities of Hertfordshire*, 2 vols. (London, 1700; repr. Bishop's Stortford, 1826). R. Clutterbuck, *The History and Antiquities of the County of Hertford*, 3 vols. (London, 1815–1827). P. Newcome, *The History of the Ancient and Royal Foundation called the Abbey of St. Alban* (London, 1793).

abbey.[30]

In addition to these general and ecclesiastical studies Levett began, in the 1920s, to collect material from St Albans' dispersed archives for a detailed treatment of the abbey's estate management structures. Though her early death prevented its completion, the work she had done was published posthumously and provides a basis for understanding the monastery's economy (one particularly important in the complete absence of fourteenth-century account rolls).[31] Levett based her work upon the remarkable series of court books surviving from the abbey's manors, a resource which has since been used extensively for a study of local land-holding by Slota; for a single-manor demographic, economic and social study by Ko; and by both Bennett and Beckerman to illustrate larger arguments, on manorial life and manor court procedure, respectively.[32]

After long quiescence, the last decades have brought renewed interest in St Albans, in particular in Galbraith's thesis of renewal and decline. Still has written on the abbey's religious life, but the chief protagonist has been Clark, who—in a doctoral thesis, a series of articles and, finally, a monograph—has argued strongly for what he terms a 'monastic renaissance': a humanist or proto-humanist enthusiasm for classicism and learning at St Albans in the late-fourteenth and fifteenth centuries.[33] Though an attractive argument, Clark's contention is a problematic one: too little attention is paid to the sources, content

[30] Galbraith, *The Abbey of St. Albans*. Williams, *History of the Abbey of St Alban*.

[31] A. E. Levett, 'The courts and court rolls of St. Albans Abbey', *Transactions of the Royal Historical Society*, 4th series, 7 (1924), 52–76; and eadem, *Studies in Manorial History*.

[32] L. A. Slota, 'The village land market on the St. Albans manors of Park and Codicote: 1237–1399', unpublished PhD thesis (University of Michigan, 1984). Idem, 'Law, land transfer, and lordship on the estates of St. Albans Abbey in the thirteenth and fourteenth centuries', *Law and History Review*, 6, 1 (1988), 119–138. D.-W. Ko, 'Society and conflict in Barnet, Hertfordshire, 1337–1450', unpublished PhD thesis (University of Birmingham, 1994). H. S. Bennett, *Life on the English Manor: a study of peasant conditions, 1150–1400* (Cambridge, 1937). J. S. Beckerman, 'Procedural innovation and institutional change in medieval English manorial courts', *Law and History Review*, 10, 2 (1992), 197–252.

[33] Still, *The Abbot and the Rule*. J. G. Clark, 'Intellectual life at the abbey of St Albans and the nature of monastic learning in England, *c.* 1350–*c.* 1440: the work of Thomas Walsingham in context', unpublished DPhil thesis (University of Oxford, 1997). Idem, 'Monachi and magistri: the context and culture of learning at late medieval St Albans', in *The Vocation of Service to God and Neighbour: essays on the interests, involvements and problems of religious communities and their members in medieval society*, ed. J. Greatrex (Turnhout, 1998), 1–23. Idem, 'University monks in late medieval England', in *Medieval Monastic Education*, ed. G. Ferzoco and C. Muessig (London, 2000), 56–72. Idem, 'Thomas Walsingham reconsidered: books and learning at late-medieval St. Albans', *Speculum*, 77, 3 (2002), 832–860. Idem, 'Monastic education in late medieval England', in *The Church and Learning in Later Medieval Society: essays in honour of R. B. Dobson*, ed. C. M. Barron and J. Stratford (Donington, 2002), 25–40. Idem, *A Monastic Renaissance at St Albans: Thomas Walsingham and his circle c. 1350–1440* (Oxford, 2004).

and originality (or lack of it) of the classicising works produced at the abbey; too many assertions and judgments are unsubstantiated; and too many more are based upon errors, inaccuracies or misreadings.[34] A single example will suffice: Clark twice asserts that Walsingham was sent to the abbey's dependent cell of Wymondham as punishment for a dispute with de la Mare; the source cited says nothing of the sort.[35] Nevertheless, Clark's work emphasises useful questions: what *were* the monks' preoccupations and prejudices; what, more broadly, was their mental and social world? A study of the law offers a partial answer to these larger questions.

Secondly, significant—though often problematic—work has been done on law in fourteenth-century English society. For all that is known about the fourteenth-century English legal system, descriptions of its social effects have more often been based on assertion than evidence and have, in consequence, varied wildly. Some have based narratives of substantive and institutional development on assumptions about law's social effects. Palmer has argued, for example, that the legal developments of the second half of the fourteenth century were results of a concerted government programme following the plague to maintain the status quo: to compel both lower and upper orders to 'stand to their obligations', in his repeated phrase. He maintained that the common social effects of all these changes—reinforcing obligations—demonstrates their shared and intentional origin.[36] There are a number of problems with this thesis. First, it falls victim to the fallacy of asserting the consequent: a government programme such as he imagines might have had such effects; we can see these effects; therefore there must have been such a programme. There is no evidence of a coherent government policy to reinforce the existing social order, nor is it likely that there should be: fourteenth-century government was not in the habit of initiating far-reaching social reforms through changes in private law. The changes of this century (the Ordinance and Statute of Labourers most prominently) themselves contributed to government adopting such a role, but to ascribe it such an aim is anachronistic.[37] Far more likely is that each change was a discrete demand-driven

[34] A number of problems are pointed out in A. Gransden, 'Review: *A Monastic Renaissance at St Albans*', *The Journal of Ecclesiastical History*, 57 (2006), 353–355.

[35] Clark, 'Thomas Walsingham reconsidered', 837 and n. 30 and idem, *A Monastic Renaissance*, 26. Both cite *Gesta abbatum*, iii, 436.

[36] R. C. Palmer, *English Law in the Age of the Black Death, 1348–1381: a transformation of governance and law* (Chapel Hill, 1993), *passim*.

[37] Indeed the Ordinance and Statute of Labourers may in one sense be seen as exceptions to this: see B. H. Putnam, *The Enforcement of the Statutes of Labourers in the First Decade after the Black Death, 1349–1359*

alteration. Furthermore, and particularly important to this study, the social effects of legal changes which Palmer describes are assumed rather than demonstrated: what effect these changes actually had in society cannot simply be assumed, nor has the question been investigated in detail.

In another recent attempt to explain fourteenth-century legal change, Musson and Ormrod have adopted a model (or rather a series of models) from the natural sciences: disaggregating direction of change from speed of change, they have argued that the Black Death did not determine the course of legal change, which was a product of internal development and pre-existing trends, but did determine its rapidity and extent.[38] This seems wrong: for one thing, direction and speed of change are not coherently distinguishable in human social development; historical causation is far more 'seamless web' than vector arrow. Nevertheless, both Musson and Ormrod's account and that of Palmer attempt to make sense of the relationship between legal change and its wider context. Both fail because of an inability to see how law as realised worked in society and how, consequently, social forces interacted with legal concepts. For example, in attempting to rescue English law from the charges of corruption, ineffectiveness, class-bias and absurdity often leveled against it, Musson and Ormrod are forced by lack of evidence drawn from real legal disputes to rely upon generalities and speculation. The book ends with assertions that Chaucer's failure to discuss the law in his works is evidence of its wide acceptability; that peasants, though worse off after the legal changes of the fourteenth century, were nonetheless privileged to use such a system; that the law's accessibility was a major part of its appeal but its inaccessibility the reason for the development of the legal profession; that it was 'a consensual system' with 'little evidence [of] class bias'; that it was vital, adaptable, responsive, positive, inclusive and integrated.[39] These two interpretations have little in common beyond their common limitation: neither examines in detail how law actually functioned in society.

The natural place to look for such an examination is in the many studies of localities

(New York, 1908), 215–218.

[38] A. Musson and W. M. Ormrod, *The Evolution of English Justice: law, politics and society in the fourteenth century* (Basingstoke, 1999), 1–11. This is a necessary simplification of their argument: the many models they adopt (of punctuated equilibrium, endogenous v. exogenous forces and speed v. direction of change, for example) are difficult to reconcile.

[39] Musson and Ormrod, *The Evolution of English Justice*, 16off.

undertaken in the past decades.[40] The question at hand has not been answered, but there is still much useful work on which to build. Most local studies depend heavily upon the records of central government and particularly on those of the law courts. Using these necessarily involves understanding how the law operated and how that operation is represented in the records: attempting to undo, as it were, the process by which social fact was translated into legal form. This is not always easy or obvious: studies of medieval crime rates by Hanawalt and Given have been extensively criticised, for example, for mistaking the relationship between record and reality.[41] As Powell has commented, '[t]hey are not really concerned about what happened *after* the crime took place'; nor are they concerned with how law structured the concept of 'crime' in the first place.[42] Nevertheless, some historians, notably Powell, Carpenter and Post, have attended carefully to this problem and offer a basis on which to build.[43] Particular attention has been paid to the question of record-keeping and violent crime in the fifteenth century, notably by Maddern.[44] The question of the role of ecclesiastical institutions in local society, too, has received some attention, for example in the works of Liddy and Thompson, but remains very much an open problem (and one which this dissertation may hope to illuminate, if only in passing).[45] Most work on such institutions has instead taken the form of 'estate studies'. The best of these, for example those of Dyer and Harvey, do address legal questions, but their focus is elsewhere: on the economic and social history of the church estates in question.[46]

[40] This is an enormous field and one which can only be sketched here; the works discussed are representative rather than exhaustive.

[41] B. A. Hanawalt, *Crime and Conflict in English Communities, 1300–1348* (Cambridge, Mass., 1979). J. B. Given, *Society and Homicide in Thirteenth-century England* (Stanford, 1977).

[42] E. Powell, 'Social research and the use of medieval criminal records', *Michigan Law Review*, 79 (1981), 967–978. As Powell points out, both studies also have significant methodological problems (largely as a result of this focus).

[43] E. Powell, *Kingship, Law, and Society: criminal justice in the reign of Henry V* (Oxford, 1989). C. Carpenter, *Locality and Polity* (Cambridge, 1992), esp. Appendix 4, 'The use of legal records', 705–709. J. B. Post, 'Crime in later medieval England: some historiographical limitations', *Continuity and Change*, 2 (1987), 211–224; and idem, 'Some limitations of the medieval peace rolls', *Journal of the Society of Archivists*, 4 (1973), 633–639.

[44] P. C. Maddern, *Violence and Social Order: East Anglia 1422–1442* (Oxford, 1992).

[45] C. D. Liddy, *The Bishopric of Durham in the Late Middle Ages: lordship, community and the cult of St Cuthbert* (Woodbridge, 2008). B. J. Thompson, ed., *Monasteries and Society in Medieval Britain: proceedings of the 1994 Harlaxton Symposium* (Stamford, 1999).

[46] C. Dyer, *Lords and Peasants in a Changing Society: the estates of the bishopric of Worcester, 680–1540* (Cambridge, 1980) and Harvey, *Westminster Abbey*. This is a popular and well-developed type of work

In addition to grappling with the problems of legal records, some local studies address the question of law in society directly. Unfortunately for present purposes, the most useful of those—by Maddern, Carpenter, Powell and Castor, for example—focus on the fifteenth century rather than the fourteenth; given the great changes which took place in the operation of government and law in the latter half of the fourteenth century in particular, it would be foolish to assume that models from the later period apply to 1330.[47] The work of Saul on Gloucestershire is a notable exception.[48] However, drawing on an historiographical tradition (early exemplified by Plummer) which saw the Wars of the Roses as the product of local breakdown and bastard feudal lawlessness, Saul's study is concerned to explain law's failure rather than its social role.[49] He argues that corruption destroyed the law's reputation, that an overly complex body of land law engendered disputes, and that the delays, technicalities and procedural problems of common law process led to the legal system 'breaking down' in the fourteenth century.[50] Whatever truth this may have (and the work of McFarlane, Walker and Carpenter on retaining casts considerable doubt on it), its failure to address how law operated in society makes its conclusions on law's inadequacy questionable.[51] Interestingly, one of the few coherent attempts to answer our problem is the Marxist approach of Hilton, adopted in his synoptic study of the West Midlands. Hilton saw the substance of common law as relatively unimportant: what mattered was not what the law was but who administered it.[52]

with coherent generic expectations and a clear historiographical development. Other influential examples include F. M. Page, *The Estates of Crowland Abbey: a study in manorial organisation* (Cambridge, 1934) and J. A. Raftis, *The Estates of Ramsey Abbey: a study in economic growth and organization* (Toronto, 1957), among many more. As will become clear, the present work is not an estate study.

[47] Maddern, *Violence and Social Order*. Carpenter, *Locality and Polity*. H. Castor, *The King, the Crown, and the Duchy of Lancaster: public authority and private power, 1399–1461* (Oxford, 2000).

[48] N. Saul, *Knights and Esquires: the Gloucestershire gentry in the fourteenth century* (Oxford, 1981). Two works by P. R. Coss, *The Origins of the English Gentry* (Cambridge, 2003) and *The Foundations of Gentry Life: the Multons of Frampton and their world, 1270–1370* (Oxford, 2010), should also be mentioned, but offer little on the question here considered.

[49] J. Fortescue, *The Governance of England*, ed. C. Plummer (Oxford, 1885), 14–32.

[50] Saul, *Knights and Esquires*, 168–204, quotation at 202.

[51] K. B. McFarlane, 'Bastard feudalism', in *England in the Fifteenth Century: collected essays* (London, 1981), 23–43. S. Walker, *The Lancastrian Affinity 1361–1399* (Oxford, 1990). Idem, 'Lordship and lawlessness in the palatinate of Lancaster, 1370–1400', in *Political Culture in Later Medieval England*, ed. M. J. Braddick (Manchester, 2006), 17–38. C. Carpenter, 'The Beauchamp affinity: a study of bastard feudalism at work', *The English Historical Review*, 95 (1980), 514–532.

[52] R. H. Hilton, *A Medieval Society: the West Midlands at the end of the thirteenth century* (London, 1966), 217ff.

Lords used legal structures, whether formally public or private, for their own advantage as a means of social control; gentry 'gang violence' was widespread and largely unpunished; and the law itself did not 'mould social behaviour', which was 'violent, lawless and immoral'.[53] In essence, Hilton did not see law as an independently meaningful factor in structuring society but rather as 'superstructural', an expression of more fundamental economic forces; in such a model, law is merely another manifestation of the economic dominance of one social group. This approach seems too simple but, in spite of its limitations, Hilton's account does at least squarely confront the problem: what did law *do* in fourteenth-century English society?

In order to see the role of law in mediating social relationships, we need at once an accurate understanding of the operation of law and consideration of the relationships in which that law was invoked. Very few people or institutions from the fourteenth century are sufficiently well documented for both these desiderata to be realised: St Albans is a major exception. This dissertation therefore looks at the relationships of the monastery in four spheres: church, realm, town and manor. It aims in each of these spheres to investigate in detail the role played by legal concepts and legal remedies in a series of well-evidenced interactions.

This approach is novel in several ways. This is the first work to study the legal interactions of an actor in every legal system. This is possible only for an ecclesiastical institution and is not how such institutions have hitherto been studied. It is the first to study these several legal systems together in search not of comparison, evidence for borrowing, or the like, but of their combined contribution to social structure. And it is the first attempt at a complete legal biography of a medieval (corporate and fictive) person.[54] As a biography, it should start with its *dramatis personae*.

[53] Hilton, *A Medieval Society*, 266.

[54] The influence of Carpenter's 'total history' on this approach will be obvious, and is acknowledged. Cf., for example, Carpenter, *Locality and Polity*, 1: 'This study is aimed at reconstructing the totality of experiences that went into the making of fifteenth-century political man.'

1.3

The monks

'The names of the monks living in our monastery at the time of the compilation of this book, that is to say A.D. 1380', begins a list in the St Albans *Liber benefactorum* now preserved in the British Library.[55] What follow are the names of all the members of the community in that year, their offices and in many cases their particular contributions to the abbey. This is an invaluable snapshot, for the mentality of any corporate body is necessarily the product of the many mentalities of its members. To understand the abbey as a legal actor it is necessary first to understand the monks: who they were, where they came from and how they saw their place in the world. Fortunately, a remarkable wealth of material survives for this purpose: the *Liber benefactorum*, containing not only a community list but also brief biographies of the monastery's abbots and priors; Walsingham's *Gesta abbatum*; and anonymous biographies of de la Mare and his two successors.[56]

Who then were these men? There were in 1380 fifty-seven monks, from 'dompnus Thomas de la Mare, abbas,' to 'frater Willelmus Stubbard'. The Rule of St Benedict stipulates that the order of precedence in a monastery be according to the date of one's entry and this list, ending with the *non professi* and *conuersi*, evidently follows just such an order.[57] Judged by their names, many of the monks came from the abbey's manors: from Redbourn, Windridge and Rickmansworth, for example; while no fewer than four came from Houghton Regis, Bedfordshire, where the abbey held the advowson of the parish

[55] BL MS Cotton Nero D.vii, ff. 81v–83v. 'Nomina monachorum in monasterio nostro uiuentium tempore compilationis huius libri, uidelicet anno domini millesimo trecentesimo octogesimo'. The list is printed in Dugdale, *Monasticon Anglicanum*, rev. Caley, Ellis and Bandinel, ii, 209–210, note b, though with some minor inaccuracies. There is a second, smaller, *Liber benefactorum*, now CCCC MS 7, which does not include this.

[56] *Liber benefactorum*: BL MS Cotton Nero D.vii. Walsingham's version of the *Gesta abbatum* is preserved in BL MS Cotton Claudius E.iv, printed in the Rolls Series and discussed further below. The anonymous biographies (whose possible authorship is addressed below) are in the smaller *Liber benefactorum*, CCCC MS 7, and are printed in *Gesta abbatum*, iii, 375–535.

[57] *Benedicti Regula*, ed. R. Hanslik (Vienna, 1977), 159–162 (Chapter 63). The rule does allow an abbot to alter the order (though this is not to be done lightly) and it is no doubt for this reason that Abbot de la Mare and Prior John Moot head the list, while the other obedientiaries are scattered throughout. Benedict explicitly forbids ordering by age or by rank. Moreover, he lists a number of ways in which the *iuniores* must defer to the *seniores* and the hierarchy must therefore have been very familiar to all in the community.

church.[58] Yet, as Clark has pointed out, the monastery's large number of dependent cells, some at a great distance, extended the range of its recruitment, as names like Richard de Beluero attest.[59] This recruitment from the abbey's estates at times complicated the monks' relationship with their tenants: following disturbances in the town in the late 1320s, Abbot Richard Wallingford sent those monks too closely related to the townsmen away to the monastery's most distant cells.[60] The total number is evidence of a much-diminished monastery: nearly two centuries before, in 1200, the Abbot John de Cella had felt it necessary to order that the number of monks not exceed one hundred but the first visitation of the Black Death had killed forty-seven, including the abbot, and recovery was evidently slow.[61] The estates and responsibilities of the community did not decline with their numbers, however, and in 1380 twenty-four of the fifty-seven held some sort of office: one monk indeed was simultaneously *coquinarius*, *refectorarius* and *infirmarius*.[62] Besides the prior there were *supprior* and *tercius prior*; the *sacrista* was aided by a *subsacrista* and the *cellerarius* by a *subcellerarius*; and even those without office bore significant responsibilities, like the John de Bokedene

> who, together with brother William Stubbard, *conuersus*, worked hard with the stonecutters—and cut stones himself—to build the new gate and to repair the royal hall, the abbot's bake-house and the chapel of St James at Redbourn.[63]

Even so slight a record conveys how great was the energy required to manage the estates and maintain the communal life of a large Benedictine monastery in the fourteenth century and at St Albans much of that energy came from two men: Thomas de la Mare and his greatest obedientiary, Prior John Moot.

[58] *VCH Bedford*, iii, 393. The comments of Dobson on the dangers of inferring origin from surname after *c.* 1400 should nevertheless be borne in mind: R. B. Dobson, *Durham Priory, 1400–1450* (Cambridge, 1973), 56–58.

[59] Clark, *A Monastic Renaissance*, 15. Belvoir Priory in Lincolnshire was a dependent cell of the abbey.

[60] *Gesta abbatum*, ii, 202. For these disturbances, see below, pp. 136ff.

[61] For John de Cella: *Gesta abbatum*, i, 234. For the Black Death: *Gesta abbatum*, ii, 370. Clark writes that 'as many as forty-eight monks died', though on what evidence is unclear, *A Monastic Renaissance*, 12.

[62] Not only a single monk, but a relatively recent addition to the community, as well: Thomas de Raynforde was forty-first on the list. Some years before, these three offices had been among those given to John Moot because of the incompetence of their holders (*Gesta abbatum*, iii, 466). On Moot, see below.

[63] BL MS Cotton Nero D.vii, f. 83r. 'qui multa circa edificationem noue porte, reparationem aule regie et pistrini abbatis necnon capelle sancti Iacobi que est apud Redburnam, una cum frater Willelmo Stubard conuerso, in opere latomie et ipse latomus insudauit.'

Since no one was born a monk, varying circumstances of birth and upbringing undoubtedly had a great effect on monastic mentalities: however effectively decades of shared conventual life might flatten initial differences, they could never eliminate them entirely. Nor, in such an age, were they expected to: for Walsingham, as for any contemporary author, origins were an essential part of drawing a character, and in the person of Thomas de la Mare Walsingham was presented with exceptional material. Born *c.* 1309, Thomas was the son of Sir John de la Mare, 'to whom many lords and nobles were closely related', not least the earl of Salisbury and the bishop of Exeter.[64] An attractive youth, he was a favourite of his parents, who early recognised his intellectual precocity and sent him to grammar school, where he excelled.[65] He then conceived the idea of entering a monastery and persuaded his three brothers and his sister to follow suit, his brother John accompanying him to St Albans.[66] Though, unlike many of his contemporaries at St Albans, never a student at Oxford, he nevertheless continued his studies after his profession: appointed chaplain to the prior of Wymondham, 'he worked hard at studying rhetoric and made such progress that afterwards he could dictate or write faultlessly, even to the pope himself'.[67] Yet studies of rhetoric were not long the focus of de la Mare's attention. He was rapidly promoted, first to kitchener and then to cellarer, and became in 1340 the prior of Tynemouth in Northumberland, the abbey's northernmost dependency.[68] There he began a protracted, and eventually successful, campaign to recover the manor of Haukeslowe from Sir Gerard de Wythrington (who attempted to kill de la Mare for his efforts); became a friend and confessor to Lady Mary Percy, the sister of Henry, duke of Lancaster, and wife of Henry Percy; and increased the priory's annual rents by £35 4s 10d. When, in 1346, David Bruce of Scotland invaded the north, de la Mare fortified the priory 'with men, with arms, with provisions and with

[64] *Gesta abbatum*, ii, 371. 'cui propinqui in parentela fuerunt plures domini et generosi'.

[65] *Gesta abbatum*, ii, 372.

[66] Intriguingly, in the smaller *Liber benefactorum*, 'Stephanus de la Mare, nepos domini Thome abbatis', is commemorated for donating his tenement in St Albans to the monastery. It is possible that not all of de la Mare's siblings were as committed to the monastic ideal as he was. CCCC MS 7, f. 110v. Printed in *Johannis de Trokelowe et Henrici de Blaneforde Monachorum Sancti Albani […] Chronica et Annales*, ed. H. T. Riley (London, 1866), 458.

[67] *Gesta abbatum*, ii, 374. 'ad sciendum rhetoricam dedit operam, tantumque profecit ut expost haberet peritiam dictandi siue scribendi irreprehensibiliter ipsi Pape'. For the university education of St Albans monks, see Clark, *A Monastic Renaissance*, 62–72.

[68] Walsingham (*Gesta abbatum*, ii, 380) states that he was prior for nine years before his election as abbot in 1349.

instruments of war' and, unbowed by the threats of the Scottish general William Douglas, came through unscathed (enjoying, indeed, a joke at Douglas' expense when the latter was captured and brought to Tynemouth for safe-keeping).[69] As prior, de la Mare fiercely defended his house's rights and learned—if he did not already know—the worth of influential friends. To maintain the religious value of conventual life depended always on an active engagement with the world outside, perhaps nowhere more so than on the Scottish border.

Abbot de la Mare's immediate predecessors were Richard Wallingford and Michael Mentmore, who governed the house from 1327 to 1335 and from 1335 to 1349, respectively. Wallingford was above all a scholar. Having lost his father, he was adopted by the prior of Wallingford and spent six years at Oxford studying grammar and philosophy.[70] At the age of twenty-two he became a monk of St Albans and after three years in the cloister was sent back to Oxford to continue his studies. He spent another nine years at the university and, even after he returned to St Albans to be elected abbot, nonetheless continued to pursue his scientific interests within the monastery itself, writing astronomical treatises and constructing a vast and elaborate clock.[71] But he was a canny administrator and an agile legal thinker: he put the monastery's privileges and the constitutions of the Benedictine provincial chapter into order and, according to Walsingham, 'surpassed his counsellors, though they were highly educated in both systems of law, with his own counsel', demonstrating that what they had asserted to be impossible could be easily done.[72] His skilful handling of the crisis of 1327 bears out this assessment.[73] His successor Michael Mentmore was born near Aylesbury, to parents of a middling sort, 'who were neither excessively exalted with worldly riches, nor were they impoverished by want; but their fortune lacked nothing necessary for a frugal life'.[74] He was another Oxonian who abandoned his worldly studies for monastic life.[75] In the abbey's records

[69] *Gesta abbatum*, ii, 378–379. 'hominibus et armis, uictualibus et instrumentis bellicis'.

[70] For this and what follows, see *Gesta abbatum*, ii, 181ff.

[71] The life and work of Wallingford are treated in great detail in J. D. North, *God's Clockmaker: Richard Wallingford and the invention of time* (London, 2005), and therefore very summarily here.

[72] *Gesta abbatum*, ii, 207. 'et suos consiliarios, in utroque iure apprime eruditos, suo consilio anteiret; ut ipsa que primitus fieri difficilia, seu impossibilia, asseruerant, ipse satis leuiter fieri suis rationibus et artibus comprobaret'.

[73] See below, pp. 136ff.

[74] *Gesta abbatum*, ii, 299. 'qui nec nimium extollerentur propter diuitias mundiales, neque uilescerent propter inopiam; sed quorum fortune nihil defuit, quod frugalitas ipsa requirit.'

[75] *Gesta abbatum*, ii, 299.

he appears a pious, if rather colourless, figure and Walsingham's depiction of him has little life to it. Both abbots will recur frequently in the pages that follow; but for now let us return to the community as it was in 1380.

Although he was made abbot after Mentmore's death in 1349, de la Mare did not, according to Walsingham, want the office nor was he the convent's first choice: when asked, Henry de Stukle, the prior of Wymondham, invented reasons why he himself should be thought unsuitable.[76] And, in spite of his great success as abbot, de la Mare did not readily reconcile himself to the role: in the 1350s he conceived the plan of resigning the abbacy and becoming once more a simple monk, yet both the way he went about it and the manner of his failure show just how valuable an abbot he was. John, king of France, was at that time a captive in England and had become a close friend of de la Mare's when staying at St Albans; de la Mare confided his plans to John, who promised to write to the Pope on his behalf.[77] His ransom paid, the king went home; shortly afterwards, when three men of St Albans on their way to Rome on pilgrimage were arrested and imprisoned, de la Mare wrote to John entreating him to release them and persuaded the Black Prince to do the same. The king responded: 'what was the need for my relative the prince to write to me? If the abbot alone had written I should certainly have yielded to his entreaty', explaining to his noblemen that there was no abbot in his kingdom who could be compared to de la Mare.[78] Encouraged by this response, the abbot wrote once more, this time to ask again for help in resigning. John was then at Calais, negotiating the final terms of peace with the Black Prince and, when he told Edward what de la Mare had asked him to do, the prince stopped him, 'for truly', he said, 'if you do this, you will destroy that monastery!' Returning to England, Edward went to St Albans and announced to the convent what de la Mare had tried to do; his plans stymied on one side and unveiled on the other, the abbot abandoned the attempt.[79] Nor was Edward the only Plantagenet with whom de la Mare became friends: the *Liber benefactorum* records that John, duke of Lancaster, 'a particular friend of this place, many

[76] *Gesta abbatum*, ii, 382.

[77] *Gesta abbatum*, ii, 407–408. John became his friend 'eo quod apud sanctum Albanum eum humaniter, curialiter, et laudabiliter hospitio suscepisset'.

[78] *Gesta abbatum*, ii, 408. 'Et quid necesse fuit, inquit, ut scriberet mihi consanguineus meus princeps? Certe etsi tantum abbas iste scripsisset, suo precatui paruissem.'

[79] *Gesta abbatum*, ii, 409.

times gave gifts of wine to the abbot'.[80] The monks of St Albans, on a main road to and from London, were hardly recluses: they had always to consider the larger stage of national political life.

If de la Mare's close friendships with kings and princes showed his bearing and his birth, so too did his relationships with the abbey's tenants. For the abbot of a wealthy Benedictine house like St Albans was, in Réville's phrase, 'un souverain au petit pied' and, however high-handed his treatment of bondsmen might later become, in his first days as abbot de la Mare showed himself sensitive to the limits of that sovereignty.[81] In spite of the enormous expenses incurred in obtaining confirmation of his election at the papal curia, his tenants and bondsmen, 'not excessively taxed but piously supported', in Walsingham's phrase, contributed no more than fifty marks towards his installation.[82] Others have interpreted this *recognitio* quite differently: Ko writes of Barnet, where the tenants paid a total of two marks, that 'the lord seems to have shown no consideration for the difficulties and miseries which his tenants had to face after the Black Death' and cites the levying of the common tallage as 'an example of the oppressive attitude of the lord'.[83] But two marks was among the least of the contributions: the tenants of Winslow paid twenty marks, for example, and the tenants of Abbot's Langley sixty shillings. Yet these last did so 'entirely of their own free will', according to the court book, and the phrase may not be wholly seigneurial self-delusion.[84] As Slota pointed out, the entry fines for *inter uiuos* land transfers were usually increased to offset the costs of vacancy: '[f]or every accession year from 1285–1340, yearly mean entry fines rose either in that year or in the two following years.'[85] Upon de la Mare's accession, however, entry fines actually fell and their replacement at Barnet by a two-mark tallage can hardly be accounted oppressive. More tellingly still, he did not demand homage from all his tenants, 'seeing from afar

[80] BL MS Cotton Nero D.vii, f. 7r. 'specialis amator huius loci abbati multociens dedit uina'.

[81] A. Réville, *Le soulèvement des travailleurs d'Angleterre en 1381*, ed. and with an introduction by C. Petit-Dutaillis (Paris, 1898), 5.

[82] *Gesta abbatum*, ii, 389. 'non excessiue taxati sed pie tolerati'.

[83] Ko, 'Society and conflict in Barnet', 266 and n. 78. Levett, *Studies in Manorial History*, 255, makes of the tallage the similar observation that 'Evidently consideration for the Abbey's tenants had not been much increased by the visitation of the pestilence'.

[84] *Winslow Manor Court Books*, ed. and trans. D. Noy, 2 vols. (Amersham, 2011), i, 256. Sidney Sussex MS 1, Edw. III, f. 32r (note that the foliation in this manuscript restarts at the beginning of the reign of Edward III). 'Omnes natiui et natiue tenentes dant de communi tallagio ad subsidium noue creationis domini Abbatis ex eorum mera uoluntate . lx . s .'

[85] Slota, 'Law, land transfer, and lordship', 133.

what would help in future and what he should be wary of'.[86] He thought, Walsingham explains, that he would get more from his tenants on other matters if he did not press them on this; only the men of Tynemouth were compelled to do homage, 'lest they not know that they were subject to the abbot of St Albans, for men of that type rebelled against their lords gladly and for trivial reasons.'[87] Though never wishing to sacrifice the monastery's rights, de la Mare could nevertheless be tactful in their enforcement.

The abbot could be similarly accommodating towards his own monks: when, upon his election, the obedientiaries of the abbey all gave up their offices, 'deciding for the moment not to alter or change anything, he ordered that all take back their keys.'[88] Yet, for de la Mare, compromise was only a means. The end was reform, and in the following years he extensively re-arranged not only the lands assigned to obedientiaries but also their responsibilities. Nor did he long refrain from removing officials: at his first visitation of the dependent cells, for example, he deposed the prior of Binham.[89] He established new constitutions for his own house and its dependants, prescribing in great detail the appropriate conduct for office-holders: obedientiaries were not to carry weapons, were not to eat in lay-people's houses and were not to sell goods at market rates, but slightly below, 'following the Rule on this point'.[90] None could spend the night outside the monastery unless the reason, place and time of return were first explained to the whole house and limits were set on the value of transactions which each grade of official could undertake—a regulation of which the experience of Bury St Edmunds in an earlier period shows the wisdom.[91] But perhaps the best example of the degree of control exercised in de la Mare's constitutions is the chapter 'concerning the pronunciation of certain words': to abolish the 'contemptible abuse' of the monks' irregular pronunciations,

> we have decided that 'Sidonis' be pronounced with the penultimate syllable long, 'alioquin' likewise with the penultimate syllable long, 'zizannia' with the penultimate syllable short and 'unguerent' by omitting the 'u' after the

[86] *Gesta abbatum*, ii, 394–395. 'aspiciens a longe que facere in futurum profuit, et quid cauere necesse fuit'.

[87] *Gesta abbatum*, ii, 394–395. 'ne nescirent se subiectos abbati de Sancto Albano, quia id genus hominum libenter et leuiter rebellare suis dominis consueuit.' Presumably, northerners are meant.

[88] *Gesta abbatum*, ii, 389. 'ille, pro tunc nihil innouare uel mutare decernens, iussit ut singuli reciperent claues suas.'

[89] *Gesta abbatum*, ii, 394.

[90] *Gesta abbatum*, ii, 442. 'Regulam in hac parte sequentes'.

[91] *The Chronicle of Jocelin of Brakelond*, ed. H. E. Butler (London, 1949), esp. 1–6.

'g' in all persons except the first.[92]

Unsurprisingly, not all members of the convent were happy with the new regime: Walsingham records the names of eight monks who, 'refusing to bear the severity of their religion', left the monastery and mentions—but does not name—others who left only to return when pricked by conscience.[93] In the diminished community of St Albans after the Black Death, the desertion of perhaps a dozen monks cannot have been easily borne.

And indeed, for all his friendliness to the nobility and sympathy to his tenantry, de la Mare was no less intractable in his management of external than of internal affairs. Where a light hand brought better results, as in the exaction of homage, he saw no need to press, but where the abbey's basic rights were in dispute none could be more stubborn. As the long narrative of his lawsuits in the *Gesta abbatum* begins, 'he was a high-spirited and judicious man; so much so that he scarcely feared even death so long as he could safeguard the rights of his monastery.'[94] In Walsingham's retelling, de la Mare's abbacy becomes a narrative of his lawsuits, of an endless struggle to preserve the abbey's rights against all comers: he sued and was sued by his bond tenants, by citizens of London, by the prioress of Markyate, by the bishop of Norwich and by the townsmen of St Albans, and disputed rights with the earls of Warwick, the bishop of Lincoln and the family of Alice Perrers.[95] As Riley wrote, '[o]f few of the men of those days might it be better said that […] "His hand was against every man, and every man's hand against him;" so far as an evidently innate love of litigation, and a determination never to bate one jot of his lawful rights, were concerned.'[96]

Lawyers were consequently an important part of the abbot's household: as Levett writes, 'he took a special pride in having learned counsellors, *utrius juris periti*, whom he provided with a special livery of robes' and he evidently retained attorneys who regularly represented him in his many lawsuits, like Thomas de Thorpe and Henry Wickwane.[97]

[92] *Gesta abbatum*, ii, 429–430. 'statuimus ut 'Sidonis' penultima longa, et 'alioquin' penultima longa, 'zizannia' penultima breuis [*fort. recte* breui], 'unguerent' omittendo 'u' post 'g' in omnibus excepta prima persona […] pronuncientur.' (omitting a number of further rules in the ellipsis).

[93] *Gesta abbatum*, ii, 415. 'rigorem religionis ferre detrectantes'.

[94] *Gesta abbatum*, iii, 3. 'erat autem uir iste magnanimus et cordatus, ut pene mortem non timeret, dummodo iura sui monasterii tueri posset.' The phrase does scan thus, but perhaps 'ita' for 'iste' was meant.

[95] *Gesta abbatum*, ii, 371–iii, 372, *passim*.

[96] Riley, 'Introduction', in *Gesta abbatum*, iii, x, citing Gen. 16:12.

[97] Levett, *Studies in Manorial History*, 155; and eadem, 'The courts and court rolls of St. Albans Abbey',

Some were involved with the abbey's affairs for decades: as clerk, Master William Burcote accompanied de la Mare to Rome in 1349 to secure confirmation of his election; as a notary public, he witnessed copies of bulls made in 1380; as rector of Little Waltham, he was received into the abbey's fraternity in 1387; and he not only left to the abbey 'totum corpus iuris ciuilis' but also waived a debt of £100 owed to him for his help in securing papal privileges.[98] The *Liber benefactorum* commemorates Master William de Burton, 'iuris peritus', who 'preserved the rights of this church unharmed for thirty years and more' and the Corpus Christi *Liber benefactorum* adds that he left all his books *utriusque iuris* to the office of archdeacon.[99]

Yet all this secular contention was, for de la Mare, in pursuit of a worthy goal, never of self-aggrandisement. He was exceptionally spartan in his own habits, regularly flagellating himself and fasting (though always generous as a host) and, however worldly his concerns might appear to modern eyes, they did not seem so to contemporaries: the material support of monasticism was holy itself.[100] When he attempted to resign his abbacy and become once more a simple monk, Walsingham commented that 'from all this it is clear that the abbot had not set his mind on earthly things': the *res terrene* on which his attentions seem so evidently fixed were only a means to an end and were accepted as such.[101] Indeed, when the anonymous continuator of the smaller *Liber benefactorum* came to record the blameworthy aspects of his abbacy, 'to teach—and to warn—those to come', it was not his ferocious litigation or grasping pursuit of land that attracted the chronicler's disapprobation but rather the many lands, rents and rights lost during his abbacy through his too-feeble defence.[102] For his monks there was no hypocrisy in his pious epitaph: 'Abbot Thomas lies within this tomb / who spent his life in holy works.'[103]

63. Thomas de Thorpe: *Gesta abbatum*, iii, 39 and 49. Henry Wickwane: ibid., iii, 55, 87 and 528. A large number of other attorneys appear only once.

[98] *Gesta abbatum*, ii, 383 and iii, 163ff. BL MS Cotton Nero D.vii, f. 112r. He is mentioned also in the *Gesta abbatum* continuation (iii, 441 and 456). The smaller *Liber benefactorum* adds that he also gave *studio abbatis* 'totum corpus iuris canonici' (CCCC MS 7, f. 110r and printed in *Johannis de Trokelowe et Henrici de Blaneforde*, 457).

[99] BL MS Cotton Nero D.vii, f. 105r. CCCC MS 7, f. 110r and printed in *Johannis de Trokelowe et Henrici de Blaneforde*, 455.

[100] *Gesta abbatum*, iii, 402–403. His practices of mortification are described in some detail.

[101] *Gesta abbatum*, iii, 409. 'ex premissis igitur satis constat memoratum Abbatem suam mentem in terrenis rebus non fixisse'.

[102] *Gesta abbatum*, iii, 415ff. 'ad futurorum notitiam pariter et cautelam'. The authorship of this continuation is discussed below.

[103] J. Weever, *Antient Funerall Monuments* (London, 1631), 561. 'Est Abbas Thomas, tumulo presente

Second on the list of monks in the *Liber benefactorum*, and second only to Thomas de la Mare in his influence on the abbey's management, was the prior, and de la Mare's successor as abbot, John Moot. The sources for his life are considerably more fragmented than those for de la Mare's: Walsingham included a brief sketch in his list of St Albans priors in the British Library *Liber benefactorum* and an equally brief biography of Moot was added to the list of abbots by a later hand.[104] Much the fullest source, however, is the anonymous and incomplete continuation of the *Gesta abbatum* in the Corpus Christi College, Cambridge, *Liber benefactorum*, containing accounts of de la Mare, of Moot and of his successor William Heyworth.[105] Clark has suggested that this was the work of William Wintershill, the abbey's almoner and Moot's chaplain and, while there is little direct evidence for such an attribution, Wintershill himself figures in the narrative (albeit in the third person) and is given a substantial speech in *oratio recta*; whether Moot's own chaplain would pen so confused and often hostile an account, however, is open to question.[106]

Moot was born at Sindlesham in Berkshire, a lay manor not associated with St Albans.[107] Born 'of middling parentage', he was described by his biographer as 'ideally suited for worldly affairs, for he was instructed from a young age by his father Thomas Moot, who had been steward and auditor of accounts to many lords.'[108] Such knowl-

reclusus / Qui uite tempus sanctos expendit in usus.'

[104] BL MS Cotton Nero D.vii. Walsingham's account of Moot as prior is on ff. 49v–50v. The anonymous addition on his abbacy is on ff. 24r–25r.

[105] Printed in the *Gesta abbatum*, iii, 375–535.

[106] Clark, *A Monastic Renaissance*, 25. The grounds on which he makes this suggestion are not here given. At *A Monastic Renaissance*, 62, he attributes the work to an 'anonymous biographer'. At *A Monastic Renaissance*, 167, he states that the work was 'almost certainly' the work of Wintershill and refers to his own arguments in 'Thomas Walsingham reconsidered', 845–846, where he states that it is most likely that only Wintershill, who was de la Mare's chaplain before he was Moot's, could have known the intimate details of de la Mare's death and burial given in the text. At *A Monastic Renaissance*, 169, Clark states that 'Walsingham himself credited William Wintershill with writing a *Vita abbatis Thomae*—which may be the text found in the Corpus manuscript' and cites BL MS Cotton Nero D.vii, f. 83v. In fact there (part of the community list discussed above) Walsingham writes nothing of the sort, but rather simply lists 'Willelmus Wintr'shull' \Elemosinarius/ [*insertion by another hand*] cuius actus in gestis thome abbatis plenius continentur'. As stated above, Wintershill does appear in the narrative, but is not *ipso facto* its author. The structure, origin and authorship of this continuation, which may in fact be two accounts conflated by a later scribe, is a subject beyond the bounds of the present study but nonetheless worthy of further attention.

[107] *VCH Berkshire*, iii, 252–253.

[108] *Gesta abbatum*, iii, 466. 'ex mediocri parentela progenitus' and 'secularibus curis idoneus, utpote per patrem suum, Thomam de la Moot, qui multorum dominorum senescallus et auditor compotorum

edge was perhaps what brought him to the attention of de la Mare, who made Moot first his chaplain and then, in 1353, the abbey's cellarer, a post which he continued to hold for nearly twenty years.[109] As cellarer he was conspicuously successful, lauded both by Walsingham and by his anonymous biographer, though perhaps less popular with those outside the monastery: in the 1350s he was seized and put in the pillory at Luton by Sir Philip de Lymbury, a retainer of Henry, duke of Lancaster.[110] During his cellarership, the abbey began the practice of summarising the court rolls of its manors in large codices. An entry in the court book for the manor of Barnet in 1355 begins:

> The court held at Gryndlesgate in the time of the venerable father and lord Thomas de la Mare, abbot, and of brother John Mote, cellarer, who caused this book to be made to help cellarers in the future.[111]

As Levett pointed out, such an entry does not necessarily demonstrate that the court books were begun in 1355 itself: the court 'is the first in which the name of the new cellarer is mentioned, and a clerk writing later might well seize this opportunity to commemorate the originator of these new records.'[112] The court books for the manors assigned to the cellarer are written by a single scribe up until the end of the reign of Edward III: William de Wylum, also responsible for the *Liber benefactorum* now preserved in the British Library.[113] While the uniformity of the entries up to 1377 at first suggests that the books were written after that date, Moot ceased to be cellarer in 1374 and such uniformity as there is may consequently be due to Wylum's continuing to copy the entries. Whatever their date, the court books must have proved a welcome innovation given the frequency with which the rolls were consulted to establish title for land. Undoubtedly de la Mare supported this reform in practice, but the idea itself was probably

extiterat, ab etate tenera instructus.'

[109] *Gesta abbatum*, iii, 466. The dates of the St Albans cellarers can be readily established from the court books of the abbey's manors.

[110] *Gesta abbatum*, iii, 3–4. The date is not given, but Henry was duke (as he is referred to in the text) only from 1351 until his death ten years later. It must thus have been between 1353 and 1361. See *ODNB*, *s. n.* 'Henry of Lancaster [Henry of Grosmont], first duke of Lancaster (*c.* 1310–1361)'.

[111] BL MS Add. 40167, f. 88r. 'Curia tenta apud Gryndlesgate […] temporibus uenerabilis patris et dompni dompni Thome de la Mare abbatis et fratris Iohannis Mote cellerarii, qui fecerunt fieri hunc librum ad solacium cellerariorum inposterum futurorum.'

[112] Levett, *Studies in Manorial History*, 89.

[113] Cf. the hand of BL MS Cotton Nero D.vii, f. 82v ('Willelmus de Wylum, qui scripsit istum librum'), and that of, e.g., CUL MS Dd.7.22, f. 1r. William de Wylum also wrote the surviving copies of the series of extents first drawn up in 1331–1332: see, e.g., HRO 6534, HRO 7593 and HRO 16999.

Moot's, perhaps, as Levett suggested, from 'parental example or exhortation.'[114] On the death of Adam Wyntham, prior of St Albans, Moot was appointed not only prior but, in addition, kitchener, refectorer, sub-refectorer and infirmarer: these offices, which had deteriorated markedly in the hands of others, de la Mare 'entrusted to his experience and discretion, for [the offices'] betterment'.[115] Nor, according to his biographer, did Moot cease to be cellarer, though Walsingham's account in the *Liber benefactorum* strongly suggests that he gave up that office, if not immediately, then shortly after becoming prior.[116] It is likely therefore that he became prior shortly before 1374, when he is last mentioned as cellarer. The remaining offices he held 'energetically and shrewdly' for only two years and 'handed them back in perfect condition' (in the community list of 1380 three of these four offices were held by Thomas de Rayneford), but he remained prior until de la Mare's death in 1396.[117] Moot, described as the abbot's 'particular disciple', was clearly, after nearly twenty years as cellarer, his most trusted and competent official.[118]

Yet being trusted by the abbot to clean up the messes of others, however useful for an obedientiary's career, did not necessarily make one popular with the rest of the convent. The account of de la Mare in the anonymous continuation of the *Gesta abbatum* includes, among its criticisms of his abbacy, the charges of credulity and of employing unworthy officials, among whom priors are explicitly mentioned, as are those who remained too long in office.[119] Moot was not universally unpopular: indeed multiple characterisations co-exist within the *Gesta abbatum* continuation. According to one passage, when the aged de la Mare felt unable any longer to manage the abbey's affairs, he handed control 'with the consent, and indeed at the pressing, of his convent' to his prior, by some distance the monastery's most experienced official.[120] Yet later Moot is charged with ingratitude, with usurping de la Mare's authority in the last two years of his life and with defaming him before the convent.[121] The same variability is evident in the biography's treatment

[114] Levett, *Studies in Manorial History*, 89, n. 3.

[115] *Gesta abbatum*, iii, 466. 'in eorum meliorationem, eius experte discretioni gubernanda commisit'.

[116] Walsingham writes: 'ante susceptum prioratus officium, fere viginti annis officium Cellerarii strenue consummauit'. BL MS Cotton Nero D.vii, f. 49v.

[117] *Gesta abbatum*, iii, 466. 'strenue et sagaciter […] et in optimo statu sursum reddidit'.

[118] *Gesta abbatum*, iii, 432. 'alumpnus precipuus'

[119] *Gesta abbatum*, iii, 416. Walsingham's own account of de la Mare, ending abruptly as it does after the revolt of 1381, does not include any summative evaluation or criticism of the kind made of other abbots.

[120] *Gesta abbatum*, iii, 419. 'ad sui conuentus assensum pariter et instantiam'.

[121] *Gesta abbatum*, iii, 463.

of his election. The author's account of Moot's abbacy begins:

> When, as has been said, the body of Abbot Thomas of happy memory had been buried, *dominus* John Moot succeeded him through a harmonious and canonical election—through divine grace, indeed—for he was approved of far more than the rest.[122]

According to a later passage, however, the election was anything but *concors et canonica*: he allegedly bribed the convent, threatened and cajoled his fellow monks and utterly disregarded the customary process: 'his entry to that dignity was thus illicit and unlawful, wherefore his tenure was less agreeable and his death less hard to bear.'[123] Throughout this section of the narrative the common core of the complaints against Moot is selfishness: whatever office he held, he attempted to appropriate the revenues of others to it; as prior he feasted excessively and ignored the needs of the poor; and as abbot he began building a grand abbatial residence at Tyttenhanger and disregarded the monastery.[124] He was willful and rash, relied too much upon his own counsel and accepted advice from few.[125] Whatever the truth of these charges—and the existence in parallel of a positive strand of interpretation lays it open to question—there seems little doubt that Moot succeeded in offending a substantial part of his convent. He lacked, or to his monks appeared to lack, that quality which excused the excesses of his predecessor: where de la Mare's appropriations and accumulations were ever in service of a higher purpose, Moot's seemed merely pettiness and greed. As cellarer he could use his energy and his undoubted talents for the enrichment of the monastery, guided—and perhaps restrained—by an abbot of commanding vision; made abbot in turn, he was without a compass or a goal and worked only to enrich himself. Rights and privileges were important, to be sure, but they could only be validated by their use for proper ends.

The example of John Moot makes clear how dependent upon the attitudes, preferences and prejudices of the convent's historians is our understanding of St Albans: all

[122] *Gesta abbatum*, iii, 432. 'Corpore bone memorie Thome abbatis ut premittitur tradito sepulture, successit electione concordi et canonica, quin potius diuina gratia, dominus Iohannes de la Moot […] plurimum pre ceteris approbatus.'

[123] *Gesta abbatum*, iii, 463–465. 'fuit igitur eius introitus ad dignitatem illicitus et illegitimus, unde eius processus minus fuerat gratiosus et exitus minus dolorosus.'

[124] *Gesta abbatum*, iii, 448–450 and 457–466.

[125] *Gesta abbatum*, iii, 457.

that has been said of de la Mare and Moot's careers and characters depends upon the testimony of their fellow monks and above all upon the most prolific of St Albans authors, Thomas Walsingham. Born *c.* 1340, Walsingham may have, like others of his generation at St Albans, studied at Gloucester College, Oxford: certain passages of his chronicles betray, it has been argued, especial sympathy to the university and Anthony Wood (following the earlier antiquary Thomas Allen) records that his name was commemorated in the windows of the college's successor, Gloucester Hall.[126] He was ordained priest on 21 September 1364 by Simon Sudbury, then bishop of London, and then disappears from sight until 1380. In the community list in the British Library *Liber benefactorum* of that year, he appears twenty-second:

> Thomas Walsingham, *precentor*, who compiled this book and caused seven marks to be donated by John of Bedingham and his wife Cristiana for the new gate.[127]

By 1380 at the latest, then, Walsingham was engaged in writing about the abbey's history. For some part of this period he served also as the abbey's *scriptorarius*: the anonymous continuator of the *Gesta abbatum* writes of the 'scriptorium built from the ground up at the expense of the abbot [i.e. de la Mare] and through the industry of *dominus* Thomas Walsingham, then *cantor* and *scriptorarius*'.[128] He seems to have been appointed prior of the dependent cell of Wymondham in Norfolk in 1394 but remained in that post for only two years.[129] Shortly after his election as abbot in 1396, Moot 'recalled to the monastery

[126] The argument is made in Clark, 'Thomas Walsingham reconsidered', 838–839. See also A. B. Emden, *A Biographical Register of the University of Oxford*, 4 vols. (Oxford, 1957–1974), iii, 1971. Clark also notes that in 1354 one 'Thomas de Walsingham, clerk', acknowledged a debt in Oxfordshire. The acknowledgement of debt is in *CCR, 1354–1360*, 80 and does not, as Clark implies, specify the city of Oxford itself. This piece of evidence is not mentioned in Clark's later *A Monastic Renaissance*.

[127] BL MS Cotton Nero D.vii, f. 82v. 'Thomas de Walsingham precentor, qui istum librum compilauit et septem marcas de pecunia Iohannis de Bedingham et Cristiane coniugis sue ad opus noue porte donari procurauit.' The latter part of the description is not, in context, unusual: the *Liber benefactorum* records any and all contributions to the abbey, including those by monks.

[128] *Gesta abbatum*, iii, 393. 'domus scriptorie, sumptibus ipsius Abbatis [*sc.* Thome] et industria domini Thome de Walsingham tunc cantoris et scriptorarii a fundamentis constructa'. *cantor* and *precentor* seem to be synonymous in this context.

[129] *Heads of Religious Houses: England and Wales*, ed. D. Knowles, C. N. L. Brooke, V. C. M. London and D. M. Smith, 3 vols. (Cambridge, 2001–2008), iii, 88. *VCH Norfolk*, ii, 339 and 342. The assertion of Clark that Walsingham was sent to Wymondham as punishment after a dispute with de la Mare ('Thomas Walsingham reconsidered', 837 and n. 30) seems to be entirely without foundation. The charge is repeated

Master Simon Southerey, professor of sacred theology and prior of Belvoir, and *dominus* Thomas Walsingham, formerly *precentor* of the monastery, at their own prayers and indeed insistence, for they were exasperated by worldly anxieties.'[130] Southerey he made prior of St Albans; Walsingham he permitted to return to the quiet of the cloister.[131] Nor, evidently, did Walsingham ever hold office again; he continued to write for a quarter of a century, however, and is last recorded in 1420, the most senior then of all the monks, at the abbatial election of John Wheathampstead.[132]

In the forty years of his writing career Walsingham produced many works manifesting a wide array of interests—historical, musical and classical—but much the most important of his writings for understanding St Albans itself is the *Gesta abbatum*, a history of the abbey from its foundation in 783. Begun by Matthew Paris and carried by him from Offa's foundation down to the year 1255, the history of St Albans' abbots was later extended by an anonymous continuator to 1308.[133] From that date the text is Walsingham's, who also revised the earlier sections to create a single coherent and complete narrative of the abbey: at the beginning of the account of Hugh de Eversdone's abbacy in 1308 a rubric reads, 'from here until the death of Abbot Thomas [this is] the work of Thomas Walsingham, *precentor*'.[134] When exactly the work was written is unclear. Galbraith argued that it was completed before Walsingham's departure for Wymondham: the latest entry is of the year 1393; and it does not extend to de la Mare's death, which

in his later book, *A Monastic Renaissance*, 26. The passage of the *Gesta abbatum* to which he refers does not say this.

[130] *Gesta abbatum*, iii, 436. 'magistrum Simonem Southerey, sacre theologie professorem, priorem de Beluero, et dominum Thomam Walsyngham, alias precentorem monasterii, et mundialibus curis lacessitos, ad eorum preces et instantiam precipuam ad monasterium reuocauit.'

[131] *Gesta abbatum*, iii, 436. 'claustrali quieti uacare'.

[132] Clark, 'Thomas Walsingham reconsidered', 838, citing a binding fragment in the library of Clare College, Cambridge. Clark's suggestion that this is evidence of Walsingham's remaining 'actively involved in the business of the community' cannot be sustained: as discussed above, the order of seniority in Benedictine monasteries was based upon the date of profession and in 1420 Walsingham had been a member of the convent for about sixty years. Clark's later statement that 'he appears to have been a member of the monastery's ruling elite, a source of counsel and support for successive abbots; even at a very advanced age, in September 1420, he led the brethren into the chapter house for the election of John Wheathampstead' (*A Monastic Renaissance*, 166), is even further from being demonstrable.

[133] Riley, 'Introduction', in *Gesta abbatum*, i, ixff. Matthew Paris' text, from which the earlier part of BL MS Cotton Claudius E.iv is derived, also survives and was printed in the seventeenth century: *Matthaei Paris Monachi Albanensis Angli Historia Maior*, ed. W. Wats, 2 vols. (London, 1640 and 1684).

[134] Galbraith, ed., *The St. Albans Chronicle, 1406–1420*, lix, n. 4. 'exhinc usque ad obitum Thome abbatis ex studio Thome de Walsingham precentoris'. Printed also at *Gesta abbatum*, ii, 109, where the text reads 'ex studio fratris Thome […]'. The *Gesta* does not in fact reach to the end of de la Mare's life.

occurred during Walsingham's absence.[135] Despite the absence of any programmatic preface, the purpose and audience of the work are clear: Walsingham (as Paris before him) wrote for his fellow-monks and his successors, to educate them in the abbey's history.[136] One imagines a young Thomas immersed in the great autograph volumes of Matthew Paris; and, older, undertaking to continue his predecessor's work, so that the collective memory of the community might continue unbroken and others might learn it as he had. But *pietas* was not all. Walsingham wrote, too, to preserve the memory—and the proof—of the abbey's rights: of its lands, exemptions, privileges and honours. The case of Nicholas Tybbesone, for example, was copied in full beneath a lengthy rubric:

> Concerning the false claim of Nicholas Tybbessone and how the abbot claimed and recovered him as his bondsman. Plea before the lord king at the town of St Albans, in Michaelmas term in the twenty-eighth year of the reign in England of King Edward, the third since the conquest, and in the fifteenth year of his reign in France. Hertford. Roll sixty.[137]

What follows is a verbatim transcription of the case, from attachment to dismissal, as entered in the plea rolls of the court of King's Bench—entered, as Walsingham says, on membrane sixty of the roll for Michaelmas 28 Edward III.[138] Evidently the abbey obtained exemplifications of decisions in its favour to preserve in its archives; these exemplifications noted the place of the case in the rolls (probably so that in case of dispute they could be checked). Working amongst the abbey's muniments, Walsingham must have come across the case; he included it both to commemorate de la Mare's victorious defence of the monastery's rights and, more pragmatically, to ensure that proof of that victory was preserved. Nor is this an isolated case: the long narrative of the abbots' lawsuits and disputes is made up largely of transcribed writs, pleas, bulls, indentures, letters and charters—biography as animated cartulary.[139] Indeed Walsingham, as *scriptorarius*,

[135] Galbraith, ed., *The St. Albans Chronicle, 1406–1420*, lix.

[136] On the compositional practices of Paris, see especially R. Vaughan, *Matthew Paris* (Cambridge, 1958), 125ff.

[137] *Gesta abbatum*, iii, 39. 'De falso clamore Nicolai Tybbessone et quomodo Abbas uendicauit eum ut natiuum suum et recuperauit. Placita coram Domino Rege apud uillam de Sancto Albano, Termino Sancti Michaelis, anno regni regis Edwardi tertii a conquestu Anglie uicesimo octauo et regni sui Francie quinto-decimo. Hertfordie. Rotulo sexagesimo.'

[138] TNA, KB 27/377, m. 60d.

[139] *Gesta abbatum*, ii, 183–iii, 372, *passim*.

was probably involved in the making of the great two-volume St Albans cartulary produced in this period; the compilation of the *Liber benefactorum* in 1380, too, must have necessitated just the same sort of sifting of muniments.[140]

This is not to say that Walsingham's *Gesta abbatum* is a straightforward assemblage of facts: in spite of the preponderance of documents in many sections there is nonetheless much editorialising. When a number of monks left after de la Mare's reforms, 'incurring at once both the notoriety and the sentence of apostasy', Walsingham wrote: 'these men have not yet returned; they are either dead in body or, if they still survive, certainly they are dead to God.'[141] Selection is of course also a deliberate shaping of the narrative and the stories Walsingham chose to include have sometimes a transparently didactic or moralising purpose. When a recently deceased monk named Nicholas Goudeby, in life a gossip and slanderer, appeared at night to another brother with an enormous flaming tongue and called out 'My tongue! My tongue! My tongue!', the monks 'all judged that their brother, for this sin of slander, which is hateful to God, had earned that penalty—of being justly punished especially in the part of his body with which he had sinned.' They prayed for him, judging that God had sent the vision so that he might be helped by their intercession and so that others who indulged in such a vice 'might be made more careful by another's ruin.'[142] And, however encyclopaedic the work might at first appear, Walsingham felt himself to be telling a story with structure and meaning. After de la Mare's unsuccessful attempt to resign the abbacy, it seemed to many that he had been abandoned by God, surrounded as he was with wealth and unable to undergo the penance he sought. Yet, Walsingham explains, his design to cast off the abbatial yoke changed all that: the Lord, who had been helping him with his right hand, 'changed from his right hand to his left and punished him in many ways with diverse infirmities and troubles, as will appear more fully in the account of his acts which follows.'[143] The

[140] The first volume of the cartulary is now preserved as Chatsworth House MS 73A. The second is BL MS Cotton Otho D.iii, which was damaged in the Ashburnham House fire of 1731. The *Liber benefactorum* is discussed above.

[141] *Gesta abbatum*, ii, 415. 'apostasie infamiam simul et sententiam incurrendo'. 'hii non sunt reuersi hactenus; uel certe carne defuncti uel, si sint superstites, Deo mortui.' This is an interesting inversion of the 'civil death' undergone by a monk when entering religion.

[142] *Gesta abbatum*, ii, 368. He is described as 'uaniloquus et detractionibus assuetus'. The monks 'interpretabantur singuli quod pro peccato Deo odibili, detractione uidelicet, talem penam meruerat frater ille, ut iuste puniretur maxime in membro quo peccauit.'

[143] *Gesta abbatum*, ii, 416. 'dexteram in sinistram uicissim quodammodo commutauit, ipsumque uariis infirmitatibus et tribulationibus multipliciter castigauit, ut in gestis eius sequentibus plenius apparebit.'

Gesta is by no means an argumentative historical monograph but to Walsingham the events themselves, baldly narrated, had structure and meaning: he simply pointed it out from time to time.

Walsingham himself seems to have had little experience of law or management and what little he had was probably bad. The offices of *precentor* and *scriptorarius* did not carry with them any estates and the priory of Wymondham, his charge from 1394 to 1396, was the centre of jurisdictional conflict with the townspeople, having been established as both monastery and parish church.[144] He was recalled, *mundialibus curis lacessitus*, at his own entreaty after only two years and evidently never held office again. The *Gesta abbatum* was most probably written before even this brief period of responsibility and its treatment of the abbey's external relationships was shaped chiefly by considerations of purpose and structure: overwhelmingly, outsiders enter the narrative only when disputing the rights of St Albans. John Chilterne, an important counsellor of Abbot de la Mare, appears only when he refuses to pay his rent and his former closeness to the abbot is described simply to highlight the wickedness of his later actions.[145] Nicholas Tybbessone and John Albyn of Winslow appear just long enough to sue the abbot and to be proved villeins.[146] How great an effect this 'selective sampling' has on the work's depiction of the monastery's relationships is highlighted by contrast with the *Liber benefactorum*, a work tending in exactly the opposite direction. There tenants and townsmen were effusively commemorated, like William Noreys of St Albans and his wife Margaret, who, 'on account of the many good things which they did in life for our monastery, have earned after death a solemn office of the dead each year, with the participation of the fraternity of this house.'[147] While *bona multimoda* might ensure perpetual remembrance and prayer, commemoration was available to those of lower status as well, like Thomas Bedul of Redbourn, who gave ten shillings and two acres to the church there and one mark to the monastery itself.[148] There is, understandably, no space for hostile comment in the *Liber benefactorum* but there is little more for cordial relations in the *Gesta abbatum*.

[144] 'Introduction', in *St Albans Chronicle*, ed. Taylor, Childs and Watkiss, i, xx.
[145] *Gesta abbatum*, iii, 5ff.
[146] *Gesta abbatum*, iii, 39–41 and above, p. 2.
[147] BL MS Cotton Nero D.vii, f. 100r. 'propter bona multimoda que fecerunt in uita sua nostro monasterio, annuum post obitum solenne meruerunt officium mortuorum una cum participatione fraternitatis huius domus.'
[148] CCCC MS 7, f. 111v. Printed in *Johannis de Trokelowe et Henrici de Blaneforde*, 462.

Yet, with these caveats in mind, it is nonetheless possible to see something of Walsingham's own attitudes to the abbey's relationships through the *Gesta*. Hierarchy and 'degree' were unsurprisingly central to his thinking: when in 1327 the townsmen took advantage of a weak abbot and a weaker central government to extract concessions, Walsingham writes that the damage could not be undone 'until they were reduced to their former degree by the sucessor of this abbot.'[149] This is not to say that he viewed society in terms of a simple division between *oratores*, *bellatores* and *laboratores*, however: he was aware of the very great differences in wealth and status among the abbey's tenants and dependants, and his explanation of events depends at times on those distinctions.[150] Nevertheless, all, of whatever wealth, were alike in their subjection to the spiritual authority of the abbey and it is the interdependancy of temporal and spiritual lordship in Walsingham's mind which gives to his assessments of resistance their strongly moralising tone. Of the rebellious townsmen in the late 1320s he writes that 'so carried away were they with pride that they would not even obey the abbot in spiritual matters', sin flourished, 'and there was no one to prevent such wickedness.'[151] By rejecting the abbey's lordship they rejected not only their landlord but also the governance of the church, the only possible foundation of moral behaviour. Such concern might seem self-interested—and the abbey's spiritual jurisdiction was certainly used in aid of its secular rights, as when, in the 1330s, Abbot Richard Wallingford excommunicated the forgers of a charter of liberties—but it was no less strongly felt for that.[152] And, if the abbey legitimated its dominion by acting as spiritual and moral guarantor for those subject to it, it had in turn a responsibility to further their salvation. The anonymous continuator of the *Gesta abbatum* strongly condemned Moot's behaviour as abbot in building a new residence at Tyttenhanger: he pressed his workers hard and 'compelled the labourers and his household to work at times which were inappropriate and unlawful'; the abbot's role was *nequitias prohibere*, not to compel them.[153]

[149] *Gesta abbatum*, ii, 175. 'donec per successorem huius abbatis […] reducti sunt ad gradum pristinum'. See also N. M. Trenholme, 'The English monastic boroughs: a study in medieval history', *The University of Missouri Studies: a Quarterly of Research*, 2, 3 (1927), 31–37; and idem, 'The risings in the English monastic towns in 1327', *The American Historical Review*, 6 (1901), 651–658.

[150] See below, pp. 136ff.

[151] *Gesta abbatum*, ii, 216–217. 'usque adeo eleuatum est cor eorum, ut nec quidem in rebus spiritualibus eidem [*sc.* abbati] obtemperare curarent […] et non erat qui tantas nequitias prohiberet.'

[152] *Gesta abbatum*, ii, 262.

[153] *Gesta abbatum*, iii, 449. 'operarios etiam suos et familiares temporibus incompetentibus et a iure

Gransden wrote that 'figuratively, and sometimes literally, the abbey in the fourteenth century resembled a beleaguered castle' and such a characterisation has elements of truth: in 1327 the townsmen twice besieged the abbey, once for ten days, in their attempt to obtain a charter of liberties and in 1357 abbot and convent asked for and were granted a licence to crenellate the monastery.[154] But it is not the whole truth. It suggests a consistent insularity that was wholly absent: contemporary critics certainly did not fault the Benedictines for their separation from the world.[155] It relies too much upon the impression of permanent antagonism created by the *Gesta abbatum*, by its very nature necessarily a record of disputes and of abbatial triumphs. But, perhaps most importantly, it leaves aside the purpose of the monastery: a castle exists to dominate its neighbours and, however St Albans may have loomed above the town, however irksome its lordship may have been, that was never its *raison d'être*. Thomas de la Mare was praised for his asceticism, John Moot castigated for his neglect of religion and Walsingham remembered as the author of the *Liber benefactorum* and builder of the scriptorium: the monks judged themselves by quite other standards. Nor were the monks' relations with townsmen and tenantry purely antagonistic: the defence of their rights and their income against a peasant was not different in spirit from that against an earl; de la Mare more than once showed himself willing to bend to accommodate his subjects; and Moot's strictness was a part of his unpopularity within the convent. The monks' origins were surely part of the reason for this: the abbey's lands were part of its larger communal existence, lay in many cases close to the hearts of the monks and were always, too, the source of the next generation of recruits. Still, the means used to pursue what was widely acknowledged to be a worthy end had always the danger of becoming ends themselves and each of the abbey's twenty-four obedientiaries, focused for years or for decades on a subsidiary material goal, must at times have had difficulty disaggregating what was good and what was simply good for them. Nor had they any talent for public relations: their rights were their rights and that was an end of it; and, to paraphrase Knowles, whatever de la Mare's

prohibitis operari compulit'.

[154] Gransden, *Historical Writing in England*, ii, 118. *Gesta abbatum*, ii, 158–161. *CPR, 1354–1358*, 574.

[155] As one example, Chaucer, General Prologue, ll. 177-182, writing of the monk: 'He yaf nat of that text a pulled hen, / That seith that hunters ben nat hooly men, / Ne that a monk, whan he is recchelees, / Is likned til a fissh that is waterlees— / This is to seyn, a monk out of his cloystre. / But thilke text heeld he nat worth an oystre'. *The Riverside Chaucer*, ed. L. D. Benson, 3rd ed. (Boston, 1987), 26.

private asceticism, it cannot have been that which the locals thought of when they saw him riding by with the prince of Wales.[156]

1.4

Sources

Such are the characters; what then, besides Walsingham's *Gesta abbatum*, are the sources? First and foremost are the records of the great central courts: the plea rolls and writ files of the courts of Common Pleas and King's Bench.[157] Invaluable, if highly formulaic, these record the charges, basic proceedings and judgments of cases at common law, whether pleas of the crown or what one would now call 'civil' suits. These records have severe limitations, however: they record nothing of the context of the dispute, say little about arguments in court, are very poor guides to the facts of the matter and often disguise the substantive legal issues which arise under general pleas and verdicts of 'guilty' or 'not guilty'.[158] The example of Nicholas Tybessone, above, illustrates this well: the charges he proffers are formulaic, nothing is said of the dispute's cause, and his motivation for bringing suit and then failing to deny his villein status (which he surely knew would lose him the case) are opaque.

Far better in these respects, though worse in others, are the year books: collections of notes on proceedings in the central courts.[159] Where the plea rolls aim only to record basic facts, the year books are concerned with the legal issues and arguments which cases raise. While notes were not taken on every case, those that were taken often preserve near-verbatim the oral arguments of serjeants and the comments of justices (while often

[156] Knowles, *The Religious Orders in England*, ii, 48.

[157] Chiefly TNA, KB 27 and CP 40. For the complex history and organisation of the King's Bench material, see C. A. F. Meekings, 'King's Bench files', in *Legal Records and the Historian*, ed. J. H. Baker (London, 1978), 97–139.

[158] For discussion of the evidential implications of pleas, see the many index entries under 'general issue, blankness of' in S. F. C. Milsom, *Historical Foundations of the Common Law*, 2nd ed. (Oxford, 1981), and esp. 75–79.

[159] Introductions to the history of the year books can be found in J. H. Baker, *An Introduction to English Legal History*, 4th ed. (Oxford, 2007), 178–186 and Milsom, *Historical Foundations of the Common Law*, 42–48. An old, but still useful, guide is W. C. Bolland, *Manual of Year Book Studies* (Cambridge, 1925). For more detailed consideration of the early history, see P. Brand, 'The beginnings of English law reporting', in *Law Reporting in Britain*, ed. C. Stebbings (London, 1995), 1–14; and idem, *Observing and Recording the Medieval Bar and Bench at Work: the origins of law reporting in England*, Selden Society Lecture (London, 1999).

omitting, conversely, any mention of facts not essential to understanding the point of law at issue, even the names of the disputants). Year book reports can sometimes be matched with corresponding plea roll entries; one then has a much fuller record of the case in question. Even then, however, there is still the great difficulty of tracing disputes through multiple terms, suits and jurisdictions: here the narrative of the *Gesta abbatum* is invaluable.[160]

Next are the records produced at St Albans itself: the *Gesta abbatum*, the *Liber benefactorum*, the cartularies and the court books discussed above, among others. Some of these records were dispersed or lost at the dissolution, but many were not: court books, for example, remained important as registers of copyhold tenures and their terms long after the abbey's manors passed into other hands; as a result, court books survive covering part or all of the period 1327 to 1396 from the manors of Codicote, Croxley, Cashio, Barnet, Park, Winslow, Abbot's Langley, Newland, Norton and Tyttenhanger.[161] The great two-volume cartulary produced in this period was divided and partly damaged in the 1731 fire at Ashburnham House; one volume, however, survives whole in the library of Chatsworth House.[162] Thomas de la Mare's formulary book, compiled by his chaplain William Wintershill, offers a remarkable wealth of information: though a formulary, it is based on the abbot's real letters and so serves in places as a register (though one having the curious properties that names are generally omitted and no type of missive appears more than once).[163] The volume served also as a general repository for information of importance: an assessment of each obedientiary's proper contribution to ecclesiastical taxes, as we have seen, or a detailed *consilium* on the abbey's exemptions and privileges drawn up by an English proctor at the papal curia.[164] In addition to these, among the

[160] It is unfortunate that so little evidence survives from St Albans of use of the emerging equitable jurisdiction in this period. In the only surviving early chancery petition relating to the abbey, TNA, C 1/68/25, the executors of Thomas Hatfield, bishop of Durham, ask that a writ of prohibition to St Albans preventing it from paying a 100 mark *per annum* debt to the bishop's estate be cancelled. John Henley, who had obtained the writ of prohibition, maintained that Hatfield had already assigned the abbey's debt in order to create a chantry; the executors disagreed. Nothing else on this dispute has, however, emerged.

[161] Levett, *Studies in Manorial History*, 82. See below, pp. 183ff., for detailed discussion of these.

[162] BL MS Cotton Otho D.iii and Chatsworth House MS 73A.

[163] CUL MS Ee.4.20. See also W. A. Pantin, 'English monastic letter-books', in *Historical Essays in Honour of James Tait*, ed. J. G. Edwards, V. H. Galbraith and E. F. Jacob (Manchester, 1933), 220.

[164] For further discussion of this *consilium*, see below, pp. 51ff., and J. E. Sayers, 'Papal privileges for St. Albans Abbey and its dependencies', in *The Study of Medieval Records: essays in honour of Kathleen Major*, ed. D. A. Bullough and R. L. Storey (Oxford, 1971), 58–84.

most remarkable survivals is the memoranda book of John Moot.[165]

Beyond this central base, as will become clear, the records of the abbey and the law come from many and from varied places: the cause papers of the archbishopric of York, petitions to the king and council, ecclesiastical visitations, commissions and records of *oyer et terminer* and many more. By the fourteenth century, the historian looking for legal records quickly finds a superabundance.

* * *

This dissertation proceeds by a large accretion of examples: of disputes, of lawsuits and of legal interactions of every type. The reader may feel in reading it (as the author certainly did in writing it) that nearly every story here presented would repay further study, greater expansion and more elaborate analysis; that the historiographical context and implications of each story could be extended (an extension which would lead in every direction, for the disputes of St Albans touched nearly all parts of fourteenth-century English life); and that certain things excluded would be better included. With all of this the author agrees and asks for the reader's indulgence of the particular and deliberate boundaries which have had to be drawn.

That large accretion of examples has, too, a second effect. Each story is treated on its own terms and the urge to over- (or prematurely) schematise is strongly resisted. Here the author asks for the reader's patience: our picture will become progressively clearer as more pieces are added to it; and we should not expect the polyphony (or cacophony) of a human society in action to resolve immediately to a single, simple tune.

[165] BL MS Harley 602.

CHAPTER 2

The Church

The first sphere to be considered is that of the church, for it was thence that the abbey drew its fundamental purpose. And here it depended upon legal ideas at every point: in the medieval English church, law was certainly to be found (to borrow the words of E. P. Thompson) 'at every bloody level'.[1] Law was the fundamental glue which stuck the pieces of the institutional structure together and the church was one of the most legalised parts of medieval English society. Formal legal rules, that is, accounted for a much higher proportion of the structuring principles within the church than they did, for example, on the manor, where considerations of economy or of family might have more sway.

Though omnipresent, though, this law was not monolithic. St Albans was involved in a wide variety of relationships by virtue of being a church, from the moral supervision of the parishioners of southern Hertfordshire to the confirmation of abbatial elections at the Palais des Papes in Avignon. In every relationship and every interaction law played a role, but hardly the same role. How did actors invoke law and for what ends? What worked and what did not? How did law and legal ideas shape the monks' social world in the ecclesiastical sphere?

2.1

The visitation of Eynsham

Within the hierarchical structure of the church, the abbey was at times party to disputes and at times itself an adjudicator of the disputes of others. In the latter role it (more

[1] E. P. Thompson, *The Poverty of Theory and Other Essays* (London, 1978), 96.

particularly its abbot) was involved in highly legalised relationships: relationships with little content beyond the formal, in which law was not mediating a pre-existing social or economic interaction, but itself constituted nearly the totality of the connection. In the 1370s, for example, de la Mare was commissioned by the pope to resolve a dispute between the abbot of Missenden and the prior of Dunstable; unfortunately, nothing beyond the bare commission survives.[2] The abbot also acted as judge in monastic visitations and of this we do have significant evidence. As the powers of a Benedictine abbot were large and not, as a rule, subject to restriction from below, protection from abuses had to come from without through the intervention of a visitor, usually the diocesan bishop. In 1215, however, the fourth Lateran Council had established 'provincial chapters' for Benedictines, modelled on those of the Cistercians.[3] Henceforth the Black Monks themselves, under the aegis of the presidents of the provincial chapter, could conduct visitations. For much of the mid-fourteenth century, de la Mare was president, jointly or solely, of the provincial chapter and this responsibility fell to him.

The abbey of Eynsham was, at this date, an excellent candidate for such a visitation. Nicholas de Upton (abbot 1338–1351) had been deposed by the bishop of Lincoln in 1344 (for reasons now unknown) and replaced. Evidently unhappy with this result, Nicholas returned to the abbey accompanied by a large armed force (1,500 men, if we are to believe a papal letter), ousted his rival and remained in office, subject to varying degrees of ineffectual ecclesiastical censure, until his resignation in 1351. His successor, Geoffrey de Lambourn (abbot 1351–1388), had been among the monks who fled from Nicholas' invasion. Nevertheless Geoffrey seems to have lived in harmony with the abbot emeritus, holding inquisitions jointly with him in the 1360s. All was still not well in the monastery, however: as late as 1380, injunctions following an episcopal visitation drew attention to the low number of monks and to irregularities in the appointment of obedientiaries.[4] In the early 1360s de la Mare was commissioned by the king 'to reform observance, which has nearly collapsed, in the great monasteries pertaining to the king's

[2] CUL MS Ee.4.20, f. 49r. The letter is undated but begins to recite the commission by 'Gregorius' (i.e. Gregory XI, pope 1370–1378).

[3] See in general W. A. Pantin, 'The general and provincial chapters of the English Black Monks, 1215–1540', *Transactions of the Royal Historical Society*, 4th series, 10 (1927), 195–263. Knowles, *The Religious Orders in England*, ii, 9ff.

[4] For all this, see H. E. Salter, ed., *Eynsham Cartulary*, 2 vols. (Oxford, 1907–1908), i, xxiv–xxvii. *Cal. Pap. Let., 1342–1362*, 174.

advowson' and one of these—unsurprisingly given its recent history—was Eynsham.[5]

The description of these visitations in the *Gesta abbatum* is brief and says little of the process involved or the substantive issues dealt with. Of Eynsham in particular, Walsingham records only that de la Mare, 'moved by these royal exhortations, visited the monastery of Eynsham and wondrously reformed observance there'.[6] Fortunately, an unusual document preserved among the muniments at Durham reveals much more.[7] The document is a series of answers by an abbot to articles of inquisition and, while the answers are fragmented and lack a beginning, W. A. Pantin demonstrated in 1937 that the abbey in question is Eynsham and that the document must date to *c.* 1363–1366.[8] Much the most likely source, he concluded, was de la Mare's visitation, an identification with which Knowles agreed.[9] The answers appear to have been handed over to the visitor, for on the verso are 'traces, apparently, of a seal of red wax'.[10] Yet they hardly seem a polished, final submission: throughout, passages have been struck out and replaced, whether as a result of second thoughts or a second opinion; and some of the contents remain decidedly ill-advised. While Knowles thought these monastic visitations distinct successes (and perhaps they were) an abbot who responds to accusations of misusing monastic funds with the protest 'it is human to love money' may not be taking the process entirely seriously. And even if he continued 'nevertheless he thought only of the monastery's benefit', the shade of St Benedict is unlikely to have been assuaged.[11] The sixty-eight surviving articles of Lambourn's response are too extensive to treat them all in detail, so let us instead focus on four of their aspects: on the legal structure of the relationship; on the sources of law which Lambourn invokes; on the manner of his argumentation; and on revision and legal advice.

The relationship's legal structure was a contested one and Lambourn's argumentative tone may reflect some doubt about the legal basis of de la Mare's authority. Knowles

[5] *Gesta abbatum*, ii, 405–406. 'ad reformandam religionem pene collapsam in magnis monasteriis pertinentibus regis aduocationi'.

[6] *Gesta abbatum*, ii, 405. 'talibus regis exhortationibus animatus, monasterium de Eynesham uisitauit et in eo religionem mirifice reformauit'.

[7] Durham Cathedral Muniments, Miscellaneous Charter 5665.

[8] W. A. Pantin, ed., *Documents Illustrating the Activities of the General and Provincial Chapters of the English Black Monks, 1215–1540*, 3 vols. (London, 1931–1937), iii, 34–35. Hereafter the contents of these responses will be cited by the article numbers given in Pantin's edition.

[9] Knowles, *Religious Orders in England*, ii, 204–205.

[10] Pantin, ed., *Chapters of the English Black Monks*, iii, 34.

[11] *art*. lvii. 'humanum est pecuniam amare' and 'non tamen cor apponit, nisi pro utilitate monasterii'.

described his visitations as 'extra-canonical' and there are grounds for such a view.[12] The Benedictine Constitutions of 1336 decreed, 'concerning monasteries where observance has collapsed', that a gravely errant house might be reformed by the presidents of the provincial chapter at the request of the house's visitor, whether with the provincial chapter's agreement or, in urgent cases, without it.[13] De la Mare undoubtedly visited Eynsham at royal request and his authority thus seems at first sight well-founded.[14] But the king was not the abbey's visitor, and indeed whether he was Eynsham's patron was a fiercely debated point: the better opinion seems to be that he was not.[15] That he should claim to be is not surprising: control of a large Benedictine monastery during vacancies was a valuable right and Eynsham, however morally and numerically diminished, was not poor.[16]

In respect of what subjects he might address, Lambourn was constrained by the need to respond to the articles of visitation that had been put to him, but he was free, it seems, to bring to bear any source of law he pleased in answering them. One of the primary points of contention between abbot and convent at Eynsham, and thus one of the chief subjects of Lambourn's responses to the articles of visitation, was control over the revenues of the manor of Histon in Cambridgeshire. The convent claimed that these had been granted to them by John de Chiltenham (abbot 1317–1330), a claim which Lambourn utterly rejected.[17] First of all, he asserted the constitutional impossibility of the convent's claim: the goods of the monastery had never been divided between abbot and convent and the abbots had always had full discretion in the management of this, as of every other, manor.[18] He supplied all the convent's wants, as the Rule of St Benedict required: 'so that the vice of personal property might be cut off at the root, let all neces-

[12] Knowles, *Religious Orders in England*, ii, 205.

[13] D. Wilkins, ed., *Concilia Magnae Britanniae et Hiberniae*, 4 vols. (London, 1737), ii, 611 (*Summi magistri*, c. 35): 'de collapsis monasteriis in religione'.

[14] No royal commission was evidently enrolled. The sole reference to the visitations in the patent and close rolls is one to that of Chester, *CPR, 1361–1364*, 214.

[15] Salter, ed., *Eynsham Cartulary*, i, ix, xvii and xxiii; and ii, 67ff.

[16] Salter, ed., *Eynsham Cartulary*, i, xxvii.

[17] This response is *art*. ix. That the manor referred to is Histon is clear from the medieval endorsement: 'Item quantum ad 9m. de manerio de Hyston'.' (Pantin, ed., *Chapters of the English Black Monks*, iii, 51).

[18] This was not true of many other monasteries: see, for example, A. Gransden, 'The separation of portions between abbot and convent at Bury St Edmunds: the decisive years, 1278–1281', *The English Historical Review*, 481 (2004), 373–406. Whether it was true of Eynsham is very doubtful.

sities be given by the abbot'.[19] He implied that the Rule must be followed *ad litteram*, disregarding the many developments in monastic economy which had intervened. Likewise he cited the chapter of the Rule which emphasised the subordination of prior to abbot, explaining that 'in the said rule it says that all things should be in the control of the abbot. It does not say "of the prior and convent", for it would be monstrous for there to be multiple heads upon a single body'.[20] In the first case, Lambourn is perhaps asserting that c. 55 sets up a presumption against the convent's property, deviation from which must be justified. In the second, he reads St Benedict's injunction in the light of contemporary corporeal political theory.[21] He also alleges the papal constitution *Summi magistri*, c. 18: 'let provisions not be given in money'; once more a general prohibition against distributing money to the monks.[22] His opponents in the convent, he explains, rely, in their claim to Histon, on an assignment by prior abbots and episcopal confirmation. Yet such an assignment (if it happened—he does not concede the point) would derogate from the cited constitution and 'no one inferior to the lord pope can [do this]'.[23] The general rule, he asserts, cannot be modified by lesser authority.

The Rule of St Benedict and the Benedictine Constitutions, though frequently alleged, hardly exhaust Lambourn's legal repertoire. That the Bible is repeatedly cited is unsurprising; how it is used, however, is. Accused of housing workers and stabling horses in the church, he denied it, 'for', he said, echoing the gospel of Luke, 'there were other rooms in the inn'.[24] It is hard to diagnose a joke at seven-hundred years' distance, but this looks uncommonly like one. Other sources are invoked more seriously. Defending himself from charges that he sent monks to be ordained inappropriately, for example, he asserted, with Jerome and Gratian, that they had sufficient learning, 'since common learning is enough for a monk; and his office is not that of a teacher but of a mourner'.[25] This was erased in revision. Some appeals to canons were more general.

[19] 'ut vicium peculiare radicitus amputetur, dentur ab abbate omnia que sunt necessaria', citing *Regula Benedicti*, c. 55.

[20] 'in dicta regula dicit quod omnia sint in disposicione abbatis, non dicit prioris et conventus, quia monstruum esset in uno corpore plura esse capita', citing *Regula Benedicti*, c. 65.

[21] I. S. Robinson, 'Church and papacy', in *The Cambridge History of Medieval Political Thought, c. 350–c. 1450*, ed. J. H. Burns (Cambridge, 1988), 253–255.

[22] Wilkins, ed., *Concilia Magnae Britanniae et Hiberniae*, ii, 604: 'ne victualia ministrentur in pecunia'.

[23] 'nullus inferior domino papa potuit'.

[24] *art*. iv. 'cum erant alia loca in diversorio'. Cf. Luc. 2:7, 'quia non erat eis locus in diversorio'.

[25] *art*. lxi. 'cum sufficiat monacho communis literatura, nec est officium doctoris monachi set plangentis'. *Decretum*, C. 16 q. 1 c. 4.

Claiming that he had never intended to exchange (*commutare*) a manor, he added that he could not even had he wished to, 'according to the canonical ordinances'.[26] *Consuetudo* and *mos* are frequently alleged. A certain tenant 'occupies a tenement for a certain rent according to the court roll until the end of his life, as the custom is, and cannot be removed, by the custom of the *dominium*'.[27] Elsewhere the custom not of a manor but of the monastery appears, as when discussing the customary provision of horses for monks leaving on business.[28] Beyond specific allegations of authorities and customs, moreover, Lambourn repeatedly appeals to general principles and maxims of the law. Responding to charges that one Brother John de Mukelton went about begging on foot, for example, he replies: 'this was out of malice, for he could have had the sacrist's palfrey if he had asked and there is no injury to one who is willing'.[29] This last idea, derived from Aristotle *via* the Digest, appears in the *Liber sextus* and was, moreover, frequently cited in the year books.[30] Surprisingly, Lambourn quoted the maxim not in the words used in Roman or canonical sources, but in those of the year books. Elsewhere he asserted, drawing on the *Liber sextus*, that the convent had agreed to his control of the manor of Histon, for it was entrusted to him by the bishop on his confirmation; the monks were present and made no objection, 'assenting by their silence'.[31]

More interesting even than the law Lambourn invoked was the use he made of it. His mode of argumentation might fairly be characterised as 'legalistic'. Sometimes he simply denies the fault alleged: the accusation that he ordered monks to thresh wheat, he says, is simply false.[32] But such straightforwardness is the exception, rather than the norm. To the afore-mentioned charge that both workers and their horses were housed in the church itself, he replies that the charge 'comes from malice', for there was ample room in the stables and outbuildings for both; and if it had happened (which he does not admit), it was anyway the sacrist's fault.[33] He repeatedly objects to the form of the accu-

[26] *art*. li. 'iuxta canonicas sancciones'.

[27] *art*. iv. 'occupat unum [*sc*. tenementum] pro certo redditu per rotulum curie ad terminum vite, ut moris est, qui non potest amoueri de consuetudine dominii'.

[28] *art*. vi.

[29] *art*. xlix. 'hoc fuit ex malicia, quia palefridum sacriste habuisse potuisset, si petivisset, et volenti non fit iniuria.'

[30] Aristotle, *Nichomachean Ethics*, ed. and trans. R. Crisp (Cambridge, 2000), 96–99 (1136a–1137a). *Digest*, 47.10.1.5. *Liber sextus*, 5.12.27. YB (Rolls Series) Mich. 33 Edw. I, 9.

[31] *art*. ix. 'tacite consenciente'. From *Liber sextus*, 5.12.43: 'Qui tacet, consentire uidetur'.

[32] *art*. xli.

[33] *art*. iv. 'processit ex malicia'.

sations in ways highly reminiscent of the standard romano-canonical dilatory exception that a *libellus* is overly general, vague and obscure.[34] To a question raised about loans, for example, he objects that 'it is related too obscurely'; let it be explained and he will respond.[35] To a general accusation of irregularity in appointing obedientiaries, likewise, he asks that it be expressed more specifically.[36] Sometimes his response is characterisable as 'confession and avoidance': he frequently, for example, accepts the fact asserted but alleges that the fault for it lies elsewhere, often in the sacrist or prior.[37] The alleged justification might be an additional fact: the destruction of a mill, for example, was the fault of the great storm of 1362, he explains; thus he should not be blamed.[38] Or it might be a point of law—or many points of law—and of this his arguments about the manor of Histon provide the best example.

Romano-canonical procedure did not require a defendant to choose a single issue on which to decide the dispute: multiple pleading was allowed; even, practically considered, encouraged.[39] This suited Lambourn very well indeed, for on his reading there were a dozen reasons why the convent's claim to the revenues of Histon was absurd and he was happy to provide them all. Beyond the constitutional impossibility of the claim and the implied consent of the monks upon his confirmation, the abbot who was alleged to have made the grant was both insane and unable to speak at the time it was supposed to have taken place.[40] 'Nor did he consent by a nod.'[41] As to the sentence of excommunication which Abbot John de Chiltenham passed on violators of the grant, he could not thereby bind his successor, 'for an equal has no power over an equal'.[42] The maxim comes from the Accursian gloss to the Digest and was a commonplace of medieval political theory, but Lambourn's attempt to extend it to preclude abbots' binding their successors is both novel and highly dubious.[43] Next, he argued that the confirmation of the grant by de

[34] J. A. Brundage, *The Medieval Origins of the Legal Profession: canonists, civilians, and courts* (Chicago, 2008), 431 and n. 79.

[35] *art*. xii. 'nimis obscure narratur'.

[36] *art*. xvi. See also *art*. lx.

[37] *art*. xxv, xxvii, xxix and *passim*.

[38] *art*. lxii. The phrase there used, 'abbate permittente set non consenciente', looks like a canonical distinction, but the source of the *permittere/consentire* contrast is unclear.

[39] Brundage, *Medieval Origins of the Legal Profession*, 431ff.

[40] *art*. ix. 'ad tunc non fuit sane mentis, nec lingue habuit usum'.

[41] *art*. ix. 'nec per nutum consensit'.

[42] *art*. ix. 'cum par in parem non habet imperium'.

[43] *glossa ad* 'imperium', *Digest*, 36.1.13.4, in *Corpus Iuris Civilis*, 6 vols. (Lyon, 1604), ii, column 1600.

Chiltenham's successor, John de Broghton (abbot 1330–1338), was void for simony, for the convent undertook in exchange for the confirmation to grant to him for life twenty marks from the manor's revenues, 'whatever status he might come to'—to him personally, that is, even after he ceased to be abbot.[44] Finally, as to episcopal confirmation of the grant, the bishop's chancellor made the confirmation fraudulently and unbeknownst to the bishop.

Lambourn's responses are full of crossings-out and interlinear additions; some of these, at least, seem to reflect either second thoughts or a second opinion. To an accusation that he compelled monks to swear oaths, his first reply was to tell at length the story of two brothers who, having been excommunicated, swore in exchange for absolution not to slander the abbot but to make any complaints they might have directly to him or to a superior. Other than that, he wrote, he had never compelled the monks to swear. This must later have seemed ill-advised, for the whole response was struck out and replaced by: 'given that he did act thus, it will be corrected for the future'.[45] In his defence of the manor of Histon, all the citations of the Rule of St Benedict and the Benedictine Constitutions (discussed above) were later crossed out.[46] To an unknown charge (for not all the articles make clear what he is responding to), he answered that he was not accustomed to do this without reason; if he had done so wrongly, he had already revoked it. Another hand added afterwards: 'and he does not intend to do this any more'.[47] It seems very likely that Lambourn sought advice before submitting his responses.

Lambourn's replies to the articles of visitation illustrate one extreme of the instantiation of law in the ecclesiastical relationships of St Albans: a highly legalised interaction in which an actor had great agency in invoking sources and in shaping the application of law. He had little connection to de la Mare beyond their formally constituted relationship within the ecclesiastical hierarchy; he had nearly complete election both in what sources to bring to bear upon a question and in the modes of argumentation to be used; he benefited, it appears, from professional (or at least educated) legal advice; and the political context in which he was acting permitted him to argue freely, indeed vigorously, in his own defence. Few other social relationships, of course, were like this.

[44] *art*. ix. 'ad quemcumque statum devenire eum contigerit'.
[45] *art*. lviii. 'dato quod sic fecerit, emendabitur pro futuro'.
[46] *art*. ix.
[47] *art*. l. 'nec amplius facere sic intendit'.

2.2

The local community

St Albans excercised considerable powers in its immediate surroundings, not only as a landowner and holder of franchises, but also simply as a church. Although it was within the diocese of Lincoln, it enjoyed great autonomy and controlled its own archdeaconry, appointing monastic archdeacons who were responsible directly to the abbot.[48] The records of that archdeaconry, unfortunately, survive only in fragments from the fifteenth century: earlier records were among those destroyed during the Peasants' Revolt and later ones were evidently scattered at the Dissolution.[49] The surviving fifteenth-century cases show something of what has been lost, but for the earlier activities of the abbots' archdeacons we depend chiefly on three sources: on significations of excommunication; on complaints about the abuses of archdeacons, particularly in an inquest of 1341; and on the scattered appearances they make in the *Gesta abbatum*.[50]

First are significations, requests sent by the abbot to chancery for the arrest of those who had been excommunicated by the archdeacon or abbot and who had remained contumacious for forty days, refusing to submit and be reconciled to the church. Signification was normally the prerogative of bishops and the abbot of St Albans was among the few non-episcopal churchmen to exercise the privilege.[51] It was perhaps a recent acquisition: Walsingham records that in 1331 the good offices of the king's clerk Richard de Bury obtained for the abbot as a right what had previously only been granted *de gratia*.[52] There is more than a hint of impropriety in the interaction: at just this time the abbot was giving Bury (a famous bibliophile) gifts of manuscripts and selling him others at what must have been a steep discount.[53] Indeed Bury himself confessed in his *Philobiblon* that

[48] For the development of monastic archdeaconries, including that of St Albans, see J. E. Sayers, 'Monastic archdeacons', in *Church and Government in the Middle Ages: essays presented to C. R. Cheney on his 70th birthday*, ed. C. N. L. Brooke (Cambridge, 1976), 177–203.

[49] For the destruction of the archdeacon's records during the Peasants' Revolt, see *Gesta abbatum*, iii, 308 and 370.

[50] For the later records of the St Albans archdeaconry, see C. E. Hodge, 'Cases from a fifteenth century archdeacon's court', *Law Quarterly Review*, 49 (1933), 268–274; and Sayers, 'Monastic archdeacons', 188.

[51] For signification by non-bishops, see F. D. Logan, *Excommunication and the Secular Arm in Medieval England: a study of legal procedure from the thirteenth to the sixteenth century* (Toronto, 1968), 33–35.

[52] *Gesta abbatum*, ii, 283–284. *CPR, 1330–1334*, 46. A petition from the abbot requesting the letters patent is TNA, SC 8/256/12789.

[53] *Gesta abbatum*, ii, 200.

he took books in exchange for favours, and he was later 'led by conscience' to return to St Albans many of the books he had received.[54] However suspect the decision from a contemporary standpoint, though, the historian may be grateful to Richard de Bury, for thanks in part to his moral flexibility there now exists in the National Archives a file of significations of excommunication from the abbot of St Albans.[55] In fact, however, former abbots must frequently have requested writs of arrest *de gratia*, for the file begins in the reign of Henry III and continues essentially uninterrupted thereafter; perhaps the abbot's right to signify had, in 1331, only recently been called into question. For the period of this study eleven significations survive, spanning the years 1329 to 1357; thereafter there is a break until 1405.[56]

While interesting for their existence—the ability of the abbot, through his monastic archdeaconry and right of signification, to try, excommunicate and arrest the contumacious without any reference at all to diocesan authority was a remarkable privilege—the significations themselves are laconic to the point of dullness. Excommunication was not usually a penalty for offences but a procedural sanction: in the thinking of canonists, it was 'medicinal', intended to encourage the obdurate to submit to the judgment of the court.[57] As a result significations rarely stated the dispute or offence lying behind the excommunication; what mattered was not why the person had come to court but what they had done once they were there—or, frequently, that they had refused to come at all. The abbot recited, couched in appropriate formulae, that a named person or group of people was of his jurisdiction (a necessary prerequisite); that they 'on account of clear contumacies and offences' had incurred a sentence of *excommunicatio maior*; and that they had remained excommunicate for forty days and more.[58]

Occasional hints of the complex situations underlying the record glimmer through, but no more. Sometimes the excommunicate can tentatively be identified with someone known from other sources. On 21 July 1338, for example, the abbot signified eight

[54] *Gesta abbatum*, ii, 200. 'ductus conscientia'. E. C. Thomas, ed., *The Philobiblon of Richard of Bury* (New York, 1889), 65ff. At around the same time, Bury also petitioned the king to allow St Albans to appropriate the church of Appleton in Ryedale: *CPR, 1330–1334*, 48.

[55] TNA, C 85/212.

[56] Ten of these significations are TNA, C 85/212, mm. 28–37. The eleventh is in a different file, TNA, C 85/210, m. 9.

[57] R. H. Helmholz, *The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford, 2004), 603–604.

[58] Logan, *Excommunication and the Secular Arm in Medieval England*, 35–42 and 13ff.

people, including John atte Hyde.[59] It is a common name, but one John atte Hyde was a juror in an inquest into St Albans' liberties on 1 May 1364.[60] A few others permit stronger identifications. On 23 September 1329, Richard Paxtone and Alice de Ardene, both of St Albans, were signified as contumacious excommunicates.[61] Just over a year later, on 12 October 1330, Richard Paxtone was signified once more.[62] Had Alice made her peace while he remained obdurate? Had he been arrested? Was the second signification for the same, or for a different offence? It is impossible to say. 'Richard Paxtone' was in fact the name of the monastery's archdeacon in the late 1320s; we may probably assume it is not him referred to in the signification.[63] Another Richard Paxtone was among those who represented the town in surrendering in chancery a charter extorted by the townsmen following the deposition of Edward II; another (or perhaps the same) appears in 1344 assisting in assize process.[64] These are more likely candidates. The second signification of Paxtone also names Thomas Ruddock, who appears among the defendants in a case brought by the abbot against those who attacked the monastery in those same disturbances; it seems quite likely that their excommunications relate to these events, but the significations themselves say nothing of it.[65]

Rather more insight into the abbey's archdeaconry is offered by a series of inquests into the misdeeds of officials, undertaken after Edward III's return to England in November 1340.[66] A Richard Paxtone was among the inquest jurors for the vill of St Albans and, if he is same contumacious excommunicate just discussed, it is perhaps unsurprising that the monastic archdeacon (at that date Nicholas Broun) came in for heavy criticism.[67] Chief among the accusations was the oft-repeated claim that Broun had accepted money for penances he imposed. Katrina Bentele paid 20s for a penance imposed for adultery; John Aleyn, £4 for the same. Broun had been exacting such payments for a decade, the jurors claimed, taking 100s *per annum*.[68] Broun likewise took money to re-

[59] TNA, C 85/210, m. 9.
[60] *Gesta abbatum*, iii, 56.
[61] TNA, C 85/212, m. 28.
[62] TNA, C 85/212, m. 29.
[63] *Cal. Pap. Let., 1305–1341*, 269. *Gesta abbatum*, ii, 171, 173, 184, 186 and 187.
[64] *Gesta abbatum*, ii, 260 and 321.
[65] *Gesta abbatum*, ii, 232–233.
[66] TNA, JUST 1/337. For the inquisitions of 1341 in general, see B. W. McLane, *The 1341 Royal Inquest in Lincolnshire* (Woodbridge, 1988). He does not mention the record discussed here.
[67] TNA, JUST 1/337, m. 2.1r.
[68] TNA, JUST 1/337, m. 1d.

mit penances imposed for fornication: 40d from William Fyge for fornication with Joan Bertelmen; 8d from William le Shepherde for fornicating with Agnes Lightfot; 12d from John Cristemasse for fornicating with Alice le Whelere.[69] These are, of course, *ex parte* statements: the abbot and archdeacon came before the justices and denied all. A trial jury was summoned, but no record of its verdict survives; whatever the truth of any given accusation, however, there is enough smoke here to suggest fire. Such practices, indeed, were sufficiently common to provoke satirical comment in literature later in the century. Chaucer's summoner, for example, 'wolde suffre for a quart of wyn / A good felawe to have his concubyn / A twelf month, and excuse hym atte fulle; / Ful prively a fynch eek koude he pulle.'[70]

These were not the only charges levelled against the monastery's ecclesiastical jurisdiction. The jurors of the vill of St Albans presented that Simon Dode, the apparitor (or summoner) of the archdeacon, took 1d from John le Messager to probate the will of William Kyng, 'against the custom of church and country', and had done the same to others for half a year.[71] The jurors of the liberty of St Albans presented that Nicholas Broun 'when he is judge, favours one of the parties in the case brought before him; and thus favoured Walter de Hadham against William Gold'.[72] They claimed that the system was abused by third parties as well: John Brewster, a 'clerk of account' accused elsewhere in the inquest of being a corrupt and ambidextrous servant, conspired with William Child to accuse John at Halle falsely of various offences before the archdeacon, through which Broun 'put John at Halle to flight' to his great damage and shame.[73]

None of these charges were proven, but they are enough to suggest that the abbey's archdeacon was far from popular. He was not alone in this, however: even within the same commission's circuit (and thus the same record) there are accusations against officials outside the monastery's exempt jurisdiction of exactly the same misdeeds. The archdeacon of Huntingdon was accused of taking money for penances for sexual offences, as were the official of Huntingdon and the *commissarius* of the bishop of Ely.[74] The deans

[69] TNA, JUST 1/337, m. 1d.
[70] Chaucer, General Prologue, ll. 649–652, in *The Riverside Chaucer*, 33–34.
[71] TNA, JUST 1/337, m. 5r.
[72] TNA, JUST 1/337, m. 6r. 'ubi est iudex fouet unam partem in placito moto coram ipso et sic fouebat Walterum de Hadham contra Willelm Gold' etc.'
[73] TNA, JUST 1/337, m. 6d. 'predictum Iohannem atte Halle abfugauit'.
[74] TNA, JUST 1/337, m. 3r–3d.

of Hertford and Berkhamsted, too, were the objects of colourful charges.[75] The jurors of Broadwater Hundred and the half-hundred of Hitchin presented that *all* the archdeacons and officials in their district took money from those who wished to buy off their penances.[76] This is interesting, for it casts the accusations against Broun, who was said to 'take money for penances', in rather a different light. It seems probable that he did not demand money, but simply made himself accommodating to those who wished to pay.

There is little trace here of many of the primary responsibilities of the archdeacon. The absence of any reference to his many powers over the jurisdiction's clerics is sufficiently explained by the lay character of the inquest, but that his probate jurisdiction—which extended to all the freemen of the liberty—is so little mentioned is more unexpected.[77] The surviving fifteenth-century archidiaconal registers show how much business of this kind there was; it seems therefore to have provoked relatively little conflict.[78] Jurors complained above all of officials who took money in exchange for remitting penance: they objected (rather surprisingly to modern eyes) not to the moral regulation of the archdeacon, but to its corruption.

The picture of the monastery's local ecclesiastical powers presented in the *Gesta abbatum* is slightly different. Walsingham took no interest in the sexual proclivities of parishioners; what mattered to him were the abbey's constitutional position within the church and (on occasion) odd anecdotes. Particularly problematic, for him, were the encroachments of the mendicant orders. He relates, for example, that a group of Dominicans and Franciscans came to Abbot Richard Wallingford to ask for licence to preach and hear confessions within the monastery's exempt jurisdiction, in accordance with the bull 'Super cathedram' of Boniface VIII.[79] Wallingford asked one of them if he knew in which cases absolution could be given only by a bishop or (he adds significantly) an exempt abbot. The friar 'stunned by the sudden opposition, since he had nothing to say—because he was an idiot, as most are who sell the hearing of confessions—fell silent.'[80] Their

[75] TNA, JUST 1/337, mm. 5d and 6d–7r.

[76] TNA, JUST 1/337, m. 5d.

[77] Probate of villein wills was the responsibility of the cellarer. See Levett, *Studies in Manorial History*, 208ff.

[78] See above, n. 50.

[79] *Gesta abbatum*, ii, 214. *Clem.* 3.7.2. *Extrav. Comm.* 3.6.2.

[80] *Gesta abbatum*, ii, 214–215. 'Frater autem, de oppositione repentina stupefactus, cum non haberet quod responderet, quippe qui ydiota fuerat, ut plerique sunt qui confessiones audire mercantur, obmutuit.'

ignorance of the law on which they relied, Walsingham makes clear, was their undoing.

In a comparably constitutional vein, in the manuscript of the *Gesta abbatum* Walsingham includes the texts of synodal constitutions promulgated by the abbots to govern their exempt jurisdiction and their dependent cells.[81] They establish that, 'since according to the custom of the English church the disposition or arrangement of the goods of those dying intestate is reserved to the local ordinaries', a schedule of the goods of the intestate must be drawn up within eight days by the local rector, vicar, or chaplain and be returned to the archdeacon.[82] Priests are not to excommunicate anyone for a wrong done if an identifiable person may in any case have an action against the offender.[83] The constitutions forbid appeals from the decisions of archdeacon or abbot to the archbishop of Canterbury or any of his officials; anyone who attempts to do so will be excommunicate *ipso facto*.[84] Similarly excommunicate are those who oppose the giving of offerings at traditional times (births, death and the like); those who bear false witness and those (including advocates) who manipulate matrimonial disputes; those who use documents or judgments from the lay courts to impede ecclesiastical process; and clerics and laymen who alienate their property *inter vivos* just before death, depriving their creditors, wives, children and lords of their rights.[85]

These normative prescriptions show something of how the abbots wished their local ecclesiastical jurisdiction to operate; they show rather less of how it did. A few cases, recorded for one reason or another in the *Gesta abbatum*, offer more detail; more than one comes from the troubled parish of St Peter in St Albans. Because of poor record-keeping and confusion over the defeasibility of a bond, Abbot Michael Mentmore had been effectively blackmailed into appointing William Puff as vicar of the church there.[86] He was not an ideal curate. At one point, the parishioners cut down trees in the church's cemetery without the permission of the rector. The archdeacon promptly excommunicated them all, in spite of the fact that the trees had been cut for the use of the church. The answer to this puzzle is afforded by a manuscript emendation: the scribe had ini-

[81] *Gesta abbatum*, ii, 469ff.

[82] *Gesta abbatum*, ii, 476. 'quia, iuxta consuetudinem Anglicane Ecclesie, dispositio seu ordinatio bonorum ab intestato decedentium Ordinariis locorum est concessa'.

[83] *Gesta abbatum*, ii, 477. 'Inhibemus etiam ne excommunicationis sententia in genere pro damnis uel iniuriis proferatur, quotiens dinosci poterit quis aduersus quem habeat actionem.'

[84] *Gesta abbatum*, ii, 477–478.

[85] *Gesta abbatum*, ii, 478–481.

[86] *Gesta abbatum*, ii, 316–317. For the details of this story, see below, p. 130.

tially written 'without the licence of the vicar or of the rector' but the words 'of the vicar or' were afterwards crossed out.[87] Puff was evidently exceeding his rights as vicar. The same occurred when a clockmaker named Roger de Stoke carved a cross in the church's cemetery, beneath which he intended to be buried.[88] The story spread that he had carved it only on Fridays while fasting on bread and water; miracles were attributed to the cross and people flocked from all around to leave offerings there.[89] Puff appropriated the offerings, angering the church's rector—who was in fact the monastery's *infirmarius*, for the church's income had been appropriated to the office of that obedientiary.[90] The dispute was heard before the abbot's *consistorium*: Puff was condemned to return the offerings and pay forty shillings in damages as well as the rector's expenses.[91]

Within the archdeaconry the operation of law looks different indeed from the case of Lambourn, abbot of Eynsham. Here what is at issue more than anything is the operation of quasi-governmental legal structures: there is very little evidence for substantive legal disputes; most issues, we may suppose, were simply questions of fact. There is little evidence, too, of the sort of agency exercised by Lambourn: law looks less like a set of tools than like a basic formalisation of social structure, questioned only for its abuses. The important questions were those of jurisdiction: its extent, powers and proper exercise. It is thus no surprise that the jurors of the inquest of 1341 should have included in their returns complaints about the monastery's archidiaconal jurisdiction: from the perspective of the 'end user', it perhaps seemed little different from any other aspect of government.

2.3

The bishop

As far as the number of people involved is concerned, the monastic archdeaconry was by some distance the origin of the most important set of legal interactions the abbey engaged in as a church, but little is made of it in the monks' own records, perhaps evidence of how unimportant, by contrast, it seemed to them. From their perspective, the most fundamental relationship that St Albans had within the church (though one it spent

[87] *Gesta abbatum*, ii, 357. 'sine licentia uicarii uel rectoris'.
[88] For Stoke, see North, *God's Clockmaker*, 141ff; and *ODNB*, *s. n.* 'Stoke, Roger (*fl.* 1321–1325)'.
[89] *Gesta abbatum*, ii, 335.
[90] CUL MS Ee.4.20, f. 218r–218v.
[91] *Gesta abbatum*, ii, 335. 'Causa igitur deuoluta est ad consistorium Sancti Albani […]'.

much energy trying to escape from) was with its diocesan, the bishop of Lincoln. In theory, within the hierarchical structure of provinces, dioceses, archdeaconries and so on, every church, monastic or secular, was directly subordinate to a bishop responsible, as ἐπίσκοπος, for overseeing its affairs and its conduct. By the fourteenth century the reality was much more complex and St Albans tried hard to make it more so. It accumulated, on the one hand, a remarkable array of papal grants of exemption from episcopal control and, on the other, a large network of monastic cells spread throughout England over which it spread its umbrella of exemption.[92] In a phrase repeated in almost every document issuing from the monastery, St Albans 'pertain[ed] to the Roman church, without intermediaries'.[93] It was, or tried to be, a church within a church.

Not surprisingly, these claims provoked bitter opposition from diocesans, opposition born not simply from jurisdictional jealousy (though there was that) but also from concerns about the governance of exempt houses. Rome was far away, Avignon not much closer, and monasteries like St Albans might end up exempt not only from episcopal oversight but from any oversight at all. When Richard Wallingford fell sick in the later years of his abbacy, concerns about his capacity to exercise his office led to complex negotiations between the abbot, convent, bishop of Lincoln, king and pope; to petitions in parliament; and to much bitterness. In the end, in order to avoid further intervention, Wallingford voluntarily appointed the prior, Nicholas de Flamstead, as 'co-adjutor', but the episode highlighted the awkward constitutional position of an exempt monastery under royal patronage and the difficulties of correcting defects.[94] Between the 1330s and the 1390s, however, St Albans was largely well governed. The problems of Hugh de Eversdone's reign were past and the illnesses of Wallingford and de la Mare were eased by competent priors.[95] When conflict with bishops arose, therefore, it could indeed be ascribed to jurisdictional jealousy—and certainly was so ascribed by Walsingham. Two disputes in particular stand out: that with the bishop of Lincoln over celebrating mass in the abbey church and that with the bishop of Norwich over the appointment of tax

[92] Sayers, 'Papal privileges for St. Albans Abbey and its dependencies', 58–84. Still, *The Abbot and the Rule*, 129ff.

[93] '[abbas monasterii …] ad romanam ecclesiam nullo medio pertinentis'. Many examples may be seen the St Albans formulary, CUL MS Ee.4.20. Variants such as 'sacrosancte romane ecclesie immediate subiecti' are also frequent.

[94] *Gesta abbatum*, ii, 284–292.

[95] For Hugh's mismanagement, see *Gesta abbatum*, ii, 177–181. For the sickness of de la Mare, see above, p. 25.

collectors.

The bishop of Lincoln was at once St Albans' nominal immediate ecclesiastical superior and one of the most powerful churchmen in England. Not someone lightly to be crossed, he was nevertheless crossed constantly by the abbey, for it was freedom from his control that its papal exemptions chiefly granted.[96] New occasions for conflict could always be found. On 12 September 1368, for example, Blanche of Lancaster, the young wife of John of Gaunt (she of Chaucer's 'Book of the Duchess'), died in Shropshire.[97] As her body was carried to London, it naturally passed through St Albans, astride Watling Street. The bishop, John Buckingham, accompanying the cortège, wished to conduct a service for the duchess in the abbey church. Though the abbot welcomed the procession, he viewed the bishop with suspicion; Walsingham, fairly or not, described Buckingham as 'wanting in any way possible to seem to have some right in this monastery'.[98] De la Mare refused to allow the bishop to celebrate mass unless he first sealed a letter indemnifying the abbey against any adverse effects to its privileges which might arise from his presence; he might be allowed to celebrate as a matter of grace, but could assert no right in consequence. Buckingham, of course, 'refused most indignantly', but the abbot held firm.[99] All day long messengers ran back and forth between the bishop, at Dunstable to the north-west, and St Albans. As the sun went down, Buckingham gave up. Wanting greatly to be present at the service, he sealed the letter and went to St Albans. Hurt feelings were quickly patched up: after an evidently splendid service, bishop and abbot dined together and became fast friends.[100]

This would be simply another interesting but fundamentally unedifying episode in the endless strife between exempt houses and diocesans were it not for the concurrent survival of two documents. The first is a copy of a letter of indemnity sealed by Bucking-

[96] W. Holtzmann, *Papsturkunden in England*, 3 vols. in 5 (Berlin, 1930–1952), iii, esp. 120ff.

[97] That Blanche died in 1368 and not 1369, as had previously been thought, is persuasively argued by J. J. N. Palmer, 'The historical context of the "Book of the Duchess": a revision', *The Chaucer Review*, 8, 4 (1974), 253–261. Palmer's argument is confirmed by a letter from the bishop of Lincoln preserved in the St Albans formulary and discussed below (which is therefore perhaps of some interest to Chaucerians).

[98] *Gesta abbatum*, iii, 274. 'cupiens quouis facto uideri quod haberet quicquam iuris in hoc monasterio'. The whole episode is recounted ibid., iii, 274–277.

[99] *Gesta abbatum*, iii, 275. 'cum summa indignatione Episcopus denegabat'.

[100] *Gesta abbatum*, iii, 277. Of further interest, perhaps, to Chaucerians is the fact that the sermon preached by the bishop of Cloyne took as its text 'Secundum nomen tuum, ita et laus tua' (Ps. 48:10)—a phrase which might be said to characterise Chaucer's own treatment of Blanche.

ham, preserved in the St Albans formulary.[101] The second is a *consilium*, a legal opinion written in response to questions from a client, likewise preserved in the formulary and written by Master Richard de Wymundeswolde.[102] Wymundeswolde was an English canon lawyer practising at the papal court at Avignon in the middle years of the fourteenth century, and practising very successfully at that.[103] At some point before his death in 1356 he was asked by the abbot of St Albans to answer sixteen questions on the extent and limitations of the abbey's exemptions, questions arising from doubtful points in one of the monastery's great papal privileges, granted by Clement III in the late twelfth century. Wymundeswolde earned his fee, taking each question in turn, arguing *pro* and *contra* and providing voluminous citations of authorities on difficult points. To treat every point in detail is impossible here (and some of the questions are of narrow interest indeed) but one or two repay close attention.

The first question asked was 'whether the said monastery of St Albans [...] with its priories and dependencies is judged to be fully exempt'.[104] Exempt it undoubtedly was, but what did 'fully' mean and what was the contemporary force of a papal privilege now nearly two hundred years old? Wymundeswolde took the abbey itself first: the general terms in which the privilege referred to St Albans clearly implied full exemption; nor could it be objected that the description was merely 'uerba narrantia', an *obiter dictum*, for the document was made primarily as a grant of liberties; in that context such 'uerba narrantia' were fully probative.[105] More complex was the question of the abbey's cells. First of all, the privilege granted to the abbot 'pontifical rights' over the dependencies; in so doing, Wymundeswolde argued, it naturally took those rights away from the bishop. Likewise, in granting the abbot *episcopalia* it must be presumed simultaneously to deny them to the bishop, for 'is it not the case that two cannot fully possess by right one and the same thing?'[106] Finally, reciting the words of the privilege which listed things thenceforth prohibited to the bishop, he concluded that 'all those words mean full exemption,

[101] CUL MS Ee.4.20, f. 69r.
[102] CUL MS Ee.4.20, ff. 114r–118v.
[103] Sayers, 'Papal privileges for St. Albans Abbey and its dependencies', 75 and n. 4.
[104] CUL MS Ee.4.20, f. 114r. 'numquid prefatum Monasterium sancti Albani [...] cum suis prioratibus et menbris censeatur plene exemptum'.
[105] CUL MS Ee.4.20, f. 114v.
[106] CUL MS Ee.4.20, f. 114v. 'nonne cum unam et eandem rem duo insolidum iure possidere non possunt'. The principle is from the *Digest*, 41.2.3.5.

as is clear from both their literal meaning and their sense'.[107]

The relevance of this part of the *consilium* to the dispute over Blanche's obsequies is immediately apparent. Armed with a recent opinion re-affirming the application of the old privilege, de la Mare could send his negotiators to Dunstable confident in his ground; thus prepared, his victory was as complete as Walsingham makes it out to be. While the letter Buckingham first sealed does not survive, the following day he wished to hold a service in the chapel of St John the Baptist at Barnet—one day closer to London on Blanche's progress and itself part of St Albans' exempt jurisdiction. To that end he sealed a second letter, the one later copied into the St Albans formulary.[108] In it, he solemnly declared that he did not hold the masses at St Albans or Barnet in his own right or name or by the authority of his own church, but by the authority and express licence of the monastery and at the request of John of Gaunt; that he did not, through anything that he did there, claim or acquire any right, title, or possession—and nor did his successors; and that nothing he did prejudiced or derogated from any exemptions, privileges, liberties, or immunities enjoyed by the abbey. St Albans was safe.

This part of Wymundeswolde's proof was relatively easy and the argument consequently both straightforward and readily applicable. Most of the doubtful points in the abbey's privileges were narrower and more complex: could the abbot accept *munera* when visiting dependencies, for example; could he authorise exchanges of benefices; and could the bishop ordain clerics of the abbot's exempt jurisdiction without his consent? Less productive of dramatic political crises—and we can only imagine John of Gaunt's reaction to de la Mare and Buckingham's squabbling over who was to officiate at a mass for his dead wife—these questions nevertheless produced substantially more interesting law. Take as an example the following: could the abbot invite any bishop he pleased to conduct ordinations; if he did so, could that bishop ordain those coming to St Albans from other dioceses with their own bishops' permissions?[109]

With the first part of the question we enter deep waters indeed. It was, as we have seen, the nature of canonical argument to throw in all the issues applicable to a situation and the task of Wymundeswolde, therefore, to raise and rebut every conceivable objec-

[107] CUL MS Ee.4.20, ff. 114v–115r. 'que omnia uerba plenam sapiunt exempcionem ut patet tam ad litteram quam argumentum'.
[108] CUL MS Ee.4.20, f. 69r.
[109] CUL MS Ee.4.20, ff. 115r–116r.

tion to the abbey's enjoying this privilege. On the ordaining powers of 'foreign' bishops there was much abstruse learning and thus there were many lines of argument: this is by some distance the longest *quaestio* in his *consilium*. Let us follow one thread. One problem raised was that, even if an abbot had the privilege of having any bishop he pleased conduct ordinations, the local bishop might still prohibit another from entering his diocese. Johannes Andreae, following Durandus, argued in the gloss to the *Liber sextus* that, when a bishop had been suspended from ordination and his clerics in consequence (so as not to suffer for their superior's fault) acquired a privilege of being ordained by any neighbouring bishop, the ordination must nevertheless happen in the neighbouring bishop's diocese, for they could not enter the diocese of the suspended bishop without his licence.[110] Wymundeswolde was not convinced: Federicus Petruccius de Senis (who, he explains, taught in Italy for twenty-five years and was considered the 'measure and fount of the law') argued, with Hostiensis, that a bishop could not prohibit entry into his diocese.[111] The roads were public ways and, as such, he explained (citing the *Codex*), their use could not be prohibited.[112] Moreover, he argues, with Gratian and Augustine, that the Israelites waged a just war against the Amorites when the latter would not allow a harmless passage through their lands.[113] He considers the question of whether the bishop of Lincoln might be said to have a servitude over St Albans and answers that the abbey's exemption precludes this. Finally, he argues that the monastery may undoubtedly invite other bishops to consecrate churches; if such bishops might be prohibited from entering the diocese of Lincoln, 'the privilege would be rendered useless in that part, which would be absurd and must be avoided'.[114] As terms must be interpreted consistently from one part of the privilege to another (as the *Liber extra* affirms), if bishops may not be prohibited from entering for that purpose, then they may not be prohibited

[110] *glossa ad* 'Vicinis episcopis', *Liber sextus*, 1.9.2, in *Corpus Juris Canonici Emendatum et Notis Illustratum*, 3 vols. in 4 (Rome, 1582), iii, column 212. This gloss is not explicitly ascribed to Johannes Andreae in the 1582 edition (though the surrounding glosses are), but is so ascribed by Wymundeswolde.

[111] Along with Henry of Susa ('hosti.'), Wymundeswolde cites 'ber.'. It is not clear to which of the many canonists named Bernardus this most likely refers.

[112] *Codex*, 3.34.11. The citation is not persuasive: 'Per agrum quidem alienum, qui servitutem non debet, ire vel agere vicino minime licet: uti autem via publica nemo recte prohibetur.' Wymundeswolde offers no reason why a diocese should not be considered, in this context, *ager alienus* rather than *via publica*.

[113] *Decretum*, C. 23 q. 2 c. 3. Num. 21:21–24.

[114] CUL MS Ee.4.20, f. 115v. 'priuilegium redderetur in utile in ea parte quod esset absurdum et uitandum'.

from entering to perform ordinations, either.[115] Thus might the considerable authority of Johannes Andreae and Durandus be defeated (should the problem arise).

The second is a much smaller question and Wymundeswolde simply frames the problem so that the authorities end up on the right side.[116] For the bishop of Lincoln to have any grounds for complaint about ordinations, he explains, it must be on the basis of the place where they occur or on the basis of the people ordained. As to the place, he could make no complaint: St Albans was fully exempt, as had already been proved. As to the people, he had either already given them licence (for the question asked presupposed that the ordinands had the permission of their own diocesan) or they were not of his diocese. If the first, of course he could not complain; if the second, he had no standing, for, as Ulpian, Gratian and Innocent III all affirm, 'appellants are not accustomed to be heard unless [the matter] concerns them'.[117]

All these issues were disputed and resolved within the legal structures of the church itself, but this was not always the case. The ecclesiastical hierarchy was frequently co-opted for secular purposes and, when it was, the inter-relationship of its parts became a matter of concern to the king. In 1380, for example, the clergy in Convocation granted a subsidy of a fifteenth; the bishop of Norwich (Henry Despenser, best known, perhaps, for his role in crushing the Peasants' Revolt and for his 'Crusade' in Flanders) appointed the prior of Wymondham, one of St Albans' dependent cells, to collect the tax.[118] The prior refused, asserting exemption, and an order was sent to the sheriff that he be distrained for non-payment. Incensed, de la Mare appeared before the king's council: he asserted that the prior was movable and removable at his pleasure and thus subject to his jurisdiction and exempt from all other. To prove the point he immediately removed the prior, Nicholas Radcliffe, and appointed him archdeacon of St Albans. The council was convinced, a writ of *supersedeas* cancelled the distraint and Despenser was ordered, 'if it is so', to find someone else to collect the fifteenth.[119] Despenser, of course, did not agree that it was so and wrote to the council to say as much: the prior was his obedientiary;

[115] *Liber extra*, 1.2.3.

[116] CUL MS Ee.4.20, f. 116r.

[117] 'Non solent audiri appellantes nisi hi quorum interest […]'. *Digest*, 49.5.1.*pr*. *Decretum*, C. 2 q. 6 c. 30. *Liber extra*, 1.6.16.

[118] The story is told twice in the *Gesta abbatum*, at iii, 122–134 and iii, 281–285. See *ODNB*, *s. n.* 'Despenser, Henry (d. 1406)'.

[119] *Gesta abbatum*, iii, 126.

was obliged to attend his synods; had his own convent and common seal; had his own possessions and lands, as his predecessors had also done; and represented his own house in courts both ecclesiastical and lay. Again a writ *distringas* went out; again the abbot managed to have it cancelled. By this point the council was decidedly impatient: the tax was sorely needed and, if its collection were to be suspended until such problems of ecclesiastical jurisdiction were resolved, they might all be long dead before a penny entered the exchequer. To that end a new order was sent to the bishop: let him appoint new collectors; his case would not be prejudiced thereby; but there was no time to wait. Despenser was still unhappy with this and lost all through vacillation. He sent his advisers to the king's council to discuss the matter but, having second thoughts, followed with letters disavowing all they said. Utterly fed up now, the council ordered Despenser to get on with it and appoint other collectors, 'lest our difficult business, and that of the kingdom, remain undone through your failure'.[120] De la Mare's victory seemed complete: not only was the danger dealt with for the present, but he obtained a royal privilege exempting himself and his priors from ever being made tax collectors in the future. Yet in failing to reconcile Despenser to this result, the abbot left the way open for future conflict: in the 1430s a bishop of Norfolk repeated the attempt, this time against the abbey's dependency of Binham.[121]

This was, fundamentally, a political victory: through assiduous lobbying (and Despenser's missteps), the abbot managed to portray the bishop, not the prior, as the party delaying collection; the legal rights and wrongs of the situation were never really put to the test. Like the inquisitions of 1341, it shows how inextricably intertwined canon and common law became when the king's government relied upon the ecclesiastical hierarchy for its proper functioning. The defeat of the bishop of Lincoln was different: the politics had been dealt with long before, in petitioning the papal curia for the grant of privileges in the first place; when it came to their enforcement on the ground, legal interpretation was, evidently, what really mattered. For the relationship between two fourteenth-

[120] *Gesta abbatum*, iii, 134. 'ne per uestri defectum ardua negotia nostra, et predicti regni nostri, infecta remaneant'.

[121] This later dispute, which turned in part upon the question of whether the collection of ecclesiastical tenths and fifteenths was a spiritual or a temporal activity, and which provoked interesting debate in the court of Exchequer Chamber, is discussed by B. J. Thompson, 'Locality and ecclesiastical polity: the late medieval church between duality and integration', in *Political Society in Later Medieval England: a festschrift for Christine Carpenter*, ed. B. J. Thompson and J. Watts (Woodbridge, 2015), 141–144.

century English churchmen to depend on the authority of the second-century Roman jurist Paul (source of Wymundeswolde's assertion that two cannot possess the same thing) is strange, but so it did.

2.4

The wider kingdom

St Albans was of course involved in ecclesiastical relationships beyond the order, local community and diocese. The abbey held advowsons and appropriated churches throughout England and not infrequently these distant rights led to energetic disputes with bishops or with other claimants. These interactions were very heterogeneous indeed and very variably documented. For the management of tithes, for example, we depend upon Moot's notebook, the monastery's formularies and the *Gesta abbatum*.[122] But there is one surviving source within this sphere which is very different in its detail and its interest. Romano-canonical civil procedure relied heavily upon written submissions rather than oral pleading or evidence, but these submissions have not, in general, survived: much more common are 'act books', summary records made by clerks of the court noting the bare facts of causes and the steps taken.[123] But at York, seat of an archdiocese and thus ecclesiastical adjudicator for a large swathe of England, significant numbers of these 'cause papers' have been preserved.[124] One set of these papers from the 1360s tells the story, in extraordinary detail, of a testamentary dispute between St Albans Abbey and Peter and Joan Fleming of York.[125]

In early 1363, Walter Fleming, the rector of the church of Appleton in Ryedale, Yorkshire, died at the papal court in Avignon. The ecclesiastical consequences of Walter's demise were swiftly dealt with: on 20 March the pope provided Thomas Chou of Wetwang to replace him, it being a papal privilege to provide when a cleric died at the curia.[126] But on the secular side matters were less straightforward. In his last will and

[122] Unfortunately, the most detailed records of tithe disputes at St Albans fall outside of the time period here considered. Evidence does survive for our period on the leasing of tithes, discussed below in the chapter on 'The Realm'.

[123] An accessible summary of the procedure is given by J. A. Brundage, *Medieval Canon Law* (London, 1995), 120–153.

[124] They are now in the Borthwick Institute for Archives, York.

[125] BI CP.E.169.

[126] *Cal. Pap. Pet., 1342–1419*, 408.

testament, written at Avignon, Walter left all his tenements in the city of York to the abbot and convent of St Albans, to pray for his salvation. Yet there was a problem: before departing for the curia, Walter had written an earlier testament, by which he left his lands in York to his young great-niece, Joan, and to another relative named Peter. That will had already been proved in the church court at York and put into effect: Joan was in possession.

In fourteenth-century England, land was almost always transferred in one of two ways: by automatic succession of the heir or by transfer *inter vivos*. It was generally impossible to make a will of land or to alter its descent after one's death (entails, borough tenures, and the increasingly-popular enfeoffment to use aside).[127] In the words of the twelfth-century treatise known as Glanvill: 'only God can make an heir, not man'.[128] Claims to land by someone not in possession were therefore normally based on descent or on a transfer and the English common law courts evolved elaborate mechanisms to adjudicate claims based on facts of that kind. Here, however, the claim was being made on the basis of a will, something possible only because the land in question was in a borough and thus customarily devisable.[129] The first step for the abbey was therefore to have the ecclesiastical court at York overturn the first will and substitute theirs in its place; thus we have the unusual result of canonists arguing about English land law.

How did the case go? On the face of it, Joan had little chance: there was no doubt that there was a subsequent will, nor that the abbot and convent were its beneficiaries. But her proctor did what he could: he objected to the form of the will, to the authority of the jurisdiction in which it was first proved, to the language of the abbot's claim (which was 'overly general, vague and obscure') and so on and so forth.[130] As mentioned before, unlike in contemporary common-law pleading, in canon law process there was no need to pick one issue on which the claim would stand or fall; instead, a defendant's proctor threw everything at the wall, as it were, to see what stuck. First the *pars actrix* or plaintiff presented a written statement of claim called the *libellus* and set out a list of facts and assertions which together demonstrated that claim.[131] Witnesses were asked by the court

[127] A. W. B. Simpson, *A History of the Land Law*, 2nd ed. (Oxford, 1986), 62.

[128] G. D. G. Hall, ed., *The Treatise on the Laws and Customs of England Commonly Called Glanvill* (London, 1965), 71. 'solus Deus heredem facere potest, non homo'.

[129] On this see M. D. Hemmeon, *Burgage Tenure in Medieval England* (Cambridge, Mass., 1914).

[130] BI CP.E.169, mm. 27–28. 'nimis generalis uagus et obscurus'.

[131] See above, n. 123.

about those assertions and the results were recorded in written depositions. Before depositions were taken, the *pars rea*, or defendant, proposed another set of questions which were also put to the witnesses, known as interrogatories; these fulfilled something like the same role as a modern cross-examination. The defendant could also assert their own facts and call additional witnesses to prove them—and then the process was reversed, with the *pars actrix* cross-examining with interrogatories. The initial points raised thus tend to branch out exponentially. Each assertion or objection, however, was largely independent of the others: there were several threads of argumentation going on at once. We shall focus on one of set of arguments.

In November 1363, six months into the case, Joan's proctor presented a set of contrary articles to the court, a list of assertions which he wished to prove by witnesses in order to establish facts useful to the defence. Among the assertions was this:

> Also he intends to prove that by the law and custom of the kingdom of England no testament, legacy, or gift of lands, tenements, or annual rents made overseas or outside the kingdom of England are valid, have been valid, or can be valid; but the law and custom of England condemns, invalidates and annuls all such gifts, testaments and legacies made outside the said kingdom or overseas […][132]

Now, if this was true the defendant was fortunate indeed: the second, formally valid, will made at Avignon was legally defective in England and could not be enforced. Naturally the abbot's proctor was sceptical, and he added two additional questions to be put to any witnesses who answered this article:

> […] let them be asked how the English statute or law begins which invalidates and annuls a testament made outside England […] Also let them be asked when and by whom and whose will, made outside England, they have seen invalidated and annuled in England, after this [statute], on account of this and for this reason.[133]

[132] BI CP.E.169, m. 17. 'x. Item intendit probare quod de iure et consuetudine regni Angl' nullum testamentum legacio uel donacio de terris tenementis uel redditibus anuis in partibus transmarinis seu extra regnum Angl' confect' ualent ualuerunt seu ualere possunt sed ius et consuetudo regni Angl' omnes huiusmodi donaciones testamenta et legata extra dictum regnum Angl' seu in partibus transmarinis fact' dampnat irritat et anullat […]'

[133] BI CP.E.169, m. 16. '[…] interrogentur qualiter incipit statutum seu lex anglicana quod irritat et

Whereas Joan's proctor had alleged a *ius* or *consuetudo*, the abbot's proctor challenged the witnesses to give the incipit of the *statutum* or *lex*, implying that they must point to a specific enactment.

A few days later, seven witnesses were examined by the court and their depositions recorded. Master Roger de Slatteburn, a notary public and scholar in canon law, said that Joan's proctor's assertion was true, because he knew of many people who had become bound for sums of money at the curia or elsewhere abroad; those who later sued them for that money in England had recovered nothing, 'for the custom of the realm stood in the way'.[134] Master Nicholas de Alta Ripa also agreed that this was the custom, having 'heard many men of the secular court and others say this'.[135] Thomas de Risley, rector of the church of Slingsby, in Yorkshire, quite reasonably pleaded ignorance of the whole issue, as did Thomas de Fichyng, a notary public, 'for he had no experience of the laws of the English kingdom, or of the custom in these matters'.[136] Another notary, one Master William, offered a story.[137] Three clerics had business at the papal curia. They entrusted the task and the money to carry it out to one of their number, a John de Tottyngton, who in return gave his fellows a bond for twice the amount of money he had received, to be void if he did his job properly. This he promptly failed to do and, on returning to England, was sued by his associates. Their suit failed, as being based on an obligation made *in partibus transmarinis*. For this reason, William believed that 'a testament or gift of any goods movable or immovable, made overseas or outside the English kingdom, is invalid by the law and custom of England.'[138] Finally, John of Bretherton, a chaplain, offered the observation that the bonds of English merchants written in Flanders were often void if they failed to state explicitly where they had been executed, but that he was unsure what this meant for the validity of a foreign will.[139]

What had this accomplished? The defendant's proctor had certainly established that

annullat testamentum extra regnum Angl' conditum […] Item interrogentur quando et per quem et cuius testamentum extra regnum Anglie factum uiderunt postea propter hoc et ex illa causa in regno Anglie irritari uel annullari.'

[134] BI CP.E.169, m. 14. 'obstante consuetudine regni'.

[135] BI CP.E.169, m. 14. 'sic audiuit quamplures homines de Curia seculari et al' sic dicere.'

[136] BI CP.E.169, m. 12. 'quia non habet periciam legum regni Angl' uel consuetudinem [*sic*] de hiis'.

[137] The document is, unfortunately, damaged and his surname is illegible.

[138] BI CP.E.169, m. 12. 'hac de causa credit […] quod testamentum siue donacio de aliquibus rebus mobilibus siue immobilibus in partibus transmarinis seu extra regnum Angl' con<…> iure et consuetudine regni Angli' non ualent.'

[139] BI CP.E.169, m. 12.

debt bonds written abroad were of questionable validity in England and indeed this was the case: earlier that same year parliament had passed a statute declaring that penal bonds and obligations entered into in foreign courts, 'in the third person', were void in England.[140] This is substantially more limited than the custom alleged by the witnesses, but nonetheless supports their claims. It says nothing of wills, however, and neither, in truth, did they: all of their evidence bore on debt bonds and was applicable to wills only by analogy. If there was a general custom annulling foreign wills, they failed to find it and the court therefore had no evidence of it.

Nothing deterred, Joan's proctor pressed on with his defence. On 26 October 1364, just under a year later, he presented a peremptory exception, a substantial objection which he believed would, if accepted, wholly defeat the abbot's case.[141] He explained first of all that all lands and tenements in England were *feudalia* and regulated by feudal law, held of the king either mediately or immediately in exchange for certain services; there were no allodial lands (that is, lands owned absolutely).[142] Moreover, he explained, by English law it was impossible to make a will of, or institute an heir to, real property; any attempt to do so in the past had been held void. This was mostly true, but if accepted by the court would also invalidate the will under which Joan had benefited. He therefore continued,

> except only in certain places in which, by the special privilege and permission of the Lord King of England and his predecessors, it was granted as a privilege to the inhabitants of these places, against the common law of England, that the tenements which they have in cities and certain towns they may bequeath in testaments made by them in the English kingdom and *sub dicione et imperio concedentis* and not elsewhere.[143]

[140] 38 Edw. III, stat. 1, c. 4 (*Stat. Realm, 1235–1377*, 384). 'Item come divers gentz soient liez en autri Court, hors du roialme, par instrumentz et en autre manere; est acorde, que touz tieles liens penales, en la tierce persone, soient voides et pur nul tenuz.'

[141] For the differences among dilatory, peremptory and mixed exceptions, see Helmholz, *The Canon Law and Ecclesiastical Jurisdiction*, 323ff.

[142] BI CP.E.169, m. 4.

[143] BI CP.E.169, m. 4. 'exceptis dumtaxat certis locis in quibus ex speciali priuilegio et indulto per dominum nostrum Regem Anglie et predecessores suos inhabitantibus in eisdem locis est contra ius commune regni Anglie priuilegiat' concessum . quod tenementa que habent in Ciuitatibus et certis uillis relinquere poterint in testamentis in Regno Anglie et sub dicione et imperio concedentis et non alibi per eos confectis.'

What he is referring to here is clearly burgage tenure: the privileged land-holding of the inhabitants of boroughs which allowed them, among other things, to make a will of land.[144] What he suggests, however, is that burgage tenure can arise only by express royal grant; while historically untrue, this would no doubt have sounded pleasantly to the lawyers of Edward I's reign who devised the *quo warranto* inquiries.[145] Importantly to his case, Joan's proctor argues that the terms on which burgages are alienable are determined by limitations in the royal grant. Specifically, he claims that the terms of such grants are that wills of land must be made by the testator; that they must be made in England and not elsewhere; and finally that they must be *sub dicione et imperio concedentis*. This last is susceptible to various interpretations, but seems to mean at once that the will must be made within the jurisdiction of the grantor of the privilege (in this case, the king) and that it must be done in accordance with the terms of the grant. This distinction would very neatly dispose of the abbot's claim: the case is only before an ecclesiastical court because it concerns a piece of devisable property; if the terms on which that devisability was granted exclude a transfer of rights by the means under which the abbot is making his claim, nothing more remains to be said.

Yet this was not all, for Joan's proctor believed that the grant to St Albans was doubly invalid. He added that St Albans was forbidden to acquire any new property, whether *inter vivos* or by testament, without the special licence and permission of both the king and of any other lords of whom the land is held.[146] In this he referred to the Statute of Mortmain of 1279, prohibiting alienations to religious houses, and was perfectly correct.[147] He pointed out, moreover, that this very statute was approved by the abbot's predecessor in parliament, easily demonstrating acceptance of the custom by the parties. Against this, St Albans had two lines of defence. First of all, it was unlikely that the official of the archbishop of York, sitting in York Minster, would invalidate a grant on the grounds that it had been made to a religious institution: mortmain laws were always, and understandably, unpopular with the clergy. Secondly, the abbey of St Albans, like

[144] Hemmeon, *Burgage Tenure in Medieval England*.

[145] See D. W. Sutherland, *Quo Warranto Proceedings in the Reign of Edward I, 1278–1294* (Oxford, 1963).

[146] BI CP.E.169, m. 4.

[147] See S. Raban, 'Mortmain in medieval England', *Past & Present*, 62 (1974), 3–26. On the requirement of permission by mesne lords, see eadem, *Mortmain Legislation and the English Church* (Cambridge, 1982), 18–20 and 72–73.

many other churches, was in the habit of block purchasing licences for alienations into mortmain in advance.[148] In May of 1311, for example, they purchased licences to acquire lands worth up to £100 per year, an amount which had not yet been reached in 1363.[149] Even so, the better view was that a general license did not usually excuse a house from the need to obtain royal permission for each particular alienation into mortmain.[150]

What of the principal argument? Burgage tenure was not, as a matter of fact, universally based on express royal grant but often on prescription, however much the king's lawyers might wish it otherwise. Town customs were consequently extremely varied and did not, as Joan's proctor alleged, universally bar grants of land by wills made abroad. Indeed there were none which unambiguously did so. Restrictions on alienations *to* foreigners or to religious houses were relatively common, as for example at Godmanchester in 1324.[151] The fourteenth-century customs of Fordwich required wills to be made before the jurats of the town, presumably thus excluding foreign testaments.[152] Many mid-to-late thirteenth-century charters allow devise of lands 'si dicti burgenses aut eorum aliqui infra terram et potestatem nostram testati decesserint vel intestati', which has been translated as 'if the said burgesses or any of them die within our land and realm testate or intestate'.[153] Perhaps it more correctly means, 'if the said burgesses or any of them die having made a will within our land and realm or die intestate'. But there is no other evidence to support this interpretation and no suggestion that such a custom was ever in force in York itself.[154]

What then was the result? On 17 October 1365, two and a half years after the beginning of the case, the judge read out his *sententia diffinitiua*.[155] Canon law judgments at this date gave no reasons for their decision, but in this case they were hardly necessary. The judge found for St Albans in all matters and assigned payment of the costs of the case to Joan. Her proctor's peremptory exception was not accepted. He failed to demonstrate a relevant custom which would invalidate the second will; without that, 'an earlier will

[148] Other examples are given by Raban, 'Mortmain in medieval England', 19–22.
[149] CUL MS Ee.4.20, ff. 261r–264r.
[150] Raban, *Mortmain Legislation and the English Church*, 50ff.
[151] M. Bateson, *Borough Customs*, 2 vols. (London, 1904–1906), ii, 97.
[152] Bateson, *Borough Customs*, ii, 199.
[153] *British Borough Charters, 1216–1307*, ed. A. Ballard and J. Tait (Cambridge, 1923), 93.
[154] One might expect to find it in T. Widdrington, *Analecta Eboracensia*, ed. C. Caine (London, 1897), but there is nothing there.
[155] BI CP.E.169, m. 3.

is annulled by a later'.[156]

This is one of the rare instances in which we can see the substantive detail of legal processes and the interplay of argument in an interaction not played out at a high political level, for the monastery had little reason to preserve records of 'private law' disputes within the church which had no bearing on the definition of its relationships and institutional position in that sphere. It demonstrates once again the close practical interrelationship of common and canon law: however separate they were intellectually and theoretically, when it came to the mediation of actual relationships and the structure of society, what mattered was not the source of governing principles but their effects, for law had social reality only insofar as it was instantiated. English land law, though far and away the most elaborately developed part of the common law system, still did not provide a complete set of rules to govern the transfer and descent of real property: where land was devisable, the rules governing its devise came from the 'custom of the realm', from the privileges of the borough, and above all from the law of the church.

2.5

The pope

Looking upwards once again, St Albans' relationship to the papacy was crucial to its view of itself and to its relationships in local society. As has already been said, the phrase 'pertaining to the Roman church, without intermediaries' or the like figured prominently in most of the abbey's communications. Upon the direct relationship to Rome (or to Avignon) depended the exempt monastic archdeaconry; the powers of signification; the probate jurisdiction; control over local clergy like William Puff; freedom from the ambitions of bishops both within Lincoln diocese and abroad; and all the rest. Though the monks had much to be grateful to the curia for, however, the great age for the granting of privileges lay long in the past.[157] In the present, the bishop of Rome was as often an antagonist as an ally and conferred more on St Albans by the bare fact of their relationship than by anything that actually passed between them. Perhaps by this date the office of St Peter was sufficiently distinct from its holder *pro tempore* that the abbey could prize its constitutional relationship to the see of Rome without any consequent affection for

[156] *Institutes*, 2.17.2.
[157] Sayers, 'Papal privileges for St. Albans Abbey and its dependencies', 78ff.

the bishop himself.

Direct contact came, as a rule, once per abbacy, when the new abbot-elect travelled to Avignon to seek confirmation of his office.[158] This was arduous, politically difficult and expensive, but was a fundamental corollary of direct subjection to Rome. It took months: after his election in October 1327, for example, Richard Wallingford left St Albans for Avignon on 23 November. He arrived there on 4 January; did not land again England until after Easter 1328 (12 April); and arrived at his monor of Crokesle on 20 April, fully 148 days after he had set out.[159] Worse than the time consumed was the expense. The total cost of having Wallingford's election confirmed ran to £953 10s 11d; for his part, Thomas de la Mare fell sick while at Avignon and the additional expenses incurred because of that delay alone came to more than 1,000 marks.[160] These charges were unpredictable in their timing (for who knew when an abbot might die?) and in their amount, and Galbraith rightly described them as 'fatal to any organisation of the Abbey's finances'.[161]

Once in Avignon, moreover, the abbot-elect had to contend with the lawyers and cardinals of the curia, many of whom saw him as a ripe target for exploitation. Shortly after Wallingford arrived, for example, the record of his election was read aloud before the pope and fatal defects in its form were immediately discovered. For one thing, various *acta* were mentioned in its text; he had not brought those *acta* with him. For another, though all the electors wrote, 'And I, [name] agree and sign below', the names written beneath were all in a single hand, rendering the record totally invalid. In addition, the mandates given to the *instructores* and *procuratores* had been insufficient. Now, these defects could be fixed, they assured him, but it would take time (and no doubt money): far better to renounce the election and let the pope provide.[162] This Wallingford did; the pope held council with the cardinals and then announced that he was providing Wallingford to the abbacy and confirming the election; all rejoiced and Wallingford distributed gifts among the cardinals, 'his friends'.[163]

[158] All of the abbots ruling in the period considered in this study were elected during the 'Babylonian captivity'.

[159] *Gesta abbatum*, ii, 187–193. The year is there mis-stated by the editor, however. See *ODNB*, *s. n.* 'Wallingford, Richard (*c.* 1292–1336)' and *Cal. Pap. Let., 1305–1341*, 269.

[160] *Gesta abbatum*, ii, 188 and iii, 413.

[161] Galbraith, *The Abbey of St. Albans*, 20.

[162] *Gesta abbatum*, ii, 189.

[163] *Gesta abbatum*, ii, 190. 'amicos suos'.

Nor was this all. Wallingford was then summoned before the chamberlains of the College of Cardinals and of the pope to pay the monastery's tax. He objected that he had never heard of any such tax, beyond the ounce of gold which St Albans paid each year in exchange for its exemptions. 'Be quiet', they replied, 'we are talking about the tax owed for visitation because of the [abbatial] vacancy which we find [a record of] in our register, of 720 marks'.[164] They showed him the register and helpfully told him that 720 marks came these days to 3,600 florins. Wallingford's advisers counselled him to pay the tax and be grateful it was not more: because he had renounced his election and been provided by the pope, the *curiales* could make the amount of the tax whatever they pleased; exactly that had happened to his immediate predecessor, Hugh, who had waited too long in England before seeking confirmation of his election and had had the whole process invalidated. In spite of the legal forms involved, this was financial more than anything else. At no point was there any suggestion that Wallingford himself might respond to the legal points raised: indeed he was told more than once that he might not. Wallingford swore upon the Bible to pay the tax; pledged obedience to the pope and swore his oath of profession; obtained permission to depart the curia; and quickly left for England feeling he had, in the end, got off rather lightly.[165]

The confirmation of Wallingford's successor, Michael de Mentmore, was uneventful, or appears so from the brief record of it which survives.[166] But with Thomas de la Mare in 1349 the problems returned. The war with France compelled the abbot-elect and his party to travel to Avignon in disguise and by roundabout ways.[167] Once there he was graciously received and blessed by the pope, but the examination which he had to undergo before confirmation was held up by an unscrupulous cardinal, who made it clear that he expected to be bribed. De la Mare was saved, happily, by the help of the honest Cardinal Périgord, and Walsingham launches into a brief encomium of this admirable prelate and—rarer than pearls—honest lawyer, whose life he recounts, he says, 'for the confusion and shame of modern courtiers'.[168] In his youth, we are told, Périgord had been a great orator and famous advocate, sought by all to win their causes and showered

[164] *Gesta abbatum*, ii, 190–191. 'Sileas, inquiunt, quia nos loquimur de taxa que debetur pro uisitatione, nomine uacationis, quam inuenimus in registro nostro, septingentarum et uiginiti marcarum'.
[165] *Gesta abbatum*, ii, 191–193.
[166] *Gesta abbatum*, ii, 301.
[167] *Gesta abbatum*, ii, 382–383.
[168] *Gesta abbatum*, ii, 384. 'ad confusionem et ruborem modernorum curialium'.

with gold. Seeing the vanity of this, though, he determined to plead no more for money, to defend none but just causes and to argue in court only 'for love of his neighbour'.[169] Making such an ally did not spell the end of Thomas' troubles, however. Before his election he had been prior of the monastery's dependent cell of Tynemouth and the record of election presented to the curia mentioned that fact. As soon as they heard this, the courtiers jumped on an opportunity: the priory was vacant; whom would the pope provide?[170] After much effort and expense, the abbot persuaded the pope to allow him to choose the new prior and obtained a bull to that effect.[171] 'On this occasion', Walsingham writes, 'that place [*sc.* Tynemouth] was saved from the plundering of those Harpies'. But let the reader be warned: 'I have written this so that those who come after will be careful of mentioning the priors of cells in elections, since they might lose much on such a pretext.'[172]

In all of this, in truth, there was little enough law. The interactions were legalistic, certainly: few environments at this more date were more so than the papal curia. But the pope was himself *fons et origo iuris* and St Albans was in no position to dispute the claims made by him or his advisers. As in the case of provision to Tynemouth, the abbey could achieve the ends it desired by appealing to the pope for dispensation *de gratia* but nothing would be accomplished by disputing the legal basis of the papal claim. This disjunction between legal rhetoric and political reality no doubt contributed to the endless complaints in the literature of this period about the 'rapacious' and 'unscrupulous' lawyers of the papal court. The pope dealt not only in his own interests, however: as 'universal ordinary' his court served as supreme arbiter of disputes coming from every corner of Europe.[173] Unfortunately, little survives from St Albans of disputes before the papal judges; perhaps few reached so high. Certainly Walsingham had strong reason to preserve records of successes before the Roman auditors; whether he would memorialise

[169] *Gesta abbatum*, ii, 385. 'pro caritate proximi'. For the life of Périgord, see C. Deluz, 'Croisade et paix en Europe au XIVe siècle. Le rôle du cardinal Hélie de Talleyrand', *Cahiers de recherches médiévales et humanistes*, 1 (1996), 53–64.

[170] *Gesta abbatum*, ii, 390–391.

[171] *Cal. Pap. Pet., 1342–1419*, 172. *Gesta abbatum*, ii, 390–392.

[172] *Gesta abbatum*, ii, 391 and 393. 'ea occasione seruatus est locus ille a predationibus Harpyiarum' and 'Hec ideo scripsi, ut caueant posteri de prioribus cellarum in electionibus facere mentionem, quia perdere plura possunt per huiuscemodi occasionem'.

[173] As persuasively demonstrated in F. W. Maitland, *Roman Canon Law in the Church of England* (London, 1898), esp. 100ff. On the wider European picture, see G. Mollat, *The Popes at Avignon, 1305–1378*, trans. J. Love (London, 1963).

failures is less certain. That he did not preserve more is to be regretted, for some colourful cases were referred to the pope. In 1321, for example, William de Somartone, the prior of Binham in Norfolk, appealed to the pope to resolve his dispute with Abbot Hugh de Eversdone of St Albans. When the papal auditor sent a messenger and notary with his letters of commission to St Albans in response, '[they] were beaten, so that their blood was sprinked on the walls of the church, and the letters were taken from them.' The pope then sent a mandate to the archbishop of Canterbury to investigate the dispute; unfortunately, neither its origin nor its result are recorded.[174]

The only substantial piece of evidence for the abbey's disputes at the curia is a *cautio* of 1328 preserved in the Canterbury Cathedral archives. Abbot de Eversdone had left a considerable mess behind him upon his death in 1327. The abbot's chamber was more than 5,000 marks in debt; many manors had been leased for money paid up front (and immediately spent); and the waste of woods and other reserves had depleted resources further still.[175] Wallingford's first task, therefore, was to straighten out the monastery's finances and recover something of what had been lost. To this end, he obtained while at Avignon a papal mandate 'ea que de bonis': a commission to another churchman (in this case the abbot of Ramsey) to investigate alienations of St Albans' property and rights and, if necessary, to order restitution.[176] The mandate empowered the addressee to reverse illicit sales, leases and alienations of rights, notwithstanding any oaths, written instruments or confirmations which the current holders might proffer in support of their title. It is not clear what the practical effects of such a mandate would be in England, nor what view the king's justices took of such proceedings (if indeed they ever took place).[177] Yet some effect it was expected to have, for when the mandate was read in the *audientia litterarum contradictarum* in Avignon, there was an objection.

This *audientia* was a forum in which outgoing mandates were publicised in order to

[174] *Cal. Pap. Let. 1305–1341*, 213–214.

[175] *Gesta abbatum*, ii, 187. For leasing *pre manibus* (cardinal sin of every 'bad abbot') see below, p. 96.

[176] On mandates 'ea que de bonis', see J. E. Sayers, *Papal Government and England during the Pontificate of Honorius III (1216–1227)* (Cambridge, 1984), 119; and P. Herde, *Audientia Litterarum Contradictarum: Untersuchungen über die päpstlichen Justizbriefe und die päpstliche Delegationsgerichtbarkeit vom 13. bis zum Beginn des 16. Jahrhunderts*, 2 vols. (Tübingen, 1970), i, 39 and ii, 586–629. The *cautio* is Canterbury, Dean and Chapter Archives, Cartae Antiquae, C 1299. Its text is printed in J. E. Sayers, 'Canterbury proctors at the court of "Audientia litterarum contradictarum"', *Traditio*, 22 (1966), 344–345, but the references below are taken from the original.

[177] The question would certainly repay further study. I am unaware, however, of any surviving records of English proceedings on mandates 'ea que de bonis'.

give interested parties an opportunity to intercede. Maintaining a proctor there thus allowed one to end disputes before they began, altering the terms of a papal commission at its source in Avignon rather than fighting its consequences in England.[178] When St Albans' mandate to the abbot of Ramsey was presented, in late February or early March 1328, Master John de Mallinge, the proctor of the prior and chapter of Canterbury, objected. The document which has come down to us represents the resolution of this intercession: de Mallinge and the proctor of St Albans, Master Thomas de Boynthon, agreed that a rider would be added to the mandate; this is the *cautio*. It specified that the prior, chapter, officials and ministers of Canterbury could not be summoned on the basis of the mandate, nor would its effects extend to them. De Boynthon promised all this before the auditors, the *cautio* was sealed and the mandate was issued. No record of any subsequent dispute between St Albans and Canterbury over the mandate survives and we may assume the *cautio* served its purpose.

The experiences of St Albans at the papal curia show clearly that use of legal forms did not necessarily create any meaningful intermediating role for law. Though couched in legal terms, much of what occurred there was simply fiscal. As the highest court in Christendom, the curia was accustomed to legality and was capable of effective adjudication between the claims of other parties. But where its own interests were involved this became mere rhetoric. If by legalisation we mean the extent to which actors are abstracted from their social complexity and the degree to which their functioning in a situation is determined by their legal properties and roles, then these interactions were hardly legalised at all: St Albans' legal position was far less important than its friends or its money. This, at least, in Walsingham's telling: the unsuccessful litigant is always ready to believe the game is rigged against him.

2.6

Conclusion

The most immediately striking aspect of the operation of law in these relationships is its variety. Law was an undisputed formalisation of basic social structure in the abbey's

[178] Herde, *Audientia Litterarum Contradictarum* and J. E. Sayers, 'The court of "Audientia Litterarum Contradictarum" revisited', in *Forschungen zur Reichs-, Papst-, und Landesgeschichte*, ed. K. Borchardt and E. Bünz, 2 vols. (Stuttgart, 1998), i, 411–427.

archdeaconry; an array of sources and argumentative methods which an actor might use to defend his behaviour in the visitation of Eynsham; a set of rules governing the descent of land in the York will dispute; a functional mode of resolving political problems in the abbey's conflicts with diocesans; a rhetorical veil for financial decisions in the papal curia. The invocation and social realisation of law in the medieval English church is so heterogeneous as to be at first difficult to characterise.

Certain emphases can be seen, however. First of all, there is relatively little here about economic relationships. Partly this is a result of survival and selection of evidence: there are few records of the archdeaconry's probate jurisdiction or of tithe disputes in the fourteenth century, for example. But it also reflects reality: ecclesiastical jurisdiction was not chiefly focused on society's fundamental relationships of production and exchange—most importantly the exploitation of land. The law of the church, of course, did not primarily address the interactions of people considered as economic actors because it dealt, fundamentally, with a different slice of social life. It was a set of rules to govern people as members of a religious association, the structural principles of an 'imagined community' of the faithful.[179]

Secondly, because St Albans was not merely a member of this community but a part of its governing hierarchy, the role of law in the abbey's ecclesiastical relationships was largely 'constitutional', concerned with the definition of relationships rather than simply the resolution of disagreements. Once more this is partly an evidential problem: the monastery had less interest in preserving memory of ephemeral disputes. But the institutional church also had a greater degree of formal definition in the joints of its structure than did society at large. Modern historians might debate whether the customary law of manorial courts was 'law' at all; fourteenth-century landowners going away to war might grant their lands to feoffees on informal conditions, untroubled by whether they retained any legal rights in the land or not. In many spheres formal definition was not required, for there are other forces in society besides law which can regulate relationships. In the institutional church, however, structure was formalised and legalised. Most disputes, while they might begin with ephemera (the obsequies of Blanche, for example), came to hinge on constitutional definition.

What these emphases suggest is that, as far as its social effects are concerned, the

[179] B. Anderson, *Imagined Communities: reflections on the origin and spread of nationalism*, rev. ed. (London, 2006), 5–7.

law of the church was distinct in form chiefly because it was distinct in context. Its social realisation, that is, was shaped less by its intellectual origins than by the situations in which it was invoked. When it was invoked in social contexts comparable to those of the common law, it looked comparable as well. The jurors responding to the inquisition of 1341 treated the archdeacon's jurisdiction like any other aspect of royal government. For the king's council, the question of the subordination (or not) of the prior of Wymondham to the bishop of Norwich could be resolved in the same way any claim not to collect taxes would be, by the grant of a royal privilege to be exempt from the duty; why get involved in ecclesiastical wrangling? And perhaps little would have changed about the social effects of the York will dispute had common law courts had cognisance of the cause; indeed much of the argument in the church court was about the king's law anyway. Canon law had of course certain basic differences from the common law: most importantly, the procedural acceptance of multiple pleading meant that legal principles mediated relationships in a different manner from in the king's courts; all did not have to hang on a single point of fact or of law. Its component parts were different as well, as the citations of Lambourn and Wymundeswolde make clear. But these were fluid boundaries: Aristotle and Ulpian were cited in the year books and crossed back in their new form to Lambourn's defence; canonists were perfectly prepared to debate mortmain, *feudalia* and parliamentary statutes if that was what the situation required. The law of the church was certainly a distinctive mode of mediating social relationships, but its social effects were a product as much of the attributes of those relationships as of the law's own positive content.

CHAPTER 3

The Realm

3.1

Protection

Chief among the responsibilities of any abbot was to preserve for the future the wealth, and the sources of wealth, left him by his predecessors. To stand still was to slip backwards, for all around were others pressing forward their own interests and every day, it seemed, the abbey's rights were called into question—or were simply ignored.[1] What could he do? How did disputes over the monastery's interests in the wider realm arise? What points of law created that doubt upon which a claim could be founded? And how, when once disputes had sprung up, did the abbey resolve them? What forms and what fora were used by the monks, or used against them?

To a limited extent, the monastery could protect its interests before any dispute arose, strengthening its rights by precautionary measures. Most straightforwardly, the abbot might seek a general royal letter of protection. In 1355, for example, 'out of gratitude for the many subsidies made to the king by the clergy', the king granted St Albans a letter of protection 'with clause *nolumus*' (which protected its goods from seizure), to last for two years.[2] Protections might also be issued in response to particular dangers.

[1] The nature of monasteries' interactions with local society in late medieval England has attracted scholarly interest, though not in precisely the terms considered below. See, for example, Thompson, ed., *Monasteries and Society in Medieval Britain* and the contributions therein. Most of the work on large ecclesiastical powers in society has, as mentioned above, p. 11, taken the form of 'estate studies' which, while they often draw on legal sources, address a fundamentally different set of questions. See, for example, Dyer, *Lords and Peasants*; Harvey, *Westminster Abbey*; or Raftis, *The Estates of Ramsey Abbey*.

[2] *CPR, 1354–1358*, 308. On letters of protection to monasteries and the *nolumus* and *uolumus* forms, see K. L. Wood-Legh, *Studies in Church Life in England under Edward III* (Cambridge, 1934), 25–26.

In 1341, during de la Mare's tenure as prior, the king and council issued a letter of protection to the dependent priory of Tynemouth, much damaged, as they explain (and as the *Gesta abbatum* agrees) by Scottish incursions.[3] The same house was the beneficiary of a protection 'with clause *nolumus*' for one year in August of 1388 on account both of the Scots and of the (politically-charged) assertion that 'being a castle [it is] likely to be seized by traitors.'[4] Letters of protection played no role in the monastery's defence to the cases that survive, but their utility is evident from those cases where opponents of St Albans themselves used them to advantage.[5]

An abbot could also seek exemplifications and confirmations of his house's rights. In 1331, for example, Wallingford paid 20s for an *inspeximus* and confirmation of letters patent of 1301 by which the prior and convent of St Albans were granted custody of the abbey during vacancies.[6] These confirmations could reach far into the past, and touch widely upon the house's rights, by confirming in groups charters that were themselves confirmations of still earlier grants. In 1328 the abbot and convent obtained a confirmation of a charter to Tynemouth from 1315 which itself inspected and confirmed seven charters of Stephen, Henry III and Edward I. Two of those charters were again confirmations of groups of earlier charters, so that, by that one act of 1328, seventeen earlier charters were renewed. The purpose of this 'batch renewal' was made clear by the added grant that 'the prior and convent may use the liberties in the said charters notwithstanding any non-user in the past.'[7] A batch confirmation of 1380 likewise renewed nineteen charters extending back to the reign of Stephen.[8] There was no real limit: in 1405 an *inspeximus* in St Albans' favour confirmed thirty-two charters from the reign of Offa onwards, the oldest purporting to date to 793.[9]

Efforts to strengthen the monastery in its position might too be more straightforwardly literal. In June 1357 the king granted it a licence to crenellate the abbey build-

The more expansive *uolumus* form is printed in H. Hall, ed., *A Formula Book of English Official Historical Documents*, 2 vols. (Cambridge, 1908–1909), i, 70–71.

[3] *CPR, 1340–1343*, 129.

[4] *CPR, 1385–1389*, 494.

[5] See the case of Alice Perrers and the Windsors, below, pp. 79ff.

[6] *CPR, 1330–1334*, 97.

[7] *Cal. Chart. Rolls, 1327–1341*, 80–81. Some of these charters are printed in Dugdale, *Monasticon Anglicanum*, rev. Caley, Ellis and Bandinel, iii, 317–319.

[8] *CPR, 1377–1381*, 448–449. *Cal. Chart. Rolls, 1341–1417*, 408–409.

[9] *Cal. Chart. Rolls, 1341–1417*, 427–428.

ings.[10] Such precautions seem at first far removed from daily concerns about rent payments and receipts but, as we shall see, the burning of documents in 1381 proved otherwise. Defending the monastery's rights began first with the physical preservation of the records upon which demonstration of those rights depended.

Though the importance of record-keeping was understood, it could be difficult in practice. The complex interweaving of legal interests overlaid upon the English landscape by the the fourteenth century was challenging to comprehend and to defend. When in 1380 the rector and brothers of the church of Ashridge claimed to have a right in certain roads between Redbourn and Hemel Hempstead, de la Mare, having reviewed what little evidence could be found, decided it would be best to settle and avoid unnecessary conflict. An indenture was drawn up dividing the disputed rights and was sealed by the common seals of both houses. The instrument itself acknowledged the evidentiary problems the parties faced, declaring that the agreement was made to avoid future dispute, 'since most of the tenants of the aforesaid manors, who knew most about those manors and their metes and bounds and liberties, have now died in various plagues.'[11] This particular transition from (lack of) memory to written record was, however, not particularly successful.[12] After sealing the indenture the monks of St Albans discovered 'antiquas euidentias' that the roads had always been wholly and undividedly their own, but too late and to no avail. Walsingham records the story, he says, so that future monks might try to reclaim these lost rights, though it is difficult to see how the indenture, freely entered into and bearing the monastery's common seal, could be set aside.[13] Such losses were likely to be permanent.

To keep their rights from being thus nibbled away, the monks of St Albans had, like other landowners of the age, to inquire, to record and to archive. Knowledge of holdings and their obligations, when not already written, was generated by inquisition. In 1331–1332 the abbey created extents describing the rents and customs of its manors, of which four, along with a smaller but closely analogous extent of 1340, survive.[14] That of

[10] *CPR, 1354–1358*, 574.

[11] *Gesta abbatum*, iii, 264. 'cum maxima pars discretorum tenentium predictorum maneriorum, qui de maneriis predictis, et eorum metis et diuisis, et libertatibus, meliorem notitiam habuerunt, in diuersis pestilentiis iam obiit'.

[12] On this transition in general, see M. T. Clanchy, *From Memory to Written Record: England 1066–1307*, 3rd ed. (Chichester, 2013).

[13] *Gesta abbatum*, iii, 262.

[14] Levett, *Studies in Manorial History*, 99–100.

the manor of Park, for example, begins with the names of twelve local jurors 'qui dicunt super sacramentum suum' that such-and-such is the physical makeup of the juridical and economic unit of Park and such-and-such the division of its holdings and the obligations due from them.[15] A similar process could be used outside the manor. So in 1384, during a land dispute with William Windsor and Alice Perrers, de la Mare had three knights of the district put in writing and seal a statement setting out the true descent of the parcel in question.[16] Next, when once rights or obligations had been reliably declared by 'trust-worthy men', these had to be recorded and then preserved.[17] Very little survives, unfortunately, to shed light on the employment of scribes by St Albans or on their education and background. The records produced are of high quality, both in their script and in their organisation, but beyond that little can be said.

The volume of records so produced had by the fourteenth century become, for a large institutional landowner like St Albans just as for the royal bureaucracy, overwhelming. Finding aids and summaries were necessary and it was for this reason that the 'court books' were compiled out of the manor court rolls. In the same way, codices were filled with copies of the most important grants or disputes bearing upon the abbey's non-manorial holdings.[18] The *Gesta abbatum*, though having more connective tissue than a cartulary, is itself a narrative attempt to preserve records and explanations of the most important of the abbey's rights.[19] Some of these codices were prefaced with contents listings referring to entries by folio number, in order to speed their use. Frustratingly for the modern reader, a single book might contain the contents listing for several associated volumes of which only one has survived.[20] With these aids, the abbey did its best to avoid what happened with the church of Ashridge: that necessary records be lost in dark corners until the opportunity to use them in defence had passed.

Yet, once every precautionary measure had been taken—protections procured, confirmations issued, rights remembered, recorded, indexed and physically defended—an abbot had still to face the actions of others. Disputes might arise in many ways, from

[15] HRO 7593, f. 1r.

[16] *Gesta abbatum*, iii, 237–241.

[17] On the epistemological problems faced in capturing local knowledge in the later middle ages, see I. Forrest, 'Trust and doubt: the late medieval bishop and local knowledge', *Studies in Church History*, 52 (2016), 164–185.

[18] e.g. BL Cotton MS Otho D.iii.

[19] On the composition of the *Gesta abbatum*, see above, p. 28.

[20] See for example CUL MS Ee.4.20 and BL MS Lansdowne 375.

the evidently accidental to those deliberately incited in order to test some larger issue. At one end of the spectrum, the servants and agents of other landowners might simply be overzealous in enforcement of their lords' rights. In 1368, for example, a clerk to the seneschal of the honour of Richmond amerced the abbot 13s 4d for failing to perform suit of court for his manor of Norton, near Boroughbridge. St Albans contended that the manor was held in frankalmoign and that the abbey held no lands at all within the honour from which such a service was due. A letter of complaint was sent to the duke of Lancaster, an inquisition held before the seneschal and St Albans declared quit of all exactions by the empanelled jury.[21] In order to generate records visible to the historian, most disputes had to be pressed rather further than this: amicably settled misunderstandings which did not result in such formal restatements of the status quo are largely hidden. Their root cause, however, might still be accident, provided that responsibility for the accident was disputed. In 1351 the abbot sued John de Miriedene for failing to repair the banks of his millpond at Oakhurst. As a result of his negligence the abbey's meadow was flooded, causing (it was alleged) £40 worth of damage. Miriedene was summoned and attached but did not appear in court.[22]

The abbey's estates, of course, were at risk not only from accident. At the other end of the spectrum from the resolution of accidental claims and claims for accidental damages were lawsuits deliberately incited. The manner in which disagreements arose was not necessarily the same as that in which they came before the courts, a point which, if generally known, is more than occasionally disregarded in modern historical writing.[23] In 1325, for example, John of Lancaster sued the abbot of St Albans for non-payment of an annuity of ten marks, allegedly unpaid for a year past.[24] In defence the abbot

[21] *Gesta abbatum*, iii, 97–99.

[22] CP 40/367, mm. 66r and 198r. The case is noticed by Palmer, *English Law in the Age of the Black Death*, 397.

[23] Not always, of course: see for example S. J. Payling, 'Legal right and dispute resolution in late medieval England: the sale of the lordship of Dunster', *The English Historical Review*, 126 (2011), 17–43, for a case study which handles this point very well.

[24] The annuity is said to have been first granted to Hugh de Bolebek, his heirs and his assigns and then to have passed to his daughter Philippa. This is the Hugh de Bolebek *alias* de Bolebech (d. by 1262) whose inquisition post mortem is printed in *Calendar of Inquisitions Post Mortem and Other Analogous Documents Preserved in the Public Record Office*, 26 vols. (London, 1904–), i, 150–151. His daughter Philippa is there said to have married Roger de Launcastre. John is therefore the John of Lancaster whose inquisition post mortem of 1334 is printed at *Calendar of Inquisitions Post Mortem*, vii, 419–421. He held substantial lands in Essex, Cambridgeshire and especially Northumberland, Lancaster and Westmoreland.

presented a quit-claim from the said John, by which he gave up all right or claim to payment of the annuity. The case was swiftly dismissed and John amerced for making a false claim.[25] The manipulation here would be invisible but for the fact that the date of the quit-claim is itself after the date of the commencement of the lawsuit. The abbot and convent apparently ceased to pay the annuity to John, deliberately provoking a dispute and a suit which they then (the value of John's annuity having been usefully diminished by its difficulty of collection) immediately settled. This was a clever, though not an immediately transparent, way for the monastery to buy out an inconvenient annuity. Interestingly, too, this case reveals something of Walsingham's practice in compiling the *Gesta abbatum*. In an unusual instance of medieval footnoting, he records the source of this case as 'Michaelis anno nono decimo. Rotulo trecentisimo quadragesimo' and places it in his narrative of the abbacy of Michael de Mentmore.[26] The case should thus be found at CP 40/344, m. 340, but in this Walsingham is mistaken. The case is recorded not there but at CP 40/258, m. 340r: not Michaelmas 19 Edward III, that is, but Michaelmas 19 Edward II.[27] Walsingham evidently found an exemplification of the record amongst the abbey's muniments on which the term, regnal year and membrane were noted but not the king in question: erroneously taking it to be of the reign of Edward III, he sorted it into his materials for Mentmore's abbacy (in which it would then have fallen) and reproduced it in chronological sequence at the year 1345.[28]

Most disagreements, of course, fell somewhere between these two extremes: the purely accidental and the purposefully provoked. Then as now, both parties to a dispute had usually a reasonable, or at least a defensible, claim (though they might not always advance it in good faith). A good example of how a seed of doubt might sustain decades of disagreement is the case of the will of Clementia Eccleshale.[29] Clementia was the widow of Richard Eccleshale, a treasurer of Calais under Edward III.[30] Before her own death (or so St Albans asserted) she had enfeoffed three men of certain lands, to be held

[25] *Gesta abbatum* ii, 355–357.
[26] *Gesta abbatum*, ii, 357.
[27] TNA, CP 40/258, m. 340r.
[28] The *Gesta abbatum* is not strictly chronological but it is roughly so: the next dated case following this one, for example, is also of 19 Edward III (*Gesta abbatum*, ii, 358–360.)
[29] This dispute is discussed briefly in W. M. Ormrod, 'The trials of Alice Perrers', *Speculum*, 83, 2 (2008), 383 and 386ff.
[30] T. F. Tout, *Chapters in the Administrative History of Mediaeval England: the Wardrobe, the Chamber and the small seals*, 6 vols. (Manchester, 1920–1933), iii, 261.

to the use declared in her last will. She then asked that some of her lands be used to support a perpetual chantry of four chaplains and that the remainder be sold in order to raise funds both to purchase the requisite mortmain licences and to pay off her late husband's outstanding accounts.[31] Part of these interests, in the manor of Oxhey in Hertfordshire, were purchased by the lay seneschal of St Albans, John Whitewelle, who held them jointly with his mother Joan. In October 1372, after his death, she conveyed these to St Albans.[32] Clementia's other lands in Oxhey, of which the abbot was lord, passed to the abbey by escheat upon the death without heir of one of Clementia's feoffees, who was holding them alone when he died—we may imagine deliberately so, in order to effect a conveyance into mortmain without licence.[33]

Part of the motivation for the development of unconditional enfeoffment to use (granting away all interest to one's feoffees unconditionally and simply trusting them to carry out one's wishes) arose from the fear that a conditional feoffment might allow the grantor's heir to claim that a condition had gone unfulfilled and that the grant was therefore void. Where the effect of enfeoffment to use was to diminish the heir's interest (as it almost always was), to leave any interest at all in the heir (even a contingent one) could be a dangerous proceeding.[34] It was precisely this problem which arose at Oxhey. Clementia's purpose in conveying away lands during her lifetime was to acquire a freedom to devise, both for pious ends and to pay her late husband's debts (in the eyes of some, a pious end itself). Indeed Walsingham refers to her feoffees as 'the executors of Richard de Eccleshale and of his wife Clementia'.[35] It seems very likely that her feoffees were her executors also, and that, in this case, the purpose of enfeoffment to use was not the defrauding of lords' interests but simply increasing the proportion of her wealth which could be disposed of by will. This was detrimental to her heir and he objected.

After the abbey had come into possession, one Thomas FitzJohn, claiming to be Clementia's heir, re-entered the land. By his account Clementia's feoffment had been conditional upon part of the lands being amortised to support a chantry; this condition

[31] *Gesta abbatum*, iii, 237–241.

[32] For the mortmain licence, see *CPR, 1370–1374*, 211.

[33] The descent of the lands is most clearly set out in the collusive action of novel disseisin (discussed below) by which the dispute was finally resolved: *Gesta abbatum*, iii, 252ff.

[34] On this and ancillary issues, see J. M. W. Bean, *The Decline of English Feudalism, 1215–1540* (Manchester, 1968), 158ff.

[35] *Gesta abbatum*, iii, 227. 'executoribus Ricardi de Ecleshale et Clementie uxoris eiusdem'.

had not been fulfilled; the feoffment was therefore void; and the land had properly come to him by descent.[36] The abbot was having none of this and two days later the cellarer, Robert Chestan, re-entered. The difficulty, however, was that, while FitzJohn might have no good title to the land, he did have a plausible claim to it and that itself could be of value. Two days later he again re-entered and this time did not wait to be ejected in his turn: having entered with the aid of (among others) the seneschal of Alice Perrers, he immediately re-conveyed the land to Perrers and others. Now the abbot was stuck: as Walsingham relates, 'Alice Perrers was of such great power and preeminence in those days that no one dared to pursue his right against her'.[37] A contested title might be of little value to FitzJohn himself but joined to her political influence it was enough to maintain possession. The abbot's counsellors advised him not so sue: it would do no good at all; he must wait 'until more favourable fortune should smile upon him'.[38]

Besides the political difficulty blocking the abbey's path, there was a legal one as well. Even if Clementia's feoffment had been unconditional at common law (something that witnesses to it were prepared to swear to), it does not seem that her last wishes had in fact been carried out. In truth, however unimpeachable the abbot's claim at law, in conscience neither he nor FitzJohn had a good claim to the lands. Where one's opponent was so powerful that justice was impossible in the common law courts, a petition could be made to the chancellor.[39] But even had such a course been effective against Alice Perrers—and most likely it would not have been—bringing the dispute before a court of conscience would probably do more harm than good.

In these circumstances, the abbot decided that patience was the best course. His chance came soon: two years later, on 3 July 1376, during the Good Parliament, he re-entered. Unfortunately for St Albans, however, far from simplifying matters, this only made them worse. In all likelihood, the news of Alice Perrers' fall from grace precipitated de la Mare's action. But if so, he seriously miscalculated, for among the other acts of the Good Parliament was to order Perrers to desist from any further malpractice in the

[36] The grounds of FitzJohn's claim are set out in the French letter from the witnesses to Clementia's feoffment, commissioned later by the abbot in order to rebut FitzJohn's title. *Gesta abbatum*, 237ff.

[37] *Gesta abbatum*, iii, 229–230. 'Alicia de Perers fuit tante potestatis et eminentie illis diebus, quod nullus audebat prosequi ius suum contra eam'.

[38] *Gesta abbatum*, iii, 230. 'quousque sibi fortuna felicior arrideret.'

[39] For the early history of this 'equitable' jurisdiction in England, see Baker, *Introduction to English Legal History*, 97ff. and references therein.

king's courts, on pain of forfeiture.[40] Now it was entirely unclear whether the lands in question had been held by her at the relevant date (and so forfeit to the crown), or if the abbot had successfully got back his own on his own and was to be left in untroubled possession. Had the later doctrine that acts of parliament are held to be in force from the date of parliament's commencement been applied, the situation would have been—if iniquitous—at least a bit clearer. But there is no evidence that it was. As a result, St Albans remained in possession but when title to Perrers' forfeited lands was given to her husband, William Windsor, Oxhey was included.[41] This did not clarify matters at all.

The resolution of this never-ending dispute over Clementia's estate will be considered below. For present purposes what is significant is the example it affords of how disputes over the abbey's holdings might arise and be sustained. Any flaw in title, real or perceived, offered an opportunity. Because title to real property was relative, record-keeping challenging and limitation rules weak, the monastery's rights were vulnerable at every point. And once a dispute began, it took on an energy of its own. After William Windsor had re-entered Oxhey in July 1381, taking advantage of disorder following the Peasants' Revolt, St Albans had to demonstrate not only that Clementia's feoffment had been unconditional but also that the royal grant to Windsor had not, properly construed, included Oxhey at all and that his later entry was consequently wrongful.[42]

An abbot thus faced threats to his house's holdings on every side: through accident, through deliberately incited dispute and through genuine disagreement and doubt. How then, when confronted with such problems, could he resolve them? First and foremost he could negotiate a settlement. In 1383, for example, the abbot sued Sir John de Montacute, claiming to have been disseised of eight acres of woodland in Tyttenhanger, Hertfordshire. The issue went before a jury but had been effectively settled beforehand: de la Mare paid the knight £20 to lose by default, which he duly did.[43] Such collusive decisions were a frequent part of dispute settlement. The processes of negotiation were sometimes formally recorded. A long-standing dispute between the priory of Redbourn (a dependency of the abbey about four miles north-east of St Albans) and the earls of Warwick over a heath near Redbourn was resolved by a bipartite indenture which recites

[40] Ormrod, 'The trials of Alice Perrers', 378–379. And see, in general, G. Holmes, *The Good Parliament* (Oxford, 1975).

[41] *CPR, 1377–1381*, 503 and *Gesta abbatum*, iii, 233.

[42] *Gesta abbatum*, iii, 234.

[43] *Gesta abbatum*, iii, 268–270.

the manner of its agreement. The earl's council and the abbot's, having been in negotiation already for some time, arranged to meet on the heath in question. They examined the land and its boundaries and the abbot's council then produced the 'scriptas, euidentias, et munimenta' upon which their claim rested. Having scrutinised them, the earl's men acknowledged their force and disclaimed any right in the heath. In exchange, the abbot granted to the earl and the tenants of his manor a number of carefully specified easements: they might drive animals to market across the heath, for example, or drive their sheep across it on their way to bathe them, provided that they did not pasture them for more than two hours on the way across and only at certain times of the year.[44]

Such bilateral negotiations were not always effective and, when they were not, the monastery had frequent recourse to that staple of medieval dispute settlement, formal arbitration.[45] This can be difficult to see: it is not always clear whether a settlement was a result simply of negotiation between the parties or of the intervention of arbitrators. In 1365, for example, the abbot sued Richard Pecche in the London hustings court for an unlawful distress. Richard replied that he had distrained for an unpaid rent upon a London property. After the abbot had laid out the tenement's history, however, and argued that no such rent was owed, Richard asked for leave to imparl: 'petit licentiam inde loquendi'. Returning to court, he acknowledged the truth of the abbot's claims, lost his case and was amerced for his pains. Clearly some settlement was reached out of court, to be given enforceability by the judges' decision. But how the settlement was reached is unclear.[46]

Arbitrations are usually visible because documents relating to the arbitration process itself survive. Where an arbitrated agreement was not put into effect by court judgment, a private deed was necessary to bind the parties; this might recite the manner in which it was agreed. Thus on 15 March 1382, shortly before his death, William de la Zouche sealed a quitclaim or release in French to the abbot and convent of St Albans, by which a series of petty disputes was resolved.[47] The bailiff of his manor of Thornbury had

[44] *Gesta abbatum*, iii, 257–262.

[45] See in particular E. Powell, 'Settlement of disputes by arbitration in fifteenth-century England', *Law and History Review*, 2, 1 (1984), 21–43 and references therein. Also, A. K. Gundy, *Richard II and the Rebel Earl* (Cambridge, 2013), 20–21 and C. Carpenter, 'Law, justice and landowners in late medieval England', *Law and History Review*, 1, 2 (1983), 225.

[46] *Gesta abbatum*, iii, 77–80.

[47] This is the William son of Eudo de la Zouche who died in April 1382. See *ODNB*, *s.n.* 'Zouche [de la Zouche] family (*per. c.* 1254–1415)'.

demanded from the abbey the allegedly customary payments and services of *gloveselver*, *bederip* and *wakemeat*. St Albans claimed to hold only the rectory-house and the tithes, and those in perpetual alms, and thus to be quit of all such duties. The quitclaim recited that in the late 1360s 'there was a discussion and parlay between us at London' in the presence of William Wittleseye, then bishop of Worcester, the king's justices Henry Green and Robert Thorpe, 'and many other wise men'. Having considered the matter, 'touz les sages' declared the abbot quit, in consideration of which de la Zouche released all claim to the services.[48]

Defence might begin with negotiation between the two parties and turn to arbitration only once it was clear that no settlement was possible without intervention. When the warden of the earl of Hereford's park at Enfield claimed that the abbot was responsible for an enclosure between that park and the abbey's neighbouring wood, a meeting was arranged between the earl's men and the abbot's, including the prior, cellarer (at that time John Moot) and John Whitewelle, the abbey's seneschal.[49] A French memorandum detailing the course of the subsequent discussions was preserved by the abbey. First, the earl's men claimed that the obligation to construct the enclosure was a consequence of the abbot's tenure of lands from the earl. However, St Albans' record-keeping practices were equal to this challenge: Whitewelle presented a release from the earl's grandfather giving up all claim to services owed him by the abbey 'other than prayers'.[50] When this release was read aloud, the earl's men 'were all astonished and spoke aside of the matter for a very long time'. Taken aback as they were, they found nevertheless another argument to make: that the abbot and his predecessors had made such an enclosure 'from time out of mind'.[51] This was less easily rebuttable and the negotiations were adjourned for a time. De la Mare then had a search made amongst the records of the king preserved

[48] *Gesta abbatum*, iii, 266–288. 'trete et parlaunce y avoit parentre nous a Londres'. 'et plusours autres sages'. While the surviving document declaring the release was written just before de la Zouche's death, the arbitration itself must have occurred during Wittleseye's tenure of the bishopric of Worcester and before the death of Henry Green—thus between 1364 and 1369. See *ODNB*, *s.nn.* 'Wittleseye [Whittleseye], William (*d.* 1374)' and 'Green, Sir Henry (*d.* 1369)'.

[49] The date of this first meeting is not clear from the surviving sources, but must have been during Moot's tenure as cellarer—thus after 1353—and before the earl's death in 1373. A date close to the end of this period is much the most likely, as the earl had died before the later negotiations were held. *Gesta abbatum*, iii, 216-217.

[50] The release is dated 1305. *Gesta abbatum*, iii, 218. 'praeter orationes'.

[51] *Gesta abbatum*, iii, 219. 'furount tout estonys, et souparleront de coste bien longement'. 'de temps dount memoire ne court'.

in the Tower of London. There he found and had exemplified an assize record of 1223 making clear that the abbey's land in question was assarted in the time of Henry III.[52] As the memorandum says,

> it is well known that the whole time of that king Henry and the time of his father, John, and the time of king Richard, brother to the said king John, is time within memory, so that the challenge made by the said John Wrothe [warden of Enfield] is untrue.[53]

Since the land had only come into legal existence in the 1220s, no duty attaching to it could have existed 'time out of mind'. The issue might then have been entirely settled, but for the fact that the abbot and his predecessors had *in fact* constructed a barrier between the two tenements and, what is more, wished there to be one now. But, as de la Mare was at pains to point out, they had done so entirely on their own land and entirely for their own benefit; no duty to do so existed. At this point the abbot's men and the countess' (for her husband the earl of Hereford was now dead) had gone as far as they could in their bipartite negotiation: there had always been a barrier between the two properties; as a matter of fact the abbot's predecessors had constructed and maintained it; both parties wished for it to continue to exist; but St Albans refused to accept any obligation to maintain it; and no such obligation could be proved. In these circumstances arbitration was the obvious course and the one adopted. Both parties sealed an indenture by which the abbot agreed to construct an enclosure without this being in any way a precedent in time to come, with the whole agreement conditional upon a final settlement of the problem having been made within a year's time by the advice of the duke of Gloucester and the earl of Derby.[54] By this process of progressive escalation—negotiation between neighbours, conditional settlement, arbitration—complex and controverted issues could be resolved without having recourse to the courts. Only as much formality was introduced as was required.

[52] The exemplification is dated 16 March 1378, *CPR, 1377–1381*, 147. The calendared version is very summary and makes no mention of St Albans; the whole text is printed in *Gesta abbatum*, iii, 220–221.

[53] *Gesta abbatum*, iii, 222. 'conu chose est que tot le temps de celluy Roi Henry, et le temps de soun piere, Johan, et le temps le Roi Richard, friere au dit Roy Johan, est temps de memorie, issint que le chalange feat par le dit Johan Wrothe [warden of Enfield] nest pas veritable.' The beginning of the reign of Richard I had been first established as the 'limit of legal memory' for prescription in certain cases by 3 Edw. I, c. 29 (*Stat. Realm, 1235–1377*, 36). See C. R. Cheney and M. Jones, *A Handbook of Dates: for students of British history*, new ed. (Cambridge, 2000), 96.

[54] *Gesta abbatum*, iii, 222–226.

Recourse could be had to arbitration at any point in a dispute. After William Windsor had retaken possession of the lands at Oxhey in 1381, de la Mare began an action of novel disseisin against him in an effort to get them back.[55] Windsor petitioned for the action to be postponed on the grounds that he was going abroad on the king's service.[56] This petition was granted, but William died shortly thereafter and the abbot reinstituted proceedings against the nephew, John Windsor, to whom the lands then passed.[57] He in turn obtained a royal letter of protection; the abbot again petitioned that the assize go forward 'non obstante'; and the back-and-forth might have continued indefinitely had the two parties not finally come to an agreement in 1386, 'at the intervention of friends of them both, and especially on the abbot's side of the dukes of Lancaster and Gloucester and lord Thomas Percy, who at once both urged and pushed them'.[58] Windsor agreed to be bound by the decision of the dukes of Lancaster and Gloucester, who concluded that the abbot should have the lands at Oxhey and pay Windsor £50 in exchange. The two should allow the assize to proceed: if de la Mare were to win, John was to release all right in the lands and have his release enrolled in chancery at the abbot's expense; should John win, de la Mare would nonetheless enter and John then likewise quitclaim and enrol the release. The assize was held and John duly lost.[59] In this way the arbitrator's award was both formally recorded and made easily enforceable. Arbitration and litigation were not merely alternatives but could be used flexibly, alternately or in concert, to resolve disagreements, even after decades of dispute. In Powell's words, '[t]he two went hand in hand'.[60]

Arbitration was of course not always successful. The clearest failure in the monastery's records is a peculiar one, for success on the terms specified seems impossible *ab initio*. During a dispute with John Chilterne over unpaid rent, the two parties agreed 'through the mediation of friends of both parties' to meet, lay out their grievances and settle their

[55] *Gesta abbatum*, iii, 237.

[56] TNA, SC 8/222/11051.

[57] The grant of postponement is in *CCR, 1381–1385*, 322. The abbot's petition for a special assize is in *Gesta abbatum*, iii, 241–243.

[58] The successive petitions and assizes are printed in *Gesta abbatum*, iii, 241–246. The abbot's petition for continuance 'non obstante' survives as TNA, SC 8/183/9112. Its grant is calendared at *CCR, 1385–1389*, 61. Quotation at *Gesta abbatum*, iii, 246. 'amicis alterutrum interuenientibus, et maxime pro parte domini abbatis ducibus Lancastrie et Gloucestrie et domino Thoma Percy, exhortantibus simul et cogentibus'.

[59] *Gesta abbatum*, iii, 246–257.

[60] Powell, 'Settlement of disputes by arbitration in fifteenth-century England', 39.

strife once and for all 'by the judgement of friends'.[61] Yet, when they met on the day specified, Chilterne agreed after much discussion to be bound by the decision of the abbot *himself* and sealed a defeasible bond for 1,000 marks should he ever thereafter cause trouble on the matter in question. Of course the abbot was not impartial in his own cause and the agreement was shortlived: de la Mare prosecuted him on the bond and, when he did not pay, had him outlawed.[62] The manor of Abbot's Langley was assigned to the abbey's cellarer and, if it was with him that the disagreement had initially arisen, perhaps Chilterne thought (mistakenly) that the abbot would adjudicate fairly a dispute arising with an obedientiary; or perhaps he was pressured into accepting the 'arbitration' by friends or neighbours.

When negotiation and mediation were exhausted, impossible, or simply not the best approach, the abbey could defend its interests in the courts. First of all, the abbey's interests might be defended at the lowest social level by operation of the king's courts without any action by the monks themselves. In 1343, for example, the justices of gaol delivery at Hertford heard the case of Walter le Webbe. His erstwhile colleague in sheep-rustling had turned approver and now claimed that he and Walter had robbed several local landowners, including the abbot of St Albans. But to no avail: Walter denied everything and was acquitted.[63] At times the itinerant courts supplemented and formalised the local authority of the abbey itself. In 1336, for example, jurors responding to a general commission of oyer and terminer in St Albans reported that one William Bewuer, who customarily was allowed into the abbot's orchard, had there spotted an open door leading into a hall and stolen fruit from inside. He was captured, given a penance by the abbot and then 'abjured the said abbey'—a peculiar local reflection of the common-law procedure of abjuring the realm.[64] When neither the routine operations of the circuit justices nor the monks' own authority sufficed, abbots might also petition the king for a special commission of oyer and terminer to investigate and suppress disputes and disorder.[65] In 1334 a special commission was dispatched on Abbot Wallingford's complaint

[61] *Gesta abbatum*, iii, 7. 'mediantibus utriusque partis amicis' and 'iudicio amicorum'. This case is discussed at length below, pp. 119ff.

[62] *Gesta abbatum*, iii, 7.

[63] TNA, JUST 3/22/2, m. 6d.

[64] TNA, JUST 1/335, m. 5d. F. Pollock and F. W. Maitland, *The History of English Law before the Time of Edward I*, 2nd ed. rev. by S. F. C. Milsom, 2 vols. (Cambridge, 1968), ii, 518 and 590–591.

[65] See R. W. Kaeuper, 'Law and order in fourteenth-century England: the evidence of special commissions of oyer and terminer', *Speculum*, 54, 4 (1979), 734–784.

that a long list of named people had broken into his houses at Chipping Barnet and taken away his goods.[66] Commissions were sometimes more specific in the harms complained of: in 1356, for example, a special commission of oyer and terminer was granted to de la Mare to investigate his claim that a number of men had broken his park at Borham, 'hunted therein, felled his trees there and carried away those trees as well as deer from the park'.[67] The use of commissions of oyer and terminer for precisely such purposes was common in the fourteenth century.

This sort of disorder and petty crime rarely rose to a level at which it significantly threatened the monastery's core interests. When it did, as in the town of St Albans itself in the late 1320s and again in 1381, the monks were energetic in their response and voluminous in their record-keeping, to ensure that the rights then threatened might be stronger in future.[68] Most of the time, however, such incidents left little trace in the abbey's archives. What concerned the abbot and convent much more were threats to the house's property rights, the economic rock on which their church was built and by which it was sustained. How did they defend them in the king's courts?

To begin with, those cases in which the abbey was primarily defending its existing interests are not necessarily those in which it was formally defendant. For one thing, self-help was very common: a claim of novel disseisin could at times be just what it claimed, an attempt to restore the *status quo ante* following a recent entry by an opponent. For example, when de la Mare brought an assize against William Windsor after the latter's entry into Oxhey in the tumultuous summer of 1381, he was—as he saw it—complaining of a wrong and seeking to have his rights restored. Of course, the disseisor might himself be reacting to a previous encroachment, or the alleged disseisin might be no action at all, but rather a failure to perform an alleged duty. Thus in 1355 Nicholas de Horwode and his wife Joan sued the abbot and several others in the London hustings court for disseising them of rents arising from London holdings.[69] Rents arising from or charged upon real property were themselves incorporeal hereditaments: one could be seised of them and to withhold rent unduly was therefore a disseisin.[70] The abbot in this case

[66] *CPR, 1330–1334*, 571.
[67] *CPR, 1354–1358*, 493.
[68] On these episodes, see below, pp. 135ff.
[69] The action is described in the record as an 'assisa noue disseisine et mortis antecessoris', a local conflation, apparently, of the common-law possessory assizes.
[70] See in general the exposition in *Littleton's Tenures in English*, ed. E. Wambaugh (Washington, D.C.,

denied that the tenement was burdened by any such rent; his non-payment of a rent which was not owed was no disseisin; he asked the jury to attest the truth of this. The jury disagreed: the rent was owed and the abbot and others guilty of a disseisin. Nicholas and Joan were awarded seisin of the rent (in effect, its payment in future) and £98 13s 4d in damages.[71] As in the case of the monastery's deliberate non-payment of an annuity above, the plaintiff-defendant or claimant-tenant orientation of a case was a reflection only of which party had in the end decided to seek a solution in court, not of any agency in beginning the course of events which led to dispute.

To initiate a suit to vindicate his house's rights could be a risky course for an abbot. Common-law pleading was notoriously formalist and many suits failed of their object without their substantive claims ever having been addressed.[72] In 1334, for example, Abbot Wallingford sued Henry Wykewan for disseising him of a messuage and four acres in East Barnet.[73] Henry replied that he had it as a gift and feoffment of Richard Waledene, citizen of London, and had a charter to prove as much. But first, he argued, the abbot's writ was no good, for it failed to mention his wife Juliana, with whom he jointly held the tenements. The abbot replied that at the date he had obtained the writ Henry was sole tenant and the sheriff was therefore ordered to have Juliana come before the court to resolve the disagreement. As the sheriff failed to return the writ on the specified day, another day was given, but before it arrived Wallingford had died. Such was the legal identification of corporate head and members that the monastery's suit died with him and nothing was accomplished.[74]

The risks of trial could be lessened somewhat by extra-legal means. In the royal inquest of 1341 into abuses of local power, the jurors of St Albans presented that Abbot Richard had caused a number of men to be indicted for a murder 'before John of Cambridge and his fellow justices, who were of the said abbot's counsel'. The sub-sheriff of Hertfordshire then, at the abbot's direction, returned a jury of men 'from the affinity of the said abbot'.[75] The purpose of the manipulation, the presenting jurors alleged, was to

1903), bk. ii, c. 12 'Of rents'.

[71] *Gesta abbatum*, iii, 82–87.

[72] See Pollock and Maitland, *History of English Law*, ii, 558ff.

[73] It seems likely that the substantive issue here was whether or not the land was held by customary tenure, but unfortunately the case never approached the point.

[74] TNA, JUST 1/1412, m. 20r. Pollock and Maitland, *History of English Law*, i, 504–505.

[75] TNA, JUST 1/337, m. 3r. 'coram Iohanne de Cantebrigge et sociis suis iusticiariis de consilio dicti Abbatis existentibus'. 'ex affinitate dicti Abbatis'.

pressure the accused into renouncing the town's liberties.[76] The allegations were never tested, but there is no reason to doubt the statement that John of Cambridge was a less than impartial judge in cases involving the monastery: besides being a royal justice he was also employed by the abbey as its seneschal.[77] As Levett pointed out, the model oath of a seneschal preserved in the formulary book of Abbot de la Mare begins 'Ego J. de C.' Though this manuscript was compiled later in the century, the oath may well represent therefore the form sworn to by John of Cambridge, as the forms are frequently taken from the abbey's real documents, with names reduced to initials.[78] One clause of the oath declares: 'I shall promote the honour, rights and affairs of the said house as far as I am able and shall do all I can to prevent anyone from harming it'.[79] The townsmen were understandably upset at appearing before a judge who had sworn to advance the interests of their adversary, but for the monks it was undoubtedly a great convenience.[80]

Where judges were not already retained by the monastery, St Albans might at times resort to one-off payments: that is, frank bribery. In 1344, for example, a dispute arose over lands in Barnet.[81] The abbey's opponent, William atte Penne, had—or so Walsingham alleges—poured out great sums to turn local notables against the abbey. On account of this, he continues,

> the abbot, clearly perceiving that his right might be in danger unless he himself disbursed some money, spared no expense and attracted to his side all the jurists of the bench [i.e. the court of Common Pleas] who could best support his cause.[82]

Whether Michael de Mentmore was in truth only reacting to his opponent's previous bribery we may doubt and there is perhaps a significant difference between atte Penne's

[76] On this issue and the context of the case, see below, pp. 136ff.

[77] *Gesta abbatum*, ii, 206 and 220ff. Levett, *Studies in Manorial History*, 105.

[78] Levett, *Studies in Manorial History*, 105–106.

[79] CUL MS Ee.4.20, f. 74r. 'honorem, iura, et negocia eiusdem domus pro meis uiribus promouebo et defendam nec aliquem dicte domui pro posse meo iniuriare permittam'. The oath is also printed in Levett, *Studies in Manorial History*, 105–106, n. 9, with altered orthography.

[80] On the issue of retaining justices in general, see J. R. Maddicott, *Law and Lordship: royal justices as retainers in thirteenth- and fourteenth-century England* (Oxford, 1978).

[81] On this, see below, p. 207.

[82] *Gesta abbatum*, ii, 318. 'liquido cernens abbas ius suum periclitari posse, nisi et ipse pecunias erogaret, nullis parcens sumptibus, cunctos de banco allexit iuristas in partem suam, qui melius cause sue nouerant suffragari.'

payments to 'maiores patrie' and the abbot's wholesale subornation of the court. Nevertheless, it is significant that Walsingham chose to frame the abbot's actions in this way: such payments were a necessity and a fact, but at the same time corrupting and seen to be so.

The perils and pitfalls of litigation could not be entirely avoided, however. When once a case came to court, it was decided not upon the basis of consideration of the whole dispute in its complexity and context, but upon whatever issue the parties joined in the course of their pleadings. In 1340 the prior of Bushmead sued Adam Flaun, a chaplain of St Albans, for the manor of Caldecote. Flaun vouched the abbot of St Albans to warranty, as the lessor to him of the manor which he held for a life term only. The abbot's attorney came and in turn vouched to warranty the same Adam. At this the prior's counsel, Kelshulle, objected: this was the same person; why was the abbot vouching him again? The abbot's representative replied that Adam had held the manor before the abbot, had enfeoffed St Albans and had then afterwards been given a life interest. This justification of the double voucher was judged to be traversable and issue was joined on whether or not Flaun had held the land before the abbot. But, although the issue of law raised was thus neatly disposed of, the issue of fact was never established. In 1341 the abbot's attorney came again before the court and said that, 'while the plea between them was there pending', the prior had quitclaimed by deed to him any right he claimed in the manor, and proffered the deed in court. The prior acknowledged the deed to be his and his convent's, lost the case and was amerced.[83] To have all right in the manor hang, first, upon the question of whether a vouchee who re-vouched his vouchor had to show cause for the second voucher (and thus whether that cause was traversable) and, secondly and in consequence, upon the question of whether Adam Flaun had in truth enfeoffed the abbot of the manor before re-entering as life tenant, was tenuous indeed. It is unsurprising that the parties chose instead to settle before the jury's verdict was returned. But such, of course, was the nature of common-law procedure and not only in the royal courts. Thus in 1340 Abbot Mentmore sued Simon, son of Woluin Cote, for a messuage in London, on which, he alleged, Simon had failed to pay rent.

[83] TNA, CP 40/323, m. 217r. YB (Rolls Series) 14 Ed. III, 289–291. *Gesta abbatum*, ii, 330–333. 'pendente inde inter eos placito predicto'. This is another case in which Walsingham derives his text from the enrolled pleadings and indicates his source by year, term and *rotulus*: 'Trinitatis quarto decimo, Rotulo ducentesimo septimo decimo'.

Simon denied having been tenant of the holding at the time the abbot obtained his writ. Mentmore disagreed and it was on this that issue was joined. The jury empanelled declared that Simon had been tenant on the relevant day and the abbey recovered.[84]

In spite of all this, many disputes were in fact resolved straightforwardly by the courts. For example, in 1355 de la Mare, as rector of the monastery's appropriated church of Ellingham in Northumberland, sued John of Barnard Castle, the vicar of that church, in an assize *utrum* to determine which of them was entitled to certain lands in the parish.[85] John replied that the bishop of Durham was patron and ordinary of the church and that he was unable to answer in his absence. The bishop was duly summoned to attend a later meeting of the assize but, when the day came, did not appear. In the event John was ordered to answer anyway and both parties submitted their claims to a jury. The issue was tried at *nisi prius* in Newcastle, the answer returned that the abbot was entitled to the lands and a writ issued to the sheriff to put him into seisin.

The monastery most frequently defended its landed interests in the central courts at Westminster, before the justices on assize circuits and in the courts of the City of London. At times, however, none of these were adequate to the case. In such an instance an abbot might, as in the dispute with Alice Perrers, simply wait until circumstances were more favourable, or he might appeal to a higher authority. In the early 1330s, Abbot Wallingford petitioned the king in parliament to be paid arrears of rent for a mill at Langley now held by Queen Isabella.[86] This mill had been a source of anxiety to the monastery for centuries. In 1185 a dispute over the mill with William Cheyndut had been settled in the king's court by a final concord: in the presence of the archdeacons of Canterbury and Chichester and other *magistri*, William had acknowledged the mill to belong to St Albans and had quitclaimed all right in it. In return, the monk Peter, whom the abbot had put in his place 'ad lucrandum uel perdendum', granted the mill to William and his heirs to hold for 20s rent for all services.[87] William's son Ralph later

[84] *Gesta abbatum*, iii, 80–82. The record does not state specifically in which of the London courts the case was heard.

[85] *Gesta abbatum*, iii, 41–43. He is named 'Iohannes de Castro Bernardi' in the record.

[86] TNA, SC 8/11/546. *Rotuli Parliamentorum*, 6 vols. (London, 1767–1777), ii, 80. *Gesta abbatum*, ii, 267–269. This petition itself is undated but printed in the *Rotuli Parliamentorum* with the petitions of 1334.

[87] BL MS Cotton Otho D.iii, f. 66r. William is named 'Chendedint' in the Otho copy of the final concord but Cheyndut (or similar) in the monastery's later records of the dispute. For consistency I have adopted the latter spelling.

in turn confirmed the grant to St Albans and all seemed settled.[88] Unfortunately for St Albans, however, William's descendant Stephen later alienated the mill to Eleanor of Castile, queen consort of Edward I, whose bailiffs failed to pay the stipulated rent. The then abbot, fearing to distrain upon the queen for the unpaid rent 'on account of the reverence and dignity' owed to her, petitioned for a remedy.[89] Hugh de Cressingham, the queen's steward, appeared to rebut the claim.[90] He argued that, even if the abbot's predecessors had received some rent from the mill at Langley, Stephen had not paid the rent for at least a year before alienating it to Eleanor, but had held it quit of all services. If there were any injury, it was at his hands, and Eleanor and her bailiffs had done nothing at all.[91] Evidently this petition accomplished nothing, for the rent continued to go unpaid until the third year of the reign of Edward II, when another petition succeeded in extracting from the king the arrears of rent stretching back to Eleanor's acquisition, but not in securing its payment in future.[92] In 1333, Abbot Wallingford's petition was forwarded to the chancellor, together with an inquisition which had been held at Westminster (conveniently for the monastery, before John of Cambridge) setting out the facts of the mill's descent and the history of non-payment.[93] The chancellor accepted the abbey's arguments and the evidence of the inquisition. He ordered the king's mother to pay the rent henceforth and ordered the exchequer to deduct the arrears from the debts owed by St Albans to the king.[94] Fortified by the knowledge generated by the inquisition and by the king's warrant, the monastery was at last made secure in its rights.

Resolution of a dispute did not always bring the monks the result they desired and,

[88] BL MS Cotton Otho D.iii, f. 66r. Some slight confusion is caused in the records by the fact that William's father, who allegedly first gave the mill to St Albans, was also named Ralph.

[89] BL MS Cotton Otho D.iii, f. 68r. The text is damaged at this passage, but the meaning is clear.

[90] Cressingham was steward from 1286 until Eleanor's death in 1290. See *ODNB*, *s.n.* 'Cressingham, Hugh of (*d.* 1297)'.

[91] BL MS Cotton Otho D.iii, f. 68r.

[92] This chain of events was established by the later inquisition, discussed below.

[93] The writ ordering the inquisition is TNA, SC 8/11/545B, printed at *Gesta abbatum*, ii, 270–272. It is dated 9 January 1331 and recites that the order was issued in response to an earlier petition by the abbot, which has not itself been preserved. The inquisition itself is TNA, SC 8/11/545A, printed at *Rotuli Parliamentorum*, ii, 80–81 and *Gesta abbatum*, ii, 272–275. The endorsement of the abbot's petition, TNA, SC 8/11/546, orders that it be sent to the chancellor together with the result of the inquisition. This endorsement is also printed at *Rotuli Parliamentorum*, ii, 80 and *Gesta abbatum*, ii, 269. The letter under privy seal to the chancellor commanding him to do right therein is dated 3 February 1333 (*Gesta abbatum*, ii, 269–270).

[94] *CCR, 1333–1337*, 235–236. *Gesta abbatum*, ii, 275–277.

when it did not, there was little they could do. Being a perpetual and undying ecclesiastical corporation, they had the privilege of time: as in the case of the mistaken settlement concerning the roads at Redbourn, they could save their records and hope that future generations might have better luck. They could petition king, parliament or chancellor for a new remedy or for protection against the effect of a judgment. But actually to overturn the result of litigation was difficult. There is no evidence of St Albans' cases being re-examined by proceedings in error, which allowed a higher court to correct manifest mistakes visible on the record of the earlier trial.[95] There is, however, evidence that they made use of the procedure of attaint, by which a perjured jury giving a false verdict could be convicted and its verdict reversed.[96] In 1335, Abbot Wallingford, unhappy with the result of an assize of novel disseisin which he had brought against William de Brenchesle and William le Coroner concerning a tenement in Barnet, attempted to attaint the jury. Apparently some settlement was reached, however: after beginning the action, Wallingford did not pursue it and was amerced for his non-appearance.[97]

Such then were the threats to the monastery's interests in the realm and the monks' manners of resolving them. The image of the abbey as a beleaguered castle, surrounded on every side by predatory enemies at all times ready to do it harm, has a certain appeal and at times the monks themselves thought and wrote in such terms. Walsingham portrayed de la Mare as a warrior for the abbey's rights,

> so high-spirited and wise that he scarcely feared death, as long as he could safeguard the rights of his monastery […] and though many rose up against him, many times, and he was then heavy burdened, he could never be overborne or defeated.[98]

The truth, however, was somewhat more prosaic. As we have seen, most dangers to St Albans' property arose from non-payment of rents, from claims that the abbey had some obligation to perform as a condition of tenure of its lands, or (much more occasionally) from challenges to the abbey's underlying title. The fact is that the monastery's ownership

[95] Baker, *Introduction to English Legal History*, 136–138.
[96] Pollock and Maitland, *History of English Law*, ii, 541–542 and 665.
[97] TNA, JUST 1/1420, m. 3r.
[98] *Gesta abbatum*, iii, 3. 'magnanimus et cordatus, ut pene mortem non timeret, dummodo iura sui monasterii tueri posset […] Et cum plures insurrexissent contra eum diuersis temporibus, licet ad horam grauatus fuisset, opprimi nunquam potuit, uel deuinci.'

of lands and of rents was in reality a set of obligations imposed on other people to do certain things: to perform services, do suit of court, pay rents and the rest. When they did so, when year after year and harvest after harvest the abbey's tenants and neighbours behaved as the monks believed they should, then the abbey's ownership was recreated and reaffirmed. That was all their rights consisted of, all they could consist of: a pattern of behaviour. The notion of seisin itself reflected this dynamic nature of property rights: one was seised of a rent by receiving its payment, seised of a service by its performance, seised of an advowson by making presentment, seised of a manor by the attornment of tenants. And when others did not behave as, in the monks' view, they ought, then their ownership failed: St Albans was disseised of its rents, of its services, of its lands. Then it set about, by self-help, by negotiation, by arbitration, by litigation, or by petition, to cajole or compel their opponents into behaving as they should, or repel their attempt to change the monks' own behaviour. The *status quo* that the abbots fought to preserve was not a static state, but a pattern of movement.

3.2
Acquisition

After protecting the house's possessions, the next responsibility of a conscientious abbot was to extend them. Acquiring property was complex, expensive and time-consuming, but an important component of abbatial virtue. As the temporary head and legal embodiment of a perpetual corporation, an abbot had considerable freedom to mortgage his abbey's future for immediate benefits realisable during his own abbacy. 'Bad' abbots left their houses deeply in debt: burdened by grandiose building works, ill-considered leases, corrodies granted to friends and relations, and laxity in management and accounting. Abbot Wallingford's predecessor, for example, Hugh de Eversdon,

> chased chiefly after grand appearance […] and, so that he might seem to be as he yearned to be thought, his wasteful hand gave out many a time a sterile bounty.[99]

As a result of that pursuit of magnificence which Walsingham denounced, Eversdon died

[99] *Gesta abbatum*, ii, 177. 'Magnificentiam […] plurimum sectabatur, et, ut appareret quod concupiuit reputari, munificentiam infructuosam multotiens fecit prodiga manus eius.'

leaving the abbot's chamber 5,000 marks in debt; left pensioners who were owed £80 18s 5d per year; and left, in addition, more than fifty-four corrodians. He had raised £7,605 by laying waste the monastery's woods and taken an 'aid' from the convent of £700 and a 'subsidy' from the priors of the house's dependent cells of £6,000. He appropriated a gift of £100 given to the convent by Edward II, tallaged his own tenants £1,000 and raised £1,707 by selling corrodies charged on the abbey and £1,000 by those charged on its cells. Worst of all, he realised (and spent) decades of earnings from St Albans' landed properties by leasing lands to tenants for life or long terms of years in exchange for large payments up front, 'pre manibus'. The manor of Combes, for example, was leased for life for £100 up front and Barnet, together with its assize rent and a mill, for ten years for 80 marks in hand. This impoverishment of the future in the interests of the present was made particularly blatant by de Eversdon's practice of granting long leases on which rents were reserved only for the first half of the term, or only for the first few years. Thus he farmed the manor of Pynefeld for sixteen years in exchange for the payment of £40 in each of the first five years; the manor of Walden and two mills for ten years for payment of £40 a year for two years; and many more besides. By Walsingham's accounting, the total rent lost to the abbey by this weighting was £647.[100]

There were reasons, not all bad, for Abbot Hugh's profligacy: he did acquire certain properties, made repairs in the monastery and had to contend with the gravely unsettled political climate under Edward II.[101] Still, he fell well below the ideal of sound abbatial management. At the least, an abbot should leave his house in the state he found it; better still to defer present gratification and spend his time, money and political influence on improving his abbey's position in perpetuity. How could he do this? What legal avenues were open to him and what legal obstacles stood in his way?

The course of virtue was in essence the inverse of the course of vice. Corrodies were a troublesome burden, whether granted for good reason—at the instance of the king or as a reward for faithful service, for example—or for bad, as in de Eversdon's fund-raising scheme. Buying them out or preventing their renewal was a worthwhile effort. In 1364, for example, 'through the praiseworthy responsibility of *dominus* Thomas the abbot, who wished to put an end to this servitude' (for Walsingham took a very dim view of corrodies), the abbey came to an agreement with the king to buy one out. Since

[100] *Gesta abbatum*, ii, 178–181.
[101] *Gesta abbatum*, ii, 181.

the time of Abbot Wallingford, the king had appointed someone to receive for life from the abbey 'as much as a monk of the same house'.[102] The privilege had been granted a number of times in succession, first to Isabel atte Helde and most recently to William Cheupayn, 'autrement dit "Robert Fool"'. It was agreed that after the death of William the king would have no claim to present anew and, in exchange, the abbey granted him land adjacent to his park at King's Langley.[103] Extinguishing corrodies had been part of de la Mare's task from the very beginning of his abbacy. In 1350, immediately after his election, a settlement was made concerning another crown corrody: one by which the king claimed, as a right of his predecessors time out of mind, to present, each time a new abbot was elected, a cleric of his choosing to receive 100s *per annum* from the monastery until it provided him with a suitable benefice. The abbey disputed any such ancient claim, 'as it is clear that the monastery was so founded that it would be utterly unsubjected to any servitude.'.[104] Notwithstanding the disagreement, the abbot agreed to trade the advowson of its church at Dachet for a quitclaim of this right by the king, to apply first to the election of de la Mare himself and to all future elections.[105]

It was not always so easy to come to terms on questions of corrodies. In 1358 the king granted for life by letters patent the office of keeper of the warren of St Albans to John Gardiner, his 'familiaris'.[106] The warrenership had been held by William de la March, likewise a close associate of Edward, until his death. Gardiner claimed the office 'ex feodo' by the king's grant: claimed, that is, that de la March's grant had also been by the king's gift and that the responsibility and its perquisites had turned, like many offices, into a bundle of rights analogous to property and had passed outside the abbot's own grant. A royal letter sent two weeks after the grant prodded the monastery to induct Gardiner, but de la Mare disagreed and disobeyed. Instead he wrote back to the king explaining the abbey's reasons for inaction. William de la March had never held the office of warrener, he explained, but had merely been granted each year £10, a gown and a cart of hay by one of de la Mare's predecessors as abbot,

[102] *Gesta abbatum*, iii, 113–114. 'laudabili sollicitudine domini Thome abbatis, uolentis finem ponere seruituti'. 'tant come moigne de mesme la meson'.

[103] *Gesta abbatum*, iii, 115–118.

[104] *Gesta abbatum*, iii, 100. 'cum constet ipsum monasterium ita fuisse fundatum, ut nulli omnino seruituti foret obnoxium'. These words of Walsingham's refer not to this corrody dispute in particular, but to the general problem of rapacious royal claims to corrodies.

[105] *CPR, 1348–1350*, 463 and 500. *Gesta abbatum*, iii, 118–120.

[106] *CPR, 1358–1361*, 27. The description is from *Gesta abbatum*, iii, 101.

> chiefly for the labour and help given to him and his house at the time when there was dispute between the town of St Albans and the aforesaid house.[107]

That is to say, it was for his assistance some thirty years before in defeating the claims of the rebellious townsmen after Edward II's deposition.[108] The king was not initially swayed and promptly wrote again repeating the command. The abbot then sent the monastery's prior to set out *viva voce* the reasons for his refusal but, when ordered to appear before the council, the prior apparently returned home instead, to the king's evident annoyance.[109] In lieu, de la Mare sent a new letter, in which he laid out the abbey's evidence. In the first place, the office of warrener was, he explained, a bailiwick and, as such, any appointment to it by the king would be by letters patent, as indeed Gardiner's had just been. The council then had the chancery rolls searched and could not find that such letters patent had ever before been issued. Next he produced a letter from the king from 1327, in which Edward asked the monastery to appoint de la March, his cook, as forester and warrener of the liberty, 'pur lamour de nous'. This showed, de la Mare argued, that de la March had had nothing by royal grant, but only at the abbot's gift. And even this was not all, for he went on to explain that in fact Abbot Hugh, after consulting the convent, had refused to appoint de la March to any office. Rather, the abbey had offered him an annuity in exchange for past service and future loyalty, agreed by indenture, a copy of which de la Mare enclosed. In spite of John Gardiner's best efforts to press his case before the council, the evidence was overwhelming and the king abandoned his claim.[110]

Extinguishing and combating ill-granted or burdensome corrodies was a good way to improve the abbey's position, and the abuse of the institution during Hugh de Eversdon's abbacy brought it, for good reason, into some disrepute at St Albans. Properly employed, however, the granting of corrodies and the maintenance of the retired might itself be part of a well-planned strategy of acquisition. During Michael de Mentmore's abbacy, for example, the elderly Sir Ralph Wedon was much impressed by the abbot and decided to end his days at St Albans. After moving in, he was to give his manor of Heymundescote

[107] *Gesta abbatum*, iii, 103. 'principalment pur son travaille et aide enfaite a lui et sa meson en temps quant le debat estoit entre la ville de Seint Alban et la meson avantdite.'

[108] On this whole episode, see below, pp. 136ff.

[109] *Gesta abbatum*, iii, 105–106. This is the king's account; no reason for the prior's abandonment of his mission, nor indeed any mention of it, appears in the abbey's own letters on the subject.

[110] *Gesta abbatum*, iii, 107–113.

to the abbey; nothing is said, unfortunately, of exactly what he was to receive in return.[111] In the event Sir Ralph, 'duplex et varius', changed his mind and moved out, but the monks kept the manor.[112] Unfortunately, Walsingham explains, they had great difficulty in those days in having properties conveyed into mortmain, in particular because the abbey lacked ready cash to pay the costs of an inquisition *ad quod damnum*. As a result, after Sir Ralph's death Heymundescote was not conveyed to St Albans in frankalmoign as he had intended but instead sold to the lawyer Henry Green, who gave the abbey 500 marks in exchange.[113] It is not clear how this was effected: perhaps Sir Ralph conveyed the manor to feoffees to the use of his last will before he died and these agreed that a sale for the abbey's benefit would adequately fulfil the terms of his bequest.

This problem of mortmain was a significant obstacle to fulfilment of the second aim of a virtuous abbot: the actual acquisition of new estates. These might come to the monastery by gift, by purchase, by judgment, or by escheat, but however they did so, the mortmain statute of 1279 stood in their way.[114] Royal letters patent record frequent confirmations and licences of grants into mortmain to St Albans. In 1338, for example, two small grants to the abbey in the town of Sarratt were confirmed.[115] The expenses of this process, however, were considerable and unpredictable: as with Heymundescote, opportunities might arise at times when the abbey was ill-equipped to take advantage of them. To lessen this difficulty, Abbot Hugh obtained from Edward II in 1311 a general licence to acquire land to the value of £100 *per annum*.[116] Yet even this did not avoid all disputes, as a series of notes in the formulary book of Abbot de la Mare makes clear. A set of memoranda describes the taxation of Nicholas IV, the passing of the Statute of Mortmain, the agreement between Abbot John of Berkhamsted and the crown over custody of the abbey during vacancies, and finally the block mortmain licence granted to Abbot Hugh. There follows a long list of lands acquired during the abbacies of John

[111] *Gesta abbatum*, ii, 364.

[112] The negative terms in which this change of heart is described in the *Gesta abbatum* may reflect some dispute over the terms his residence or perhaps a personal disagreement, but nothing is explicitly said to that effect.

[113] Green is described as 'uiro nobis semper amicissimo' by Walsingham. He became a justice of the Court of Common Pleas in 1354 and chief justice of the Court of King's Bench in 1361, dying in 1369. J. Sainty, *The Judges of England 1272–1990: a list of judges of the superior courts* (London, 1993), 8 and 65. See also *ODNB*, *s.n.* 'Green, Sir Henry (*d.* 1369)'.

[114] Raban, 'Mortmain in medieval England'.

[115] *CPR, 1338–1340*, 103.

[116] CUL MS Ee.4.20, f. 261r.

de Maryns, Hugh de Eversdon, Michael de Mentmore and de la Mare himself, with marginal sums totalling the rents derived from each. At the end of this list, it is declared that the sum of all the acquisitions made in part satisfaction of the aforesaid licence comes to £85 13s 7d and the amount outstanding correspondingly to £14 6s 5d. But, it adds, the amount outstanding should rightly be some £20 more than this. For, although a group of lands conveyed to the monastery by its former seneschal John Whitewelle had been valued by an inquisition at £20 *per annum*,

> nevertheless lord John Knyvet, then chancellor of the kingdom, asserting (though untruly) that there had been fraud or collusion in the said inquisition, by his own decision increased it to £40.[117]

Nor was this all, for even the diminished outstanding value proved to be unusable. When the abbey tried to use it to cover the acquisition in mortmain of lands conveyed by Thomas Charleton and John Rolonde, the chancellor, by now Thomas Arundel, disallowed the attempt and did not allow the lands to be conveyed 'unless the royal charter on acquisition be first cancelled'. The monastery's record declares indignantly that this was done 'without the consent of the king and contrary to the law and procedure hitherto used in the kingdom of England', but Arundel was unmoved.[118] The king's servants were vigilant in monitoring alienation into mortmain and ensuring that they extracted the maximum revenue from the licensing system.

The problem arose with nearly every mode of acquisition, not only purchase and gift. When the monastery recovered lands by the possessory assizes, the jury was asked whether the action was being used collusively to convey lands and thereby avoid the effects of the statute. Thus, when de la Mare sued the vicar of Ellingham, in 1355, the jurors of the assize *utrum* declared at the end of their verdict that there was no 'fraus seu collusio' between the two parties.[119] Likewise, in his dispute with Sir John de Montacute, against whom the abbot brought an assize of novel disseisin, the jurors were asked if there had been any 'fraus siue collusio' and replied that there had not.[120] The only manner in

[117] CUL MS Ee.4.20, f. 264r. 'nichilominus dominus Iohannes Knyuet tunc Regni Cancellarius asserens licet minus uere falsitatem seu collusionem fuisse in inquisicione predicta ex proprio suo motu extendebat eadem ad xl. libras.'

[118] CUL MS Ee.4.20, f. 264r. 'nisi prius frangeretur Carta Regia de adquisicione'. 'absque Regis consensu et contra ius et formam eatenus in regno Anglie usitata'.

[119] *Gesta abbatum*, iii, 43.

[120] *Gesta abbatum*, iii, 270.

which land came into the monastery's hands free of any problem was by escheat. In part, this may reflect an understanding that acquisition by escheat was not really acquisition at all but rather, like surrender of lands by a tenant at will, an exercise of a power inherent to lordship. The logical difficulty of a collusive escheat may have played a role as well.[121]

The mortmain licensing system undoubtedly added trouble and expense for abbots hoping to expand their monastery's lands, but it hardly prevented them from doing so: Wallingford and his successors were consistently successful in fulfilling this basic abbatial duty. How did they do so? Lands and rents came into the abbey's hands by gift, purchase, judgment, escheat, or reversion. Gift was, of course, the most straightforward. The great age of Benedictine landed endowment was, by the fourteenth century, long past and the swells of lay patronage had turned in other directions. Nevertheless, a consistent trickle of lands, rents and gifts of cash came to St Albans, many commemorated in the abbey's books of benefactors.[122] These might be small and single payments, as when 'John Pikebon gave 20s to the convent for the soul of his wife Margaret'.[123] Gifts might be earmarked for a particular purpose within the monastery, as when William de Burton, 'iuris peritus', gave five marks for work on the abbey's cloister.[124] Among the more interesting of these is the gift commemorated in the Cotton book of benefactors from William Gardines who, with his wife Hauwysa, gave half a mark 'for use on the present book'.[125] The abbey received gifts in kind, as well: John Aynel gave a precious stone, 'which we commonly call *saphirum lupum*', to be put upon the tomb of St Albans.[126] More significant were gifts of lands, though at this date these also were likely to be small. Stephan de la Mare, the nephew of Abbot Thomas, gave a tenement in 'Dagenale' to the monastery which was afterwards sold for £10.[127] Many gifts were of small plots or rents within the town of St Albans itself: during de la Mare's abbacy, for exam-

[121] An example of an escheat being briefly, and wrongly, treated as having been in violation of the statute is given by Raban, 'Mortmain in medieval England', 16–17 and n. 48. The mistake was corrected.

[122] BL MS Cotton Nero D.vii and CCCC MS 7.

[123] BL MS Cotton Nero D.vii, f. 103v. 'Iohannes Pikebon dedit conuentui pro anima uxoris sue Margarete uiginti solidos.'

[124] BL MS Cotton Nero D.vii, f. 105r.

[125] BL MS Cotton Nero D.vii, f. 108v. 'ad opus presentis libri'.

[126] CCCC MS 7, f. 109v. 'quem uulgariter uocare solemus saphirum lupum'. *uulgariter* suggests that this may refer to an English or French name, but I am unsure what that would be.

[127] CCCC MS 7, f. 110v. This may refer to Dagnall in Buckinghamshire, but a later gift recorded on the same folio describes a plot in St Albans itself as 'in uico de Dagenale situatum'.

ple, Thomas Palmere and William Langeley gave five shillings of rent in St Albans.[128] In many such cases the abbey must have been receiving back the use of lands of which it was lord and had granted out at some earlier date.

Whether a conveyance was actually a gift freely made is not always evident: the books of benefactors are concerned only to commemorate givers and record neither the details of the licences required for acquisitions (as the abbey's other records often do) nor always what was given in exchange. Where a quid pro quo is specified the abbey often granted a corrody. Thus John Gelus gave a corner plot on Church Street to the office of the abbey's kitchener, but 'nevertheless had for it a certain corrody to last for the lives of him and his wife'.[129] Likewise Johanna de Ware, 'soror nostra', gave a house in St Albans for which she received in exchange a life corrody.[130] As in the case of Sir Ralph Wedon, the abbey's institutional stability and legal perpetuity meant it could offer sellers a secure retirement. These corrodies were evidently at times charged on the very tenements given to St Albans and the distance in such a case between an exchange for corrody and the grant of a reversion while keeping a life interest was small. Thus Reginald 'dictus Heynotaceoffoton' gave a tenement adjacent to the monastery's great gate, receiving a 'magnum corrodium de eodem' in exchange.[131]

Lands and rents given to the abbey might be given in possession or in reversion: the actual use of the land might pass upon the conveyance, or only its future expectation. The former was the most straightforward and very common: the examples above were all gifts in possession. With the grant wholly in hand, the abbey could choose to keep it in demesne, grant it out for a term of years, for life, or in tail, or sell it and realise the gift's value immediately. Richard Eccleshale and his wife Clementia, for example—the same pair whose conveyance of Oxhey caused the monastery such trouble—bequeathed the abbey a tenement in Haliwelle called 'Stonehalle'. The holding was sold for £30 and the money given to the kitchener.[132] But very common also were grants of holdings or rents in reversion, whether for the life of the grantor or *pur autre vie*. In the first case, the grant

[128] CUL MS Ee.4.20, f. 262v.

[129] CCCC MS 7, f. 110v. 'habuit tamen pro eodem quoddam corrodium per tempus uite sue et uxoris sue duraturum.'

[130] CCCC MS 7, f. 111r.

[131] CCCC MS 7, f. 111r. While 'eodem' might refer to the preceding 'monasterii', its most likely antecedent is 'tenementum'.

[132] CCCC MS 7, f. 111r. The land could be bequeathed, evidently, because it lay within the town of St Albans.

fulfilled much the same purpose as an exchange for a corrody: the present holders were maintained for their lifetime and received some additional immediate benefit, whether spiritual or material. The abbey, in turn, was able again to leverage its perpetual nature to realise a significant future gain it might not otherwise be able to afford. Thus John Pikebon and his wife conveyed, on the day when they were received into the fraternity of St Albans, 'their grand house' and two acres of land, situated in 'le Freynsche Rowe' in the town, to take effect upon their deaths.[133] In the second case, the grant of reversion was made to St Albans after the grantor had already demised the holding to someone else for life and thus had only an expectancy to give. When, in 1349, William Pursere and his wife Matilda conveyed to the abbey four messuages, twenty acres of land and 9s rent in St Albans in possession, they conveyed at the same time the reversion of a tenement which they had previously granted to John Pikebon.[134] In the same year, Andreas Power of Mentemore and Thomas Palmere granted the abbey the reversion of two tenements which William Langeley and his wife Mabilia held of them for the term of their lives.[135] Reversions of lands held *pur autre vie* were more valuable to the abbey than they were to the initial grantor and reversioner, for the monks were less constrained by temporal considerations.

Much more important than acquisitions by gift or by exchange for corrodies at this date were outright purchases. The *Gesta abbatum* continuation which follows the Corpus list of benefactors begins with an extensive list of Abbot de la Mare's purchases.[136] Some of these were very substantial additions to the abbey's lands. He bought the manor of Gorham from the countess of Oxford, for example, for 800 marks.[137] For the manor of Wrobbele Myrenden he paid 160 marks up front and eleven and a half marks *per annum* for each of the following twenty years, a total—the continuator calculates—of £260 26s

[133] CCCC MS 7, f. 110v. 'nobile mansum suum'.

[134] CUL MS Ee.4.20, f. 262v and *Gesta abbatum*, ii, 360. It is of some interest that the wording of these two passages is identical. Whether the passage in BL MS Cotton Claudius E.iv (i.e. the *Gesta abbatum*) derives directly from the list of licensed alienations into mortmain preserved in CUL MS Ee.4.20 or whether they both derive from a third source in the abbey's archives, the relationship throws some light on Walsingham's very verbatim manner of compilation.

[135] CUL MS Ee.4.20, f. 262v and *Gesta abbatum*, ii, 361. These two passages are also identical.

[136] CCCC MS 7, ff. 112r et sqq. This is printed in *Gesta abbatum*, iii, 375ff. In what follows I quote from the manuscript to avoid the anachronistic Victorian orthography introduced in the Rolls Series edition, but give references to both manuscript and printed text for the reader's convenience.

[137] CCCC MS 7, f. 112r and *Gesta abbatum*, iii, 376.

during Thomas' abbacy.[138] He spent more than £200 on securing the abbey's possession of the church of Appleton in Ryedale, worth at least £20 *per annum*.[139] McFarlane suggested that the purchase price of lands in the fifteenth century was approximately twenty times their annual return and by that measure this was a very good deal indeed.[140] As Raban has pointed out, however, the much more limited demand for appropriations created different scales of valuation for appropriated rectories; ten times the annual return was there in line with expectations.[141] For half of the manor of Norton le Clay in Yorkshire he expended more than £50, assigning it afterwards to the convent.[142] The scale of these acquisitions was far greater than the small gifts the abbey received *ex gratia*. In fact, the list of de la Mare's purchases includes acquisitions recorded in the abbey's books of benefactors where no payment is noted. The tenement of William Langley, for example, is listed among those the abbot acquired 'through heavy sums of money, pensions and long corrodies'.[143]

Less practically important (but more legally interesting) was acquisition of property by escheat. This could be of two forms: escheat *propter defectum sanguinis*, when a tenant died without an heir, and escheat *propter delictum tenentis*, when a tenant was convicted of a felony.[144] In each case the land reverted to the lord and St Albans benefited from both in this period. During the long dispute over Oxhey, for example, part of the lands held by the feoffees and executors of Clementia Eccleshale prior to their transfer to the monastery were held from St Albans itself. Two of the feoffees quitclaimed their stake in these lands (some thirty-four acres of arable land and two acres of wood) to the third, John Stoke. When Stoke then died seised of the lands without an heir, the abbot was able to enter 'ut in escaetam suam'.[145] This neatly disposed of any need for a mortmain licence and accomplished Clementia's aim, in part, without any conveyance to the monastery having to be formally effected. This result appears deliberate: part of

[138] CCCC MS 7, f. 112r and *Gesta abbatum*, iii, 375–376. This should be £260 exactly.

[139] At least some of this money may have gone to Richard de Bury, at whose request the king licensed the appropriation: *CPR, 1330–1334*, 48.

[140] CCCC MS 7, f. 112r and *Gesta abbatum*, iii, 375. K. B. McFarlane, *The Nobility of Later Medieval England* (Oxford, 1973), 57.

[141] *Mortmain Legislation and the English Church*, 184.

[142] CCCC MS 7, f. 112r and *Gesta abbatum*, iii, 376.

[143] CCCC MS 7, f. 112r and *Gesta abbatum*, iii, 377. 'per graues summas pecuniarias pensiones et corrodia diutina'.

[144] Simpson, *A History of the Land Law*, 19–20.

[145] *Gesta abbatum*, iii, 255–256.

the purpose of having multiple feoffees was to avoid the danger of land escheating to a lord should one of them die without an heir. In the normal course of things, the interest of the dying feoffee would accrue to the survivors, a new feoffee would be appointed in his place, and the lands would continue thus with the lord's rights neatly effaced.[146] For two feoffees to quitclaim their interest to the third was to create an obvious risk and would, in most circumstances, have been very bad management indeed. That it had such a convenient result in this case cannot have been accidental.

Escheat for a felony operated in much the same way but, because the disinherited 'heirs' of the felonious tenant remained to dispute the escheat, could be considerably more troublesome. The manor of Wrobbele, for which de la Mare had expended such sums, rested in fact on a title made insecure by just this problem. In 1350 Sir Richard Perers was indicted for breaking the gaol and 'castrum' of the bishop of London at Bishop's Stortford and for assaulting William Somter, a servant of the bishop, on the king's highway at Cheshunt.[147] Having been repeatedly summoned, he failed to appear and was eventually outlawed. His lands were escheated and, having been wasted by the king for year and a day, were returned to the lords from whom they were held. Nine years later, however, after Perers' death, his son (also named Richard) attempted to reverse the outlawry and thus his own disinheritance. He brought a writ of error alleging manifest mistake in the earlier proceedings: his father, he said, had in truth been in the bishop of London's prison at the date of his summons and consequent outlawry; he could not have appeared.[148] Perers *fils* failed to pursue the case and it lapsed. In 1375, however, he revived his claim, bringing another writ of error. This time he came before the court and alleged that his father had been imprisoned by the bishop 'ut clericus conuictus'—that is to say, having pleaded benefit of clergy after a previous felony charge. He offered to prove this 'through letters from the bishop concerning that Richard's purgation' or however else it might please the court.[149] Now the elder Richard, repeatedly described in the records as 'miles' and 'chivaler' and father to the legitimate if lamentably disinherited Richard the younger, was no churchman and seems thus to have been a beneficiary of the fictive extension of benefit of clergy to literate laypeople.[150] He had been handed

[146] Baker, *Introduction to English Legal History*, 252.
[147] TNA, KB 27/395, m. 20d and *Gesta abbatum*, iii, 200.
[148] *Gesta abbatum*, iii, 203–204.
[149] *Gesta abbatum*, iii, 206. 'per litteras episcopi de purgatione ipsius Ricardi'.
[150] On the procedure, see Baker, *Introduction to English Legal History*, 513ff.

over to the bishop and, apparently, cleared himself by purgation, the romano-canonical equivalent of wager of law. On these facts the outlawry would indeed have been erroneous, but de la Mare did not accept these facts. Richard had indeed, he claimed, been imprisoned as a convict cleric by the bishop of London, but 'afterwards feloniously broke out of prison', and it was for this prison-breaking and his following felonies that Perers had been indicted and summoned. Long afterwards and after many summons, realising that his goods and lands were to be seized for outlawry, Perers had fraudulently and of his own free will returned to the bishop's prison so that he might afterwards reverse the judgment of outlawry, as his son was now attempting to do.[151] The younger Richard replied that his father had indeed returned to prison, but this was because he had been captured entirely against his will and taken there; that he been there at the time of the proclamation of his outlawry and for long both before and after; and that he had certainly not returned to prison voluntarily 'per couinam' as the abbot alleged. On this point issue was joined and a jury selected. When it returned on the appointed day, 'although they had been prepared to speak their verdict', Richard did not appear and, at this latest of stages, was non-suited.[152]

Yet even so, he did not give up, but in 1384 prevailed upon the bailiff of Stortford and others to seal a statement that his father had been forcibly imprisoned, as he claimed.[153] Seeing this, de la Mare wrote to the bishop of London asking him to make enquiries. He in turn answered that Perers had indeed returned to prison of his own free will and that those who had sealed a statement alleging the contrary had recanted their claim. They themselves then wrote a new memorandum explaining that they had sealed the earlier document at the pressing of another, who 'promised them that it would not trouble anyone in the world, nor would it be contrary to their honour or estate, to seal the said deed'.[154] In this, they said, they had been misled, and disclaimed utterly their prior deed. And still this was not the end. The younger Richard then claimed that this was all irrelevant anyway, for his father had made a grant in tail of his lands at Wrobbele

[151] *Gesta abbatum*, iii, 206–207. 'postea prisonam […] felonice fregit'.

[152] *Gesta abbatum*, iii, 208. 'cum parati fuissent ad ueredictum suum dicendum'. The historian may feel some frustration that a verdict was prepared but, because never delivered, was never entered into the record.

[153] The order of these documents in the *Gesta abbatum* is confused. The original statement appears at iii, 213–214 and is dated 5 May 1384.

[154] *Gesta abbatum*, iii, 214. 'promist a ceaux que ceo ne greveroit a nulle persone de mounde, ne serroit encontre lour estat ne honour densealler le dit fait.'

to Stephen Swynertone and others long before being outlawed.[155] The result of this last claim is unclear, for the record here breaks off. That the *Gesta* continuator lists Wrobbele amongst de la Mare's acquisitions after his death in 1396 suggests it was not successful. That he also records that Abbot Thomas spent some £260 in securing what should have been, had it been straightforwardly escheated, a free windfall to the monastery suggests, however, that either the younger Richard or Swynertone was able to extract significant concessions from the monks.[156]

The final way in which land came into the monastery's hands was reversion. This could be land returning to the monks at the end of a completed term of years or life term or (though this seems not to have played much of a role in the abbey's estate management) after the exhaustion of the remainders in a grant in tail.[157] In truth this was not properly a mode of acquisition, for the lands in such a case had only passed out of their control temporarily and, unlike freehold interests returning by escheat, had always been expected to return after the end of the term or condition limited in the grant.[158] The difficulties of reversions, and the disputes which they might provoke, are therefore considered instead in the section on 'Exploitation', below.

To conclude, acquisition of estates was, in effect, the mirror image of their protection. In defending the monastery's estates, the abbots strove to preserve and perpetuate an existing pattern of movement. In acquiring new lands, similarly, they tried instead to change that pattern for the future: to alter, albeit in a limited and local way, the structure and behaviour of society around them. By buying out corrodies, purchasing mortmain licences for gifts, paying for lands outright, or fighting for the benefits of escheats, Wallingford and his successors spent present influence and present wealth to rearrange social obligations to the monastery's future advantage. The abbey's nature as a perpetual institution multiplied the importance of these rearrangements, for the change made would last and benefit the house indefinitely—or so at least the monks thought.

[155] Curiously, the alleged date of this entail appears to have been *after* the elder Richard's outlawry, but the point is not addressed.

[156] CCCC MS 7, f. 112r. and *Gesta abbatum*, iii, 375–376.

[157] Simpson, *A History of the Land Law*, 78–80.

[158] The slightness of the difference between escheat and reversion illustrates the imperfect fit of the Roman idea of acquisition to late-medieval English real-property realities.

3·3
Exploitation

The monastery's estates were a set of rights in a piece of land, a particular cluster of social patterning around a bit of real property. How those rights were to be turned to useful ends was a difficult problem in itself. Benedictines had long ago ceased to work the fields themselves: that 'they truly are monks if they live by the work of their own hands, as did our fathers and the apostles' may have been the opinion of the sainted founder of the order, but self-sufficiency had never been mandatory.[159] The monks could not sell their land; after the passage of the statute *Quia emptores* in 1290 they could not subinfeudate either.[160] They had, in practice, two choices: they could pay someone to work it for the abbey, or they could take money from tenants who would work it for themselves. The first option, demesne farming, predominated on large ecclesiastical estates in the late-thirteenth and early-fourteenth centuries. During the fourteenth century, however, the practice declined.[161] Unfortunately, St Albans lacks the accounts which would allow us to see the relative importance of direct management and rents in the monastic economy. There is little evidence, however, that the abbey practised extensive demesne farming in the period here considered. And, whatever its prevalence, the disputes to which demesne farming might have given rise are absent from the surviving sources.

This left tenancy, whereby the abbey exchanged—in theory at least—physical possession of its estates for payment.[162] It might do so on many different scales. At one end of the spectrum came the most fine-grained, those manors directly administered by the monastery's seneschal or by one or another of its obedientiaries. There the abbey was closely involved in the management of the land, leaving only the primary agricultural activity in the hands of others. Similar in scope were shops and tenements in St

[159] *Regula Benedicti*, ch. 48. 'uere monachi sunt si labore manuum suarum uiuunt, sicut patres nostri et apostoli'.

[160] Creation of dependent tenures by grants in tail was still possible, but seems not to have formed any part of the monastery's practice. J. M. Kaye, *Medieval English Conveyances* (Cambridge, 2009), 83–85, points out the persistence of subinfeudation in grants after it had ceased to be enforceable in the royal courts. I have not seen any such grants by St Albans in the fourteenth century.

[161] On this practice and the chronology of its abandonment see R. A. Lomas, 'The priory of Durham and its demesnes in the fourteenth and fifteenth centuries', *The Economic History Review*, new series, 31, 3 (1978), esp. 339ff. and Campbell, *English Seigniorial Agriculture*, 58–60.

[162] As a matter of historical fact, of course, if not of tenurial theory, the monastery had never been in direct possession of many of its estates, which came to it instead as bundles of pre-established obligations.

Albans itself, rented out one by one to townspeople. Ascending the ladder of granularity and 'bundling', the abbey might lease out large blocks of its demesne for money rents, taking no further direct interest in their management. It could likewise grant out other interests: the management of mills, for example.[163] At higher levels of abstraction, it could lease entire manors for rents in money or in kind. In 1331, for example, Abbot Wallingford demised the manor of Sandridge to Robert Albyn of Hemel Hempstead for life, together with a mill, fishery and half the profits of the manor court. In exchange the abbey was to receive nothing for the first fourteen years and thereafter thirty quarters of wheat and three quarters of oats *per annum*.[164] Even more distant from contact with the soil were rent charges, whereby St Albans permanently received a part of a tenement's economic output without having any further interest at all in the land itself. In each case the cultivators or managers of some piece of real property were obligated to make a payment to the monastery. The great complexity arises from the fact that land itself was not the only real property: certain rents, services and socio-economic bundles like manors were legally analogised to land and became real property themselves. The abbey's interest could attach at any level.

What were the types of tenancies? To take the simplest (and uncommon) case: suppose the monastery to hold a piece of land 'in dominio ut de feodo', without tenants and with no other interests attached. How might it turn that land to good account? The legal institutions it could use were several. The most important in shaping the legal landscape of the fourteenth century was one by then defunct: subinfeudation. This was to grant a permanent, free (and thus defensible in the king's courts) and heritable subsidiary estate, reserving some payment or service. When such a grant was made for an economic rent, it was known as 'fee farm'.[165] This manner of realising the value of lands was no longer open to fourteenth-century abbots, but the rents and incidents of tenure created by pre-1290 grants still formed a large part of the abbey's portfolio, so to speak. The escheats of Richard Perers and John Stoke, for example, or the wardship of John Aynel discussed below, arose from interests of this kind. And indeed this portion could still grow for, although an abbot might not create new dependent fees simple in the fourteenth century,

[163] The long-disputed rent owed for the mill at Langley arose from such a grant. See above, p. 92.

[164] *CPR, 1330–1334*, 152. This peculiar arrangement looks very like a beneficial lease. No fine or up front payment is recorded, though some may have been given.

[165] On this, see Simpson, *A History of the Land Law*, 54ff. and 77–78. Baker, *Introduction to English Legal History*, 223–243. Milsom, *Historical Foundations of the Common Law*, 99–118.

he could certainly purchase them or acquire them by gift. Abbot de la Mare's purchase of the manor of Gorham from the countess of Oxford, for example, simply substituted the monastery for the countess at the head of the tenurial chain long since established there.[166]

Four further types of dependent tenure could still be created after 1290. The first of these, the grant in fee tail, does not seem to have been used at St Albans. Its core purpose of family planning and settlement had little to do with the monks' needs.[167] The second, the creation of customary interests not defensible at common law, was by contrast of great importance. These are treated in detail below, in the chapter on 'The Manor'.[168] The last were the two types of grant now often called leases: the grant for a term of years and the grant for a life or lives. Both were in constant use and formed the backbone of the abbots' efforts to monetise their disparate interests. Any real property could be leased: land itself, services, manors, mills, courts, tithes and rents could all be granted away in this fashion. So versatile was the institution that it was used even within the monastery itself, to order the obligations of obedientiaries. During the abbacy of de la Mare, for example, the watercourse powering the mill called 'Le dichmulle', which belonged to the almoner's office, had dried up and the mill had lost much of its utility. It had previously been let out by the almoner for 40s *per annum* but now 'was demised to the sub-cellarer for twelve quarters of grain', from which the almoner could make bread each week to distribute to the poor.[169]

The two types of lease differed fundamentally at law one from the other but were used for effectively the same social function. Their difference arose from the fact that the life tenant was, from the thirteenth century onwards, considered to be seised of a free tenement and could thus take advantage of the assize of novel disseisin to recover his interest if ousted.[170] In effect, the availability to the life tenant of the common-law possessory assizes meant that grants for life brought with them a set of implied terms: the relationship created was not delineated merely by the terms of the grant but also by the rights and duties protected by the assizes. In the first half of the fourteenth century,

[166] CCCC MS 7, f. 112r and *Gesta abbatum*, iii, 376.

[167] Simpson, *A History of the Land Law*, 63–68 and J. Biancalana, *The Fee Tail and the Common Recovery in Medieval England, 1176–1502* (Cambridge, 2001), 9ff.

[168] See below, p. 186.

[169] *Gesta abbatum*, ii, 412. 'dimittebatur sub-cellerario pro duodecim quarteriis de bladis'.

[170] Simpson, *A History of the Land Law*, 70–74.

grants for life were used at St Albans to monetise manors. In 1330, for example, the king confirmed a life grant by indenture to Simon Fraunceys, citizen of London, of the abbey's manor of Bigging and Winslow in Buckinghamshire for £200 a year. If recorded correctly, this was an enormous sum.[171] The manor of Sandridge, Hertfordshire, was likewise leased for life in 1331.[172] In 1340 the king confirmed the grant for life of the manor of Cumbes to Andrew de Medestede.[173] The term of the lease was not always a single life. In 1345 the manor of Pynesfeld, Hertfordshire, and its appurtenances were leased to Walter de Wetwang, rector of the church of Brantyngham, for life plus a year in exchange for £8 rent.[174] After the accession of de la Mare in 1349, no further confirmations of life grants of manors appear in the patent rolls and, while this itself could be a change of evidence rather than of practice, the many lease indentures for manors dating to de la Mare's abbacy preserved among the monastery's own records are all grants for terms of years, not life. The sole exception to this pattern is a series of receipts for rent payments preserved in the notebook of John Moot. There the abbey acknowledges payment by Walter atte Le in discharge of the four marks of annual rent which he owed the abbey for the manor of Wallington, Hertfordshire, 'demised to him for the term of his life'.[175] The payments cover a period beginning in 1372 but it is not clear whether this was itself the beginning of Walter's tenancy.

Life grants of other types of interest continued to be common. Tenements in St Albans itself were often held for a life term. In 1377, for example, the abbey granted a messuage and curtilage 'in the lane called Ropshereslane' to the butcher Adam de Stonham and his daughter Margaret for their two lives. In exchange they were to pay 3s 4d each year, maintain the tenement and its buildings and build a new house on the property within two years of the date of the grant. They were not permitted to sublet, nor to keep a handmill without the abbey's special licence.[176] The restriction on subletting appears to have been a repeated feature of such grants. An undated licence granted during de la Mare's abbacy, preserved in the abbot's formulary book, grants to Clementia, the daughter of Thomas Hostilere and life tenant of a tenement and two

[171] *CPR, 1327–1330*, 497.
[172] See immediately above.
[173] *CPR, 1340–1343*, 42.
[174] *CPR, 1345–1348*, 40.
[175] BL MS Harley 602, f. 16v. 'sibi ad terminum uite dimissi'.
[176] CUL MS Ee.4.20, f. 66r–66v. 'in uenella uocata Ropshereslane'.

shops in St Albans 'in the street called Chirchestrate', the power to sublet her holding for up to three years, notwithstanding the prohibition on doing so contained in the original indenture. She had nevertheless to ensure that the tenement was properly maintained during the term of the sublet and that the rent of 30s *per annum* continued to be paid.[177] Customary holdings on the abbey's manors were very often held for life.[178] Life grants of tithes were also envisaged by the abbot's formulary book. Curiously, however, the indenture there copied out as an example of 'A demise of a portion of tithes for a life term' is in fact a grant for ten years.[179] Perhaps such life grants, like life tenancies of manors, had become infrequent.

The core of the abbey's management of its lands not held by customary tenures, however, was the grant for a term of years. This was a long-standing legal institution but one whose practical scope probably expanded after the end of grants in 'fee farm' under Edward I. Such a change in use could in turn engender changes in the institution itself. It seems probable, for example, that the change between *c.* 1310 and *c.* 1370 in the availability to the lessor of distraint for unpaid rent, without that power having been expressly reserved in the lease itself, is an example of the institution evolving to meet the new social circumstances in which it was put to use.[180] At fourteenth-century St Albans the term of years was used in an extremely wide range of contexts. Manors were frequently leased: the manor of Esole, for example, was leased to John de Cadyngdon in 1368 and again on the expiry of that term in 1373.[181] So too were tenements in the town of St Albans itself, like the messuage and curtilage leased to John Pountfrey and his wife Isabella for forty years during the abbacy of de la Mare.[182] Churches and their attendant rights were also leased: a surviving acquittance to one Thomas de Bamburgh, for example, acknowledges receipt in 1339 of the last £10 of a £110 premium paid by him in exchange for a five-year term in the abbey's church of Coniscliffe and its 'fructus et prouentus'.[183] In 1368, the abbey leased the 'situm rectorie' of Eversdon—probably so described to separate the physical endowment of the rectory from the right itself—

[177] CUL MS Ee.4.20, f. 67v. 'in uico uocato Chirchestrate'.
[178] The terms of customary holdings are discussed below, pp. 186ff.
[179] CUL MS Ee.4.20, f. 66v. 'Dimissio porcionis decimarum ad terminum uite'.
[180] On this change, see Kaye, *Medieval English Conveyances*, 264–265.
[181] BL MS Harley 602, f. 4r–5r.
[182] BL MS Harley 602, f. 89r.
[183] CUL MS Ee.4.20, f. 106r.

together with its lands, meadows, rents, services and tithes to Henry Hereward for fifteen years.[184] Rights to tithes were frequently leased. The tithes and 'mansum' of Tyrfeld, for example, were let to Elyas Drapere and William Clerk for eight years in 1369.[185] They might also be leased without any other land or right attached: the indenture in de la Mare's formulary book with a rubric erroneously describing it as demise of tithes for a life term in fact records the leasing of the tithes of Abbot's Langley to William Cosseby, vicar of the church there, for a term of ten years.[186] The tithes of All Saints, Sudbury, were likewise let to Simon Lystere for seven years in 1382.[187]

Regardless of the type of interest being demised, the abbey's leases followed a standard pattern. John Moot had many of those that had been granted in the latter part of the century copied into a large paper notebook and their precise forms and terms are therefore readily ascertainable.[188] Grants for terms of years were generally made by indenture. These set out, first, the names of the parties and the interest being conveyed. Next, the 'habendum' specified the term limited. The date of the beginning of the term was specified, whether 'a die confectionis presencium' or, as often, another—'from the feast of the Apostles Philip and James next following', for example.[189] A clause beginning 'reddendo inde' then stated the rent due, generally a money payment, and the days on which it was to be rendered. These payments were nearly always on two or four set days of the year—the sole exception being the demise of the tithes of All Saints, Sudbury, the rent for which was payable once a year only, at Easter.[190] Curiously, there was very little consistency in which days were set and they did not necessarily conform to the standard quarter days of Lady Day, Midsummer (or the nativity of John the Baptist), Michaelmas and Christmas.[191] The rent for the rectory of Eversdon, for example, was payable at the feast of St Peter *ad uincula* (1 August) and at Easter.[192] Candlemas, or the feast of the Purification of Mary (2 February), the feast of All Saints (1 November),

[184] CUL MS Ee.4.20, f. 65r–65v.
[185] BL MS Harley 602, f. 88r.
[186] CUL MS Ee.4.20, f. 66v.
[187] BL MS Harley 602, f. 35r.
[188] This is BL MS Harley 602, to which reference has already been made.
[189] BL MS Harley 602, f. 35v.
[190] BL MS Harley 602, f. 35r.
[191] Cheney and Jones, *A Handbook of Dates*, 59.
[192] CUL MS Ee.4.20, f. 65r.

Martinmas (11 November) and Pentecost were also in regular use.[193] Tenements in the town of St Albans itself often owed their rents 'at the four terms usually used in the town of St Albans' and by this the common quarter days do appear to be meant.[194] This variability, and in particular the specification of movable feasts such as Easter and Pentecost, must have made the monastery's processes of accounting significantly more difficult.

The body of the indenture set out the terms of the grant and the manner of its enforcement. In this latter, St Albans adopted a consistent and striking form. Unwilling to let the assessment of damages for breach lie in the fickle hands of a jury, it was the monastery's practice to have the lessee seal a bond for a set sum, defeasible if the lessee performed all their obligations under the lease. The bond does not appear to have been conditional in itself—to have carried, that is, an endorsed defeasance. Instead, the second to last clause of the indenture, sealed by both parties and thus specialty to the courts, served as defeasance. The lease indenture of the manor of Esole to John de Cadyngdon in 1368, for example, declared:

> And although the aforesaid John owes the abbot £100, as is more fully set out in a certain written bond on the subject, the abbot nevertheless wills and grants that, if the said John should keep all the agreements contained in the present indenture, then the said bond for £100 shall be void.[195]

In this way the abbey had liquidated damages for any breach of the lease contract. Such clauses were inserted not only into manorial leases: the ten-year grant of the tithes of Abbot's Langley, for example, was tied to a bond for £10, defeasible on the same conditions.[196] Where multiple lessees took an interest, the abbey made them jointly and severally liable for the amount of the damages specified. The indenture of 1383 granting tithes in Sandridge, for example, specified that the lessees were bound, 'and each of them for the whole'.[197] In this latter case the text of the bond itself was also copied into Moot's notebook. It makes identical provision, 'we bind ourselves and each of us

[193] BL MS Harley 602, ff. 8r, 4r, 88r and 35v.

[194] For example, BL MS Harley 602, f. 88v. 'ad quatuor terminos in uilla sancti albani usitatos'.

[195] BL MS Harley 602, f. 4v. 'Et cum predictus Iohannes teneatur prefato abbati in centum libris prout in quodam scripto obligatorio inde confecto plenius continetur, predictus tamen abbas uult et concedit quod si predictus Iohannes teneat omnes conuenciones in presenti scripto contentas quod extunc predictum scriptum obligatorium predictarum centum librarum pro nullo habeatur.'

[196] CUL MS Ee.4.20, f. 66v.

[197] BL MS Harley 602, f. 35v. 'et quemlibet eorum in solidum'.

for the whole', and attempts as well to bind the heirs, executors and all the goods of the lessees.[198] The amounts promised in the bonds varied widely and without apparent reference to the rent reserved. Thus, while a six-year term in the manor of Esole paying £21 *per annum* was accompanied by the £100 bond whose defeasance is quoted above, a fifteen-year demise of the rectory of Eversdon for £13 6s 8d *per annum* required a bond for only £20.[199] Such liquidated damages clauses were also inserted into indentures for life terms, though there for a different purpose. The grant of a tenement in St Albans to Roger le Tornour in 1366, for example, included a provision that if within the six days following Roger's death his executors or any others acting in their name should restore to the tenement 'for the use of the said abbot and convent' a lead cistern, a bucket with an iron chain for the well, two stools or benches, fifteen locks and various other goods, together with 'the keys for locking the gates', then the bond for 100s into which Roger had entered would be void.[200]

These clauses were included in addition to, rather than instead of, the other remedies for breach available to the monastery. An indenture granting an eight-year term in the tithes and 'manso rectorie' of Tyrfeld, for example, not only included the defeasance of a £10 bond into which the lessees had entered but also specified that, if the rent were in arrears for more than a month or if the lessees should break any of the conditions contained in the indenture, then the abbey could 'take into its own hands' everything granted and dispose of it as it saw fit.[201] The period of arrears permitted varied: the grant of Esole made in 1368, for example, provided that the abbey could re-enter if rent were outstanding for fifteen days. It declared, too, that the monastery could seize any of the lessee's goods and chattels then found upon the land, a provision presumably directed to the uncertain status of rents arising from terms of years in the mid-fourteenth century.[202] In 1310 it was held in the Common Pleas that rent due on a lease was not rent service and in consequence could not found a distraint unless this had been explicitly provided for in the grant, but by 1370 the interpretation of the courts had changed.[203] In some cases no period of arrears was specified, either because no grace period at all

[198] BL MS Harley 602, f. 35v. 'obligamus nos et quemlibet nostrum in solidum'.
[199] CUL MS Ee.4.20, f. 65r.
[200] BL MS Harley 602, f. 88v. 'ad opus predictorum abbatis et conuentus'. 'clauibus pro ostiis firmandis'.
[201] BL MS Harley 602, f. 88v. 'in manus suas seysire'.
[202] BL MS Harley 602, f. 4r–4v.
[203] Kaye, *Medieval English Conveyances*, 264–265.

was allowed or because the abbey was simply entitled to seize the holding if any of the terms of the indenture were not met, without mention made of arrears; this presumably included the payment of the specified rent.[204]

When things did go as intended, the monastery gave its lessees written receipts for rent payments. These specified the payers, the amount received, the date of receipt, the interest in exchange for which the payment was made and the period for which the rent was thereby discharged. In 1391, for example, the abbey acknowledged payment of £4 4s by Thomas, rector of the church of Bocking, 60s of which was paid as rent for Middeltonehalle due for the previous year and 24s as rent for the leased tithes of All Saints, Sudbury.[205] Besides helping with accounting for all concerned, these detailed and formal receipts foreclosed any possibility that a lessee who was sued for debt on an obligation over unpaid rent would be unable to produce specialty showing the payment and (since parol denials were not allowed in such a case) would have to pay again.[206] Upon the termination of a grant, the abbey might also grant a release from any further claim to payment as a receipt. In 1395, for example, in consideration of £7 14s 8d received from the widow of Walter Kyng, lately the farmer of the abbey's manor of Bigging and (interestingly) lately also 'natiu[us] nost[er] de Grenebourgh', de la Mare declared her quit of all obligation and himself 'barred from any action for any debt from the beginning of this world up until the making of this letter', as comprehensive a quitclaim as one could wish.[207]

Within this basic structural frame—at the beginning of an indenture, the names of the parties, the interest granted, the period of grant and the rent payable; at its end, reservation of a power to re-enter and distrain, the defeasance of any ancillary obligation and the seals of the parties and date—St Albans had great freedom in drawing up the terms of its leasehold contracts. These were heterogeneous in the extreme, though there were some common provisions. As with life grants, for example, prohibitions on subletting were often inserted: thus a grant of a tenement in St Albans itself for forty years to John Pountfrey and his wife specified that the lessees were not allowed to demise

[204] For the former, BL MS Harley 602, f. 35r. For the latter, CUL MS Ee.4.20, f. 66v.
[205] BL MS Harley 602, f. 88r.
[206] D. J. Ibbetson, *A Historical Introduction to the Law of Obligations* (Oxford, 1999), 20–21.
[207] BL MS Harley 602, f. 88r. 'ab omni accione cuiuscumque debiti a principio huius mundi usque in diem confeccionis presencium exclusi'. 'exclusi' because an abbot is, in such a context, 'nos'.

the tenement, or any part of it, to another.[208] The grant of the manor of Esole in 1368 contained nearly identical provision, restricting subletting 'without special licence'.[209] Such restrictions were not limited to corporeal interests: the ten-year grant of the tithes of Sandridge in 1383 also prohibited subletting without licence.[210] Urban tenements might also be let with the provision that no hand-mills could be kept on the premises, an issue of lively contention at St Albans throughout this period.[211] Grants of almost any type of interest, rural or urban, might contain repair provisions, though the specifics of these of course varied. The lease of Esole in 1368, for example, specified that the lessee would maintain the buildings and closes there during the term, repairing them as often as necessary at his own expense and receiving for that purpose timber from the abbey's kitchener.[212] The lease of the manor of Aston made in that year specified the same.[213] Such clauses might go into some detail. A fifteen-year lease of the manor of Shephale specified that the lessee should adequately roof all the buildings included in the grant: those which at the date of leasing were covered with tiles should be tiled and those then roofed with straw should be roofed with straw—dovecotes excepted.[214] The forty-year urban lease to John Pountfrey and his wife required the lessees to maintain and repair the house and the extensive list of 'utensilia' with which it was provided and 'return them repaired at the end of the aforesaid term in an appropriate state'.[215]

Beyond these commonly included provisions, each indenture was drafted to meet the monastery's particular aims in demising the interest in question. The most complex were those situations in which the abbey maintained some right during the term demised. When it let the manor of Aston to William le Clerk in 1368, for example, St Albans required him to provide sufficient pasture in the manor for 1,000 of the monastery's sheep, together with enough hay, straw, tallow, ointment and sheep-folds for that number, as well as pasture and milk to sustain forty lambs born of the flock each year—though the abbot and convent would pay 6s 8d *per annum* towards the expense of this last. William

[208] BL MS Harley 602, f. 89r.
[209] BL MS Harley 602, f. 4r. 'sine licencia […] speciali'.
[210] BL MS Harley 602, f. 35v.
[211] For example, BL MS Harley 602, ff. 89r and 88v. On the issue of hand-mills, see more fully below, pp. 135ff.
[212] BL MS Harley 602, f. 4r.
[213] BL MS Harley 602, f. 8r.
[214] BL MS Harley 602, f. 9r.
[215] BL MS Harley 602, f. 89r. 'ea in fine termini predicti in competenti statu dimittent reparata'.

undertook, moreover, to carry the wool produced by the monastery's sheep to St Albans at his own expense each year.[216] The lease of the manor of Shephale likewise required the lessee, Richard Noreys, to provide for forty of the abbey's sheep and the lambs born therefrom.[217] On manors where the monastery continued to run the customary courts, provision had to be made too for the logistics of this. At Shephale, Noreys undertook to house the prior, kitchener, seneschal and their servants and horses when they came to hold the view of frankpledge and the manor court twice a year, each time for two days and two nights.[218] The lease of Aston in 1368 likewise specified that the lessee was to provide for the expenses of the abbey's kitchener and seneschal when they came to hold court, likewise twice a year for two days at a time.[219] Holdings, especially manors, might also bring with them responsibility for taxes and public duties, though the division of these between grantor and grantee was only rarely made explicit. The lease of the manor of Esole in 1373 provided that the lessee 'pay the fifteenths owed for the said manor should any happen during the aforesaid term'; that is to say, to pay any subsidy levied.[220] Both of the surviving lease indentures for Esole likewise specify that the tenant will pay 'le seewarde' should any such obligation arise during the term.[221] The absence of any such term from the monastery's other surviving leases may suggest that, in general, it continued to bear these responsibilities itself.

Waste and spoliation by short-term tenants was a danger, for their interests might well conflict with the monastery's desire to maximise the long-term productivity of a holding. Indentures could, to that end, specify that no waste, sale, or destruction of a manor was permitted, or that the manor's own tenants were to be subjected to no other customs and services than those which they usually owed.[222] At times, however, it was not paternal protection of customary tenants but the defence of its own interests from their predations that was foremost in the monastery's concerns. Worried that a lax manorial lessee might be taken advantage of to its own permanent loss, St Albans specified in the lease of Shephale, for example, that the lessee was to guard the manor's

[216] BL MS Harley 602, f. 8r.
[217] BL MS Harley 602, f. 9r.
[218] BL MS Harley 602, f. 9r.
[219] BL MS Harley 602, f. 8r.
[220] BL MS Harley 602, f. 4v. 'soluet quintas decimas si que durante termino predicto solui contigerint racione manerii memorati'.
[221] BL MS Harley 602, ff. 4r and 4v.
[222] BL MS Harley 602, f. 4r.

meadow called 'le Brokmede' as well as he was able, so that the manor's tenants could not use it for pasture. If he could not keep them out, he was at least to notify the kitchener of the names of the transgressors.[223] The state of the land could also be harmed by means less obvious than excessive grazing or the wasting of woodlands. The lease of Esole in 1368 forbade the lessee to remove from the manor any manure there produced and required him to fallow and manure the land in a specified way before the abbey's re-entry.[224] The grant of Aston in the same year required the lessee at the end of his term to fallow, plough, re-plough, manure and seed the land in the same way as it had been delivered to him and appended a long specification of the proper treatment of each of six named fields.[225] To the same end indentures frequently included extensive lists of the movable goods provided at the date of the grant which the lessee was to return: forks, mattocks, sacks, ropes, chains, stools, tubs, troughs, bushels, harrows, locks, baskets—and even, at Esole, a chain-mail shirt and 'unum cote armur'.[226]

In all this, St Albans attempted to define sets of obligations, enforced through the basic machinery of re-entry, distraint and the defeasible bond, which constituted lord-tenant relationships in ways it found convenient and profitable. But these social connections were not so easily constrained and, when disputes erupted over grants for terms of years (as of course they did), they could quickly exceed the carefully constructed bounds of the indentures. In the early years of de la Mare's abbacy, for example, among his closest advisers was John Chilterne, who rapidly became so important in the abbey's affairs 'that hardly anything could be decided without his presence or connivence about cases which arose, whether within the monastery or without' (as Walsingham writes with some disapproval).[227] Perhaps as a reward for faithful service, de la Mare leased to Chilterne the manor of Abbot's Langley, two mills and a wardship. Relations quickly soured, however: Chilterne refused to pay rent, sparking off a series of suits and countersuits which would last for decades. As is often the case, the initial dispute was rapidly joined by new grievances. Chilterne was not without resources (he was repeatedly appointed to the commission of labourers for Hertfordshire, for example, was one of the

[223] BL MS Harley 602, f. 9r.
[224] BL MS Harley 602, f. 4r.
[225] BL MS Harley 602, f. 8r.
[226] BL MS Harley 602, f. 4r.
[227] *Gesta abbatum*, iii, 5. 'ut nihil pene posset sine sua presentia uel conniuentia de causis in monasterio uel extra emergentibus terminari'.

king's commissioners of array in that county and managed to persuade Edward III that his own interests were here at risk) and the wardship dispute, in particular, grew and grew in scope.[228]

As Chilterne's arrears mounted and passed £100, de la Mare asked his legal advisers what to do: 'distrain upon his chattels' was the answer and the abbot did, seizing fifty beasts. Chilterne refused to treat with him, replying to an offer to release them in exchange for pledges to pay 'that he never wished to seek the release of the said animals; nor did he wish that they be given any food, but would rather that they perish'.[229] Again the abbot took advice: according to Walsingham, his *iurisperiti* refused to have anything more to do with the case if de la Mare continued to feed the animals; he must let them starve; and so he did. There were two difficult points of law involved here. First, whether a grant for a term of years gave the grantor a right to distrain for unpaid rent, if this were not explicitly reserved in the lease indenture. As we have seen, this was a disputed question in the mid-fourteenth century. And, secondly, the double question of who bore responsibility to care for animals taken as distress before they were replevied and what was to be done with them if the distrainee refused to replevy them altogether. The answer to the first part of this two-headed problem turned on the distinction between a pound overt and a pound covert. It was the responsibility of the distrainor to keep the seized chattels safely enclosed: to impound them. If this were done outside by, for example, penning animals in a field, responsibility to feed and care for them before they were replevied lay with the distrainee, for he had ready access to them.[230] The early sixteenth-century treatise *Doctor and Student* indeed takes the problem as its example of what its author, Christopher St German, calls 'lex rationis secundarie particularis', that is to say, of a point of the 'law of reason' logically following not from general first principles but from the positive law of a particular place.[231] Given the institution of distraint, the Student asks 'if those livestock die in that pound for lack of food, whether they die at the risk of the one who distrained them or of the person whose property they are'.[232]

[228] Labourers' commission: *CPR, 1354–1358*, 550 and *CPR, 1358–1361*, 67. Commission of array: *CPR, 1358–1361*, 414. King's interest: *Gesta abbatum*, iii, 8. Wardship dispute: *Gesta abbatum*, iii, 9–35.

[229] *Gesta abbatum*, iii, 6. 'se numquam uelle petere deliberationem dictorum animalium; nec uellet [*sic*] quod eis daretur aliquod alimentum, sed uellet [*sic*] potius quod perirent.'

[230] T. F. T. Plucknett, *Legislation of Edward I* (Oxford, 1970), 56.

[231] C. St German, *St. German's Doctor and Student*, ed. T. F. T. Plucknett and J. L. Barton (London, 1974), 34.

[232] St German, *Doctor and Student*, 34. 'si aueria illa obierint in parco illo pro defectu victus utrum

The Doctor replies that if the beasts are in an open pound the fault lies in the distrainee, a conclusion which the Student lauds as arising from the 'ratio' itself of the custom of distress, 'so that there is no need to have any law written down', an explanation, perhaps, of the difficulty of finding earlier explicit legal authority for the point.[233]

When once Chilterne had washed his hands of the animals, however, and declared that he would never replevy them, why was de la Mare obliged to let them die? Chilterne was enraged and modern commentators have shared his feeling: the Rolls Series editor Riley lamented the abbot's 'act of extreme cruelty' and Given-Wilson admits it as a black mark in his otherwise positive assessment of de la Mare's character.[234] Yet de la Mare was doing no more than acting out the logic, and the law, of the self-help remedy of distraint. The goods taken as distraint were not themselves compensation for unpaid rent: their seizure was simply an inducement, a manner of compelling a tenant either to pay the arrears or to replevy the chattels—to give security, that is, to begin an action of replevin by which the justness of the distraint could be tested in court.[235] The lord was forbidden to turn the chattels to his own use and '[t]he slightest act which can be construed as an assertion of property by the lord will make him a trespasser, and liable in damages to the tenant.'[236] At a later date it was even declared that,

> [i]f a man takes a cow for a distress, he cannot milk her; for though the cow be better for this, yet he ought not to do good to the owner without his consent.[237]

If the tenant refused either to pay or to replevy, as Chilterne did, the lord had no power to sell the goods to cover the arrears; this was only granted by statute in 1690.[238] Chilterne's obstinacy and the advice of the abbot's *iurisperiti* led together to a lamentable result, but it was one dictated by the legal institutions they relied on, not the consequence of any moral depravity. Those legal institutions failed, moreover, to promote the settlement of

morientur ad periculum illius qui distrinxerit vel illius cui sit aueriorum proprietas.'

[233] St German, *Doctor and Student*, 36. 'ita quod nec opus est aliquam legem scriptam haberi'.

[234] Riley, 'Introduction', in *Gesta abbatum*, iii, lxiv. Given-Wilson, *Chronicles: the writing of history in medieval England*, 88.

[235] Pollock and Maitland, *History of English Law*, ii, 575–578.

[236] Plucknett, *Legislation of Edward I*, 55.

[237] M. Bacon, *A New Abridgement of the Law, by a Gentleman of the Middle Temple*, 7th ed., 8 vols. (London, 1832), ii, 701, *s.v.* 'Distress (D)'. I do not think the principle was taken to this extreme in the fourteenth century. I owe this reference to Plucknett, *Legislation of Edward I*, 55–56.

[238] 2 William & Mary, sess. 1, c. 5.

the dispute, for the distraint recovered nothing for de la Mare and hardened Chilterne against the monks. Henceforth he tried in every way he could to harm the abbey's interests, Walsingham writes, and 'boasted that he would so greatly damage the abbot that he would force him to sell the lead which roofed his monastery.'[239] One last attempt at amicable settlement was made: as we saw above, at the instance of friends on both sides Chilterne consented to arbitration and entered into a bond for 1,000 marks. But the abbot acted as judge in his own cause and social peace was predictably short-lived. Nor had the abortive distraint even touched upon the other interests at stake for, besides the manor of Abbot's Langley, de la Mare had also demised to Chilterne terms in two mills and in a wardship, and each of these gave rise to further conflict.

The lease indenture for the mills had contained a number of provisions beyond the reservation of rent: notably, that Chilterne could not sublet them to anyone except a miller or to one of the abbot's villein tenants and that the abbey in turn would provide wood for the mills' repair.[240] When Chilterne did not pay, the abbot re-entered; Chilterne then sued for trespass *vi et armis* for the ouster, in 1364. The case raised a number of disputed points of law and the year book report is in consequence extremely full.[241] The abbot's serjeant began by challenging the form of Chilterne's writ: the plaintiff's count had acknowledged that the freehold lay in the defendant; let him first then prove that he had an interest. Thorpe CJCP rejected this line immediately. The action was not covenant but trespass and what was at issue was not the plaintiff's right but the defendant's wrong. Then the abbot's counsel protested: how could trespass *vi et armis* lie against the freeholder? The remedy *quare eiecit infra terminum* had been instituted precisely because it did not and, besides, if Chilterne had trespass now he could return again and sue in covenant. Thorpe had little more patience for this: *quare eiecit* lay against the buyer of land which had already been leased and in such a case there could be no force and arms; the analogy did not hold. Chilterne would not be allowed to sue again in covenant, so let them get to the point. At this the abbey's serjeant presented the indenture showing the conditions of the lease and argued that Chilterne both had failed to pay rent and had sub-let one of the mills to a man who was neither the abbot's villein nor

[239] *Gesta abbatum*, iii, 6–7. '[i]n tantum se gloriabatur abbati nociturum, ut eum assereret compellendum ad uenditionem plumbi, quo tectum sui monasterii tegebatur.'

[240] The indenture itself is, unfortunately, not preserved but its provisions are set out and at times cited verbatim in the pleadings discussed below.

[241] YB Mich. 38 Edw. III, ff. 33–34.

a miller. Part of the point of common law procedure was of course to establish a single clear question which could be put to the jury and Chilterne's counsel objected that the defendant was attempting to argue two things at once; he was told to go along with it for the moment. He in turn argued that the deed showed that the abbot was obliged to give him timber to repair the mills when asked and if he failed to do so (as he had failed), then Chilterne was entitled to withhold the rent and remain in possession. And, as to the second point, the sub-lessee was a miller. This altered the abbot's double objection and in effect removed the issue of rent: the two points in question were now whether the abbot had given wood when asked and whether the man was a miller. De la Mare disagreed on both and, after substantial bickering over whose fault it was that two facts were now in issue, Moubray JCP ordered de la Mare to pick a single point and rejoin. He chose the profession of the sub-lessee. Yet this was not all: Chilterne then argued that he had only sub-let one mill (to a man who was in fact a miller) and that, even should he lose on this point, the abbot nevertheless should not have re-entered both mills. Knyvet JCP took the view that *he* was now trying to argue two things at once and, after a great deal more back-and-forth and a close examination of the terms of their written agreement, it was agreed at last that the lawfulness of the monastery's retaking of both mills would be tried on the question of whether this man had been a miller or not.

By a frustrating mischance Michaelmas 38 Edward III is one of the few plea rolls of the court of Common Pleas missing for the fourteenth century. The case's outcome is thus strictly unknown, though the pleadings seem to have turned decidedly in the abbey's favour. But still there were other issues outstanding, which troubled the monastery for decades. After the failure of the ill-fated arbitration with Chilterne, de la Mare sued him for debt on the bond into which he had entered and, when he failed to pay or to appear, had him outlawed.[242] Chilterne fled abroad, staying in Picardy and Calais, and remained there (at least by Walsingham's telling) until the Black Prince and those other nobles, friends, officials and justices 'who favoured the side of the abbot (or rather that of truth) and who knew too the fraud and falsehood of this John, had died or been removed from their former offices.'[243] At last, believing de la Mare and his allies weakened by age

[242] *Gesta abbatum*, iii, 7.

[243] *Gesta abbatum*, iii, 7. 'qui parti abbatis, ymmo ueritatis, fauebant, qui etiam fraudem et falsitatem ipsius Iohannis nouerant, mortui fuissent et ab eorum officiis pristinis amoti'. The Black Prince died in June 1376.

and by infirmity, Chilterne returned to England. The abbot promptly had him arrested and imprisoned, but sent a message through Chilterne's friends offering a deal: if he gave good security not to trouble the monastery or its neighbours again, he might go free. But Chilterne was in no mood for accommodation nor did he now think it necessary. Instead he sent word to the king, promising that if released he would help recover £1,000 from St Albans for frauds it had perpetrated against the crown. Such allegations—and such sums—piqued the king's interest and Chilterne was pardoned in 1377.[244] But not for long, for de la Mare sued him on yet another of the bonds he had executed prior to arbitration. Still Chilterne was not without a scheme: claiming to have seen the abbot dead and lying before the monastery's high altar, Chilterne attempted to have the writ of debt abated. As we have seen, the abbot represented in his natural person the abbey's corporate being. Suits were begun in his own name and, were he to die before their completion, they would fail just as for any other natural person.[245] To defeat his tenant's machinations, the ailing de la Mare had himself placed in a litter and carried to Westminster and, in a set-piece worthy of Elizabethan drama, appeared suddenly before the justices to disprove *viva voce* the claims of his own death. Unable to stand, he had to be held upright by others but the writ was declared good.

Defeating Chilterne's plea for abatement, of course, did not settle the substantive point he had raised and, though 'sent once again to the Fleet prison', he continued to pursue the monastery.[246] Walsingham was particularly outraged by the ingratitude of the abbot's former adviser, a 'uersipellis' who, though he had been fed and clothed by the house, nevertheless pursued it bitterly until his death. Walsingham's judgment in this regard may be partial in the extreme but it was undoubtedly true that it was precisely the position of great trust that Chilterne had previously held in the abbey that now made him such a dangerous adversary, for it had given him much privileged information. He told Edward III that the abbey's tenant John Aignel had held land, among his many scattered interests, from the crown *in capite* by grand serjeanty. If that were true, then the royal privilege of prerogative wardship would mean that, regardless of the antiquity of Aignel's other holdings or the extent of his lands held from the abbey, custody of

[244] His pardon is calendared at *CPR, 1377–1381*, 29. A writ of *supersedeas* and command to free him if arrested is at *CCR, 1377–1381*, 125.

[245] As had happened at Wallingford's death: see above, p. 89.

[246] *Gesta abbatum*, iii, 8–9. 'ad carcerem de Fleta iterum adiudicatus'.

his son and heir should have come not to St Albans (whence it had been demised to Chilterne) but to the king.[247] This was the fraud Chilterne had promised to reveal to the crown. The monastery strongly denied the fact and, in a series of consequent escheator's inquisitions, copied by Walsingham, was largely successful. Yet Walsingham's rubric heading the records in this case reads 'Introductio placiti super warda Iohannis Aynel et aliis inter prefatum abbatem at Iohannem Chilterne diutius agitati', and 'diutius' is hardly wrong: the first inquisition was held in 1364; the last in 1390.[248] No complex legal issue was at stake but so easy was it to set moving the machinery of royal government when crown revenues were at risk.

For all the abbey's efforts to construct tenurial relationships to its advantage, in other words, the interaction of landlord and tenant could not be so easily defined and constrained. A politically connected tenant could, as we have seen, bring great pressure to bear, but this was not all. Though far less subject to statutory and common-law definition than that of the freeholder or even the life tenant, the position of the lessee did not, by the fourteenth century, rest entirely on the words of the instrument of grant. Most striking in this regard is the short shrift given by Thorpe CJCP to the abbey's contention that it could not be held to have trespassed *vi et armis* on its own freehold. The defence of the lessee's interest against the lessor was thus not entirely a question of covenant. By entering into this arrangement, a grant for a term of years, St Albans placed Chilterne in a relation to the land and to itself which the terms of the indenture did not control. He did not have the fee, he did not have seisin, but he did have something else (one is tempted to call the interest possession) that the common law courts would recognise and would protect. It was this line of thinking that would, though Thorpe could hardly see it, lead in the end to the rise of the action of ejectment and the replacement wholesale (once specific recovery was allowed) of the old real actions with tort-based remedies relying on a fictive lease.[249] None of this mattered now to St Albans. What did matter was that its efforts to reclaim its lands and recover arrears from a recalcitrant tenant were hamstrung by the royal courts' concern to restrict the scope of self-help. In the monks' eyes, they were merely taking back what was their own when the terms on which they had let it

[247] Baker, *Introduction to English Legal History*, 240, n. 71.

[248] *Gesta abbatum*, iii, 9–36. See also TNA, KB 27/424, *rex*, m. 1d and TNA, E 368/156, *recorda*, m. 4r–4d.

[249] On this later history, see Simpson, *A History of the Land Law*, 144ff.

were not kept: if Chilterne thought they had violated an agreement, let him sue them for its breach and recover damages in that way. The difference in result may seem slight but the difference in conception was large and would grow larger.

Turning the abbey's rights to good purpose did of course involve interests other than lands, and contracts other than leasehold indentures. Because of the monastery's archival practices, however, agreements relating to real property survive to a much greater extent than others. The house's other contractual relations thus have to be reconstructed from much more limited, and various, material: besides the narrative of the *Gesta abbatum*, the chief among these are the formulary book prepared for Thomas de la Mare, the few non-leasehold contracts copied into John Moot's notebook and the constitutions promulgated by de la Mare in 1351. The first, and always fundamental, question for a corporate body was who among the monks had the power to bind the house. The decentralised financial administration of a large Benedictine monastery required obedientiaries to have considerable scope to enter into contracts or to buy on credit, but the dangers of uncontrolled borrowing against the monks' common credit were obvious.[250] The rules set out by de la Mare in 1351 to govern St Albans' dependencies specified that obedientiaries first of all should not diminish the credit-worthiness of the monks in the eyes of their neighbours by entering into illicit or deceitful contracts. De la Mare also ordered not only that in purchases, sales and other contracts obedientiaries should practise no deceit, but that goods when sold should be given 'a little more cheaply […] than by other, secular, people', following the Rule in this matter, though we may reasonably doubt whether this last prescription was followed.[251] Addressing the chief danger directly, the constitutions also forbade any obedientiary to borrow more than 100s without the abbot's special licence, nor any sub-obedientiary more than 20s. In the abbey's dependent priories, no official was to borrow more than 30s without his prior's express permission. The grave difficulty, however, was that the monastery could hardly disavow borrowings which violated these rules without completely dislocating the monastic economy. In such a case, all that could be done was to act against the miscreant: he was to be immediately removed from office and then punished according to the Rule as a disobedient brother.[252] The materiality of medieval contracts is interestingly illuminated by the additional rule that, in order to

[250] On the structures of monastic financial administration, see Smith, *Canterbury Cathedral Priory*.
[251] *Gesta abbatum*, ii, 442. 'aliquantulum uilius […] quam ab aliis secularibus'.
[252] *Gesta abbatum*, ii, 442–443.

prevent secret borrowing and the holding of private property, no obedientiary was to keep a locked chest or cupboard without his superior's permission, and he had always to turn over the key when asked. Central to this question too was the problem of seals, for it was through them that the collective will of a house was expressed and through them that it became collectively bound. De la Mare ordered therefore that the common seal and *sigillum ad causas* of each dependent priory were to be kept locked away, with three keys being held by respectively the prior, sub-prior and a monk chosen by the convent; such were the physical mechanics of common consent.[253] And even so, no deed or charter was to be sealed with a priory's common seal (that used for weightier matters) without the advice and permission of the abbot himself, 'except for urgent necessity and clear utility'.[254] Where there was such a pressing need, the priors of Tynemouth, Wymondham and Binham could borrow up to £40 under their common seal without the abbot's assent, provided that they had the counsel and consent of their own convent, 'or the greater and sounder part of the same'; the priors of Belvoir and Wallingford might borrow £20; and the heads of the abbey's remaining dependencies £10.[255] And, once he had done so, a prior might not use the common seal again without the abbot's consent until the emergency debt bond in question had been brought before the convent and cancelled. The *sigillum ad causas* might be more freely used, but it was to be restricted to letters procuratory, letters of attorney and other day-to-day business, and could never be used to grant corrodies, seal obligations, or the like. With all this, the monastery tried to regulate internally how its collective legal personality was bound to the outside world, for when once a seal was affixed to a bond the king's courts cared not at all *quo warranto abbatis* it had been done: the deed was enough.

In this and many other ways, the monastery's contractual practices were fundamentally shaped by the law of contract as it was enforced in the royal courts in the fourteenth century. This was fragmented and partial, at once spilling into neighbouring areas of the law and leaving significant gaps.[256] There were four primary reasons for this. First, the remedy available to a plaintiff depended not on the way in which an obligation was

[253] *Gesta abbatum*, ii, 443–444.
[254] *Gesta abbatum*, ii, 444. 'nisi pro urgente necessitate et manifesta utilitate'.
[255] *Gesta abbatum*, ii, 444. 'uel maioris et sanioris partis eiusdem'.
[256] For general views, see: Baker, *Introduction to English Legal History*, 317–328; Milsom, *Historical Foundations of the Common Law*, 243–313; Ibbetson, *Historical Introduction to the Law of Obligations*, 11–96.

created (as it did, for example, in Roman law) but on the nature of the outstanding obligation.[257] This could be one of three things: to pay money; to deliver a good; or to perform an action. These obligations could be enforced by the actions of debt, detinue and covenant, respectively.[258] Thus in 1356, as we have seen, de la Mare sued John Irtlyngburgh, parson of the church of Horpole, for the outstanding rent due following an arbitrated division of tithes; the action was one of debt in the court of Common Pleas.[259] Secondly, by the second quarter of the fourteenth century the action of covenant was withering. For one thing, it had become restricted to cases in which the plaintiff could show a deed: that is, where the covenant had been put in writing and sealed by the defendant. The reasons for this change are much disputed, but the effect was clear: informal contracts could only be enforced in the central courts if the outstanding obligation was to pay money or to deliver goods, for neither debt nor detinue required a deed.[260] For another, the judges had ceased to order defendants in covenant to perform the action they had undertaken to do: instead they awarded damages against them, which were assessed by the jury. Lawyers quickly realised, however, that by drafting undertakings not as covenants, but as acknowledgments of debt to be cancelled on the performance of a particular action, the damages could be specified in advance and the vagaries of jury assessment avoided.[261] As a result of these two developments, covenant fell almost entirely out of use: informal undertakings to perform were left without remedy in the king's courts and formal undertakings were remedied in debt. In February 1382, for example, de la Mare contracted with the mason Richard Gobewey to lay the foundations

[257] A useful view of the Roman law of obligations from a common lawyer's perspective is given in W. W. Buckland and A. D. McNair, *Roman Law and Common Law: a comparison in outline*, 2nd ed., rev. F. H. Lawson (Cambridge, 1965), 193ff. and particularly 265ff., but this takes the later law growing out of the action of *assumpsit* as its base. A better view with the 'un-unified' English law of contract in mind is given by Ibbetson, *Historical Introduction to the Law of Obligations*, 6–10.

[258] Only covenant was restricted to what we might think of as contractual situation: claims for performance which arose out of non-contractual situations were dealt with by other actions, like the writ of customs and services.

[259] *Gesta abbatum*, iii, 44ff.

[260] The secondary literature on this point is voluminous. See, for example: Baker, *Introduction to English Legal History*, 318–321. Ibbetson, *Historical Introduction to the Law of Obligations*, 24–28. Milsom, *Historical Foundations of the Common Law*, 246–250. Philbin, [unsigned] 'Proving the will of another: the specialty requirement in covenant', *Harvard Law Review*, 105, 8 (1992), 2001–2020. J. Biancalana, 'Actions of covenant, 1200–1330', *Law and History Review*, 20, 1 (2002), 1–57. M. S. Arnold, 'Fourteenth-century promises', *The Cambridge Law Journal*, 35, 2 (1976), 321–334. D. J. Ibbetson, 'Words and deeds: the action of covenant in the reign of Edward I', *Law and History Review*, 4, 1 (1986), 71–94.

[261] See above, p. 114, on leasehold indentures.

of a sheepfold, barn and house at the monastery's manor of Abbot's Aston. The contract was made as a bipartite indenture, with each party sealing half. As with the abbey's leasehold indentures, however, rather than a penalty provision should the work go undone, the contract recited that 'though the said Richard Gobewey be bound to the said abbot' in the amount of £18 13s 4d, as shown in a certain obligation or deed, the abbot nevertheless granted that 'if the said Richard keep well and loyally all the aforementioned agreements', then the obligation was void and of no effect.[262] Should the agreement go awry, the monastery would not sue Richard in covenant for an unfulfilled agreement but in debt on an obligation, and it would be left to Richard to plead the efficacy of his defeasance. Thirdly, the royal courts claimed no monopoly on remedying contractual disputes. Unlike disagreements over real property, which had been the king's province since the twelfth century, contractual disputes were still largely resolved by local jurisdictions, whether borough courts, county courts, ecclesiastical courts, or manorial courts. It was partly for this reason that the rule in the central courts requiring a deed in actions of covenant did not, at first, create any great injustice: it was not a substantive rule depriving plaintiffs entirely of remedy, but a jurisdictional restriction which required them to bring their case in a local court instead.[263] The lack of records relating to St Albans' local jurisdiction (excepting those of manorial courts) is therefore particularly unfortunate when considering the social effects of contract law. And fourthly and finally, the common law of contract was in the early stage of a great transformation. In part because of these gaps and jurisdictional inconveniences, litigants like John Chilterne were beginning to frame suits based on contracts as trespasses instead: suing, that is, not for the enforcement of an agreement but for the wrong of its breach.[264] And indeed, if there was acknowledged to be a general social duty to keep one's agreements, as there certainly was, why should failing in that duty not be held a trespass?

The monastery adapted to these changes, as we have seen, but new forms could cause confusion—and this was especially the case when new contractual practices were combined with inadequate record-keeping and the inevitable disruption that came with an abbot's death. Abbot Wallingford, for example, was at one point in need of money

[262] BL MS Harley 602, f. 35r–35v. 'com le dit Richard Gobewey soit tenuz au dit Abbe'. 'si le dit Richard teigne bien et loialement touz lez couenauntz auauntnomez'.

[263] On these issues, see Ibbetson, *Historical Introduction to the Law of Obligations*, 24ff.

[264] Ibbetson, *Historical Introduction to the Law of Obligations*, 95ff.

and, to make ends meet, sold in advance eight sacks of the abbey's wool production for the coming year to Thomas Gentilcors for money in hand.[265] In accordance with new contractual norms, however, Wallingford also sealed an obligation for £200, to be void if he delivered the wool on time. In this way Gentilcors was indemnified against loss should the abbey's lateness in delivery compromise his own re-selling. Wallingford delivered in good time but, through his own negligence or that of his servants, failed to recover the sealed bond. After Wallingford's death, Gentilcors threatened the new abbot that he would sue on the £200 bond unless the monastery granted William Puff, a relative of his wife, an annual pension of 20s and a robe until such time as St Albans found Puff a suitable benefice. Abbot Mentmore yielded, as he felt he had to, sealed an instrument granting the pension and sent a monk round to Gentilcors to collect the £200 bond as they had agreed. Yet, when he got there, Gentilcors refused to let him touch or see it. Instead he quickly read it aloud and then threw it into the fire, 'which act', as Walsingham writes, 'offered proof that he had falsely and unjustly charged the abbot.'[266] The reason for his action is easy to guess: the obligation must have contained its own defeasance (perhaps endorsed upon the bond) and was in consequence valueless after Wallingford's delivery of the wool. The abbey's relative inexperience with the new manner of enforcing contractual penalties, the lapse of collective memory after an old abbot's death, and an apparent negligence in keeping copies of outgoing obligations combined in an expensive failure, and one that would annoy the monastery, in the vexing person of Parson Puff, for many years.[267]

This was not the only instance of contractual naivety on the abbey's part, either. During Mentmore's abbacy (1335–1349), according to Walsingham, Hertfordshire was gravely threatened by thieves and brigands. In order to protect her house from their depredations, a local notable named Lady Petronilla de Benstede filled a large chest with sand and lead and, on a market Saturday in St Albans, carried the chest through the middle of the crowded town surrounded by an armed guard to deposit it in the abbey's treasury.[268] 'By this pretence', he writes, 'she deceived the brigands, so that they did not

[265] *Gesta abbatum*, ii, 316–317. On 12 February 1346 and again on 8 May 1346, the sheriff of Hertford was ordered to cause a coroner to be elected for that county in order to replace Thomas Gentilcorps of Berkhamstead, deceased—in all likelihood the same man. *CCR, 1346–1349*, 4 and 27.

[266] *Gesta abbatum*, ii, 317. 'quod factum dedit indicium eum false calumniasse abbatem, et iniuste.'

[267] See above, p. 50.

[268] Petronilla (d. by April 1342) was the widow of John de Benstede and a tenant-in-chief of the king.

trouble her, and gained a name in the country for great wealth'.[269] When times were calmer and the threat of brigandage had abated, Petronilla returned to the monastery to collect her *depositum*.[270] She was led into the treasury and opened her chest, revealing the sand and lead to general shock and consternation. She calmly explained her action:

> 'I put nothing here but that', she said, 'and I did it so that I might be safer from brigands. But you should never again accept any deposit without an examination of it, both by yourselves and by witnesses.'[271]

As a friend of the abbey, she had no wish to defraud it, but the monks were saved by no merit or prudence of their own. They learned their lesson nonetheless: when St Albans later took deposits it understandably took considerably more care that they be properly evidenced. Two entries in Moot's notebook, for example, record deposits of sums of money—300 and 200 marks, respectively—by Robert Walsham, *precentor* of Salisbury, in 1373 and 1377, each time in a sack of white leather sealed by the seal of Robert or his agent. The indentures specify that the money had been counted out in the presence of the abbot and convent and that the monks undertook to restore the deposited money 'whensoever we shall have been properly asked'.[272] And the monastery took still greater care when making deposits itself: an indenture copied into de la Mare's formulary book, for example, records that the abbot had delivered, by the hands of his chaplain, William Wintershill, and 'mys en gage' various vessels, cups, plates and other *mobilia* to John Roland in exchange for a loan of £70.[273] The agreement specified that, if the abbot or his successors should repay £35 at the coming feast of the Nativity of John the Baptist and £35 again on the same date in the next year, then the goods should be 'rebaylle' to the abbot; if he failed, they were to 'demerge deuers le dit Iohan a touz iours.' The

She held the manor of Harpesfeld from the abbey of St Albans and, curiously, held a messuage and eighty acres at Kymeton, Herts., from one Peter de la Mare and had received the manor and advowson of Little Perndon, Essex, from one John de la Mare. It is possible that these were relations of Thomas, at that date prior of Tynemouth. *Calendar of Inquisitions Post Mortem*, viii, 249–250.

[269] *Gesta abbatum*, ii, 365–366. 'Hoc commento predones decepit, ne eam cuperent infestare, et apud patriam nomen diuitis est adepta'.

[270] Walsingham regularly uses *mutuum* and *depositum* in their civilian senses, but neither *commodatum* nor *pignus*—perhaps because such situations arose infrequently.

[271] *Gesta abbatum*, ii, 366. 'Ego, inquit, hic nihil preter ista reposui; et hoc idcirco feci, ut tutior a predonibus esse possem. Sed et uobis expedit, ne depositum cuiuscunque admittatis de cetero, nisi sub testium, uestraque, examinatione.'

[272] BL MS Harley 602, f. 92v. 'quociens et quando super hoc congrue fuerimus requisiti'.

[273] CUL MS Ee.4.20, f. 95v.

goods deposited were described in considerable detail and their total weight given 'par estimacion'.

Yet errors were unusual and notable for that reason. Day after day the monks made agreements, drafted and sealed instruments and thus shaped and defined little by little the network of social relationships surrounding their house. Not all were framed as agreements: a constant flow of 'unilateral' contracts issued from the abbot's chancery: receipts, acquittances, relaxations, licences and grants. Abbot de la Mare, for example, granted to Roger atte Grene the right to hunt in the abbey's warren near his house and to fish twice each week in the river at Rickmansworth, but only in that place where the abbey's tenants had a right of common fishery.[274] They might be much more general: the abbot's formulary preserves a relaxation of 'all actions, complaints and demands, both real and personal' which may have arisen against a citizen and vintner of London by virtue of any contract, debt, covenant, trespass, account, or any other matter from the beginning of the world to the present.[275] Receipts were issued in profusion, whether for rents paid (as we have seen), for pensions charged upon tithes—like an acknowledgement of eight marks received from the prior and convent of Leeds copied into Moot's notebook—or for any other inflow of money.[276] And of course the monastery received receipts and acquittances in its turn: Moot also copied a French receipt from John Roland and Roger Celle given to the monastery, acknowledging payment of twelve and a half marks in partial satisfaction of a fifty mark *per annum* rent which had been granted them for the term of sixteen years.[277] Abbot de la Mare's formulary includes examples of acquittances accepting the final account of a bailiff, disclaiming any action for deposited muniments, acknowledging payment of farms and confirming partial payment of debts, among many others.[278] These instruments were made as detailed as they had to be to convey (or cancel) the power in question: after the prior of the dependent house of Wallingford had pledged a golden chalice to another clergyman in exchange for a loan of £10, for example, the return of the chalice was confirmed by de la Mare, the chalice described and any further suit carefully disclaimed.[279] The situations they covered could at times be quite

[274] CUL MS Ee.4.20, f. 67r.
[275] CUL MS Ee.4.20, f. 103v.
[276] BL MS Harley 602, f. 6v.
[277] BL MS Harley 602, f. 6v.
[278] CUL MS Ee.4.20, ff. 104v–105r.
[279] CUL MS Ee.4.20, f. 105v.

complex and involve several parties. On 4 April 1381, John Maydenhithe, clerk, wrote out an acquittance to the abbey reciting that he had paid William Strete £215 10s 9d 'pur certeins busoignes' of St Albans which Strete was pursuing at the curia in Rome. Strete had given Maydenhithe letters attesting to the loan which he then brought to St Albans. Having examined them, the abbey repaid him and he in turn acknowledged the debt extinguished.[280] Prosaic instruments all, but it was by these prosaic formulations, crystallising little pieces of the abbey's relationships, strengthening or dissolving the obligations which daily arose in the course of its business, that the monks recorded, reordered and made visible to posterity the web of dependencies and interactions—buying and selling, lending and borrowing, letting and granting—which radiated outwards from the monastery walls.

3·4

Conclusion

'The realm' is, like 'the church', an artificial division. Tithe income was derived at root from the abbey's ecclesiastical privileges, urban leases were little different from terms of years in larger holdings and the manor mirrored in miniature (as we shall see) many of the issues the monastery confronted in the country at large. Yet it has nonetheless a unity and a sense, gathering a slice of the social life of St Albans meaningfully distinct from others. First and foremost it was the sphere of money, of the material basis which rendered possible all other aspects of the convent's common life. The abbey's relationships with its farmers, with the holders of the tenements out of which arose its London rents, with wool merchants and with lenders were in essence pecuniary, not to say mercenary. This does not mean, however, that the house behaved like any other lay economic actor. The capacities of an immortal corporation and the demands of its collective expectation of perpetual prosperity made it quite distinct: the Black Monks held a different hand and played for higher stakes.[281] The realm too was set apart by a particular patterning: certainly the substantive principles of common law, but also the judicial structure of the

[280] BL MS Harley 602, f. 92v.

[281] The differences between lay and ecclesiastical policies of land management have been noted before. See, for example, C. Carpenter, 'England: the nobility and gentry', in *A Companion to Britain in the Later Middle Ages*, ed. S. H. Rigby (Oxford, 2003), 268–269.

king's courts, the expectations of actors in that sphere and the institutions and practices which had grown up around the social and economic life of the kingdom.

What is most striking about St Albans' interactions in this sphere is their constant fluid movement. Striking, but it should not be surprising for, in spite of the immemorial aspect of a pre-Conquest Benedictine house, of its landed endowment and of its subject liberty, the monks' rights, privileges and possessions were (like those of any other actor) nothing more than accepted and (sometimes) enforceable patterns of behaviour. They were renewed every time they were acted out and failed whenever, deliberately or through neglect, something different was done. Each abbot (or each 'good' abbot at least) strove to protect the pattern of movement he had inherited, to reshape, bit by bit, the social world around the abbey to its further advantage and to turn every day that pattern to its maximum profit. The endless suits, countersuits, disseisins, failures to pay, entries and re-entries were not the disordered madness of bastard feudal lawlessness, but the give and take of a social world in constant swirl and remaking.

CHAPTER 4

The Town

The third sphere to be considered is that of the town of St Albans, which butted up against the abbey walls—and butted against the abbey in another sense as well, for the two had a frequently fractious relationship. In the monastery's self-conception, the ecclesiastical banlieu was entirely its own 'country' and wholly subject to it. Yet the energies of a lively trading town a day's travel along the king's highway from London were not so easily constrained, and the disjunction between the legal status of the St Albans *uillani* and their political pretensions led to repeated strife.[1] Besides being a religious destination, St Albans (in common with other towns of Hertfordshire) had two primary economic functions: to be a market centre for its own hinterland and to 'service the London trade, either provisioning traffic [...] or channelling goods to the London market'.[2] As the importance of London in the English economy expanded after *c.* 1350, this aspect of St Albans' economic function became still more significant.[3] Numbering perhaps 3,500 in 1307 and with increasingly close links to the capital, the townsmen of St Albans were reconciled not at all to abbatial domination.[4] The substance of their conflict came to be embodied, as so often in medieval English politics, in a set of highly charged symbolic points on which abbey and town clashed again and again: hand-mills, warrens and

[1] It should be noted that in the writings of Walsingham and the other St Albans chroniclers, *uillanus* does not mean, as has sometimes been assumed, serf or peasant, but townsman. This has itself a particular and pointed implication for Walsingham: a *uillanus* is a person of the *uilla* rather than a *burgensis* and holds a tenement which was, in the abbey's view, not wholly free; but it does not map to our 'villein'.

[2] M. Bailey, 'The economy of towns and markets, 1100 to 1500', in *A County of Small Towns: the development of Hertfordshire's urban landscape to 1800*, ed. T. Slater and N. Goose (Hatfield, 2008), 55.

[3] P. Nightingale, 'The growth of London in the medieval English economy', in *Progress and Problems in Medieval England: essays in honour of Edward Miller*, ed. R. Britnell and J. Hatcher (Cambridge, 1996), 89–106; and Bailey, 'The economy of towns and markets, 1100 to 1500', 61–62.

[4] The estimate of population is from Bailey, 'The economy of towns and markets, 1100 to 1500', 56.

the townsmen's common seal. In these disputes the townsmen went frequently to law, asserting by invoking the king's jurisdiction their formal parity with the monks. Yet at other times, when the threat of royal justice hung heavy over the town, abbots intervened to soften the king's punishment or turn it aside, reestablishing in the process those ties of dependence the townsmen wished to cast off.

These conflicts formed part of the larger history of urban development and self-government in fourteenth-century England, a history which has generated extensive scholarly interest.[5] The importance of smaller towns in this history has also lately attracted increased attention.[6] The urban history of Hertfordshire, and of St Albans, has recently been the subject of a collection of essays.[7] This chapter, however, approaches the problem from a different perspective: that of the abbey itself and its view of the town. In part, as we shall see, this is necessitated by evidentiary problems: for the first major contest of the century, that of 1327, the abbey's side of the matter is, to a great extent, all there is. But it also reflects the larger question of this dissertation: what role did law play in the mentalities and relationships of the monks of St Albans?

4.1

Walsingham's narrative of 1327

The problems in the town of St Albans long predated Wallingford's abbacy. He directed the crisis and denouement of the rising of 1327, but its outbreak came in the last days of his predecessor, Hugh de Eversdone, and its sources stretched still further back.[8] Rela-

[5] See, in general, S. H. Rigby and E. Ewan, 'Government, power and authority 1300–1540', in *The Cambridge Urban History of Britain, Volume I, 600–1540*, ed. D. M. Pallister (Cambridge, 2000), 291–312, and the references therein. Much of the historiography on fourteenth-century conflict of course arises from interest in the rising of 1381, on which see below, pp. 159ff.

[6] Notably, for example, C. Dyer, 'Small places with large consequences: the importance of small towns in England, 1000–1540', *Historical Research*, 75 (2002), 1–24. Although St Albans surpassed Dyer's population threshold for small towns of *c.* 2,000, the figure of 3,500 in 1307 proposed by Bailey also includes St Albans' suburbs and surrounds and the town has many commonalities with the communities Dyer discusses, perhaps because of the limitations on governmental development imposed by the abbey's control.

[7] T. Slater and N. Goose, ed., *A County of Small Towns: the development of Hertfordshire's urban landscape to 1800* (Hatfield, 2008). See in particular, in this collection: Bailey, 'The economy of towns and markets, 1100 to 1500', 46–66; and D. Dean, 'Alban and St Albans, AD 800 to 1820', 301–332.

[8] The Rolls Series editor errs in ascribing the outbreak of this disturbance to 1326. The mistake arises because Walsingham here gives an absolute 'year of grace' dating—and dates the event to 1326. But his

tions with the town had always been strained under Hugh's rule. In 1314, for example, the abbot sued Robert de Lymbury before justices of oyer and terminer for refusing to grind his corn at the abbey mill and for keeping a handmill. Lymbury lost and paid a fine of 20s for the trespass.[9] The abbot likewise brought suit against three other townsmen, Benedict Spichfat, Simon Ikelford and Lucas Nedham, for the same offence.[10] But this was an old problem and one which these legal successes did little to resolve in the longer term. And it was hardly the only point of tension. Walsingham records that townsmen attacked and beat the monk Henry of St Neots and the abbot's servant Roger atte Nasshe, though why, he does not say.[11]

This simmering strife burst forth with dramatic effect in 1327, an outbreak of open opposition to the seigneurial claims of the monastery. It was precipitated, in Walsingham's telling at least, by the deposition of Edward II and consequent rumblings in London. All over the kingdom local communities, 'adopting an unbridled audacity', sought violently to extort charters and liberties from their lords and so attain the freedom they desired.[12] This chronology may not be entirely accurate: at London, for example, serious public disturbance had begun the previous October, provoked not by the deposition of the king but by the conflict which led to his fall.[13] But to Walsingham the disappearance of the king, that fundamental backstop of public order and social certitude, loosed energies hitherto (and better) restrained. The troubles, he adds, came 'before the peace of the new king [...] had been proclaimed throughout the shires': it was precisely the absence of a king, and of a king's peace, that counted.[14]

And it is his view (and through him, that of his fellow monks) that we shall see in what follows. Although Walsingham transcribed many external documents in his account of the rising of 1327 (petitions, entries on plea rolls, writs and the like), he exercised considerable licence in their arrangement, displacing events from their chronological order to present more coherently the story he wished to tell. Surviving sources

New Year of course came some months after ours and the events are explicitly described as occurring after (and in consequence of) the deposition of Edward II in January 1327. This mistake has been repeated elsewhere.

[9] *Gesta abbatum*, ii, 149ff.

[10] *Gesta abbatum*, ii, 154.

[11] *Gesta abbatum*, ii, 155.

[12] *Gesta abbatum*, ii, 156. 'irrefrenatam assumentes audaciam'.

[13] N. Fryde, *The Tyranny and Fall of Edward II, 1321–1326* (Cambridge, 1979), 193–194.

[14] *Gesta abbatum*, ii, 155. 'antequam pax noui regis [...] fuisset per patrias publicata'.

from outside the *Gesta abbatum*, too, are limited. What we shall pursue, therefore, is an exploration of the way in which the rising of 1327 was presented by Walsingham: how the law's functioning in this conflict was seen by the monks and recorded in their collective memory.

According to Walsingham, the 'inferiores uille' came together on 23 January (with the connivance of their betters) and swore an oath of mutual support.[15] In the following days their number grew so large that the leaders of the townsmen, who had hoped to hide their cooperation with the mob, were compelled to support it openly. On 25 January (the first day of the reign of Edward III), twelve of the chief *uillani* came to the abbot with an offer: if he did not appeal for help to the abbey's friend the earl of Lancaster, who then happened to be passing through St Albans, the townsmen promised in exchange to pursue all their complaints 'by means of the laws of the kingdom'.[16] The first invocation of law in this interaction, that is, was a commitment to follows its course instead of pursuing redress by self-help.

The abbot, 'excessively trusting', agreed to the proposition, but the truce was short-lived indeed. That very afternoon, after the earl had left, one of the abbot's servants, when out on business in the town, was seized by townsmen who attempted to make him swear an oath to support them.[17] He refused and fled, but was pursued, cornered, and then slew one of his assailants. Now this was more than enough, in the circumstances, to light anew the fires of insurrection and there is no need to believe Walsingham's assertion that the townsmen's commitment to go to law was always feigned. They erected a frame in the market to which they attached with a chain a large axe, so that, Walsingham explains, they could behead anyone who did not support them. And the following day the twelve *maiores* returned to ask for, then to demand, a confirmation of liberties. The abbot heard their demands, took counsel and asked that they return four days later with the liberties they sought written out so that he could consider them. But impatient, and keen we may guess to press their advantage, they returned the next day.

The liberties they desired were limited in practical terms but in conception very wide

[15] For what follows see *Gesta abbatum*, ii, 156ff. Trenholme, 'The risings in the English monastic towns in 1327', 651–658, is a summary based upon the same source.

[16] *Gesta abbatum*, ii, 157. 'per uiam legum regni'. This was Henry, earl of Lancaster and Leicester, d. 1345.

[17] *Gesta abbatum*, ii, 157. 'nimium credulus'. This, at least, seems to have been the content of the oath, though it is not made explicit.

indeed. First and foremost they desired the status of borough for their town and of burgesses for themselves. But they did not seek this as a grant and as a novelty: rather, they claimed that they had previously had the privilege, by an ancient charter of liberty and by the evidence of a certain 'book in the king's Treasury, which is called in English "Domusday"', until the abbot and his predecessors had hindered them in its exercise.[18] They demanded therefore that the monastery hand over their charters of liberty.[19] Then they sought the privilege of electing two burgesses to parliament, as other boroughs did and as, they asserted, they had done in the past. They asked that answers be given to the justices in eyre and to other inquisitions by a panel of twelve burgesses, without any 'foreigners'. They wished the assize of bread and ale to be likewise kept by twelve burgesses, 'as anciently used to be done'. They wanted back the common lands, woods, waters and fisheries which they claimed they had had at the time of Domesday. They demanded the right to keep hand mills, as they had done before, and restitution of the loss they had suffered on this account. And, finally, they asked that a sworn bailiff of the town do any necessary executions (of writs and the like) without interference from the bailiff of the liberty or anyone else.[20]

These demands were laid before the abbot in consistory.[21] He and his counsellors gave responses orally—what they said, Walsingham does not record—but the townsmen wanted written commitments and retreated indignant. Unsuccessful in negotiation, they turned to force, seeking to take advantage of the temporary disorder to compel concessions they could not peacefully obtain. An armed mob assailed the monastery's Halywelle Gate, setting fires, hurling rocks and loosing arrows. The abbot, understandably alarmed, summoned help and, with the aid of (by Walsingham's count) two hundred armed men who slipped into the abbey, easily repulsed the assailants.[22] The latter then

[18] *Gesta abbatum*, ii, 158. 'liber in Tresoria Regis, qui uocatur Anglice "Domusday"'.

[19] This is particularly interesting as foreshadowing the appeals to Domesday in the 1370s, in the years leading up to another popular insurrection, in search of evidence of lands' being ancient demesne. On this see R. Faith, 'The "Great Rumour" of 1377 and peasant ideology', in *The English Rising of 1381*, ed. R. H. Hilton and T. H. Aston (Cambridge, 1984), 43–73.

[20] On this liberty of return of writs to which the townsmen objected, see H. M. Cam, 'The evolution of the mediaeval English franchise', *Speculum*, 32, 3 (1957), 436ff. and M. T. Clanchy, 'The franchise of return of writs: the Alexander Prize essay', *Transactions of the Royal Historical Society*, 5th series, 17 (1967), 59–82.

[21] *Gesta abbatum*, ii, 158. 'Exhibitis […] articulis […] in loco consistorii, ab abbate et suo consilio singula singulis articulis uerbo tenus data sunt responsa.'

[22] The number is perhaps exaggerated.

settled down to a prolonged siege, obstructing the roads and gates and hoping thus to drive the monks, by hunger and unhappiness, to agreement with their demands. But God and the Blessed Martyr Alban were against them: the besieged had ample food and supplies and, after ten days, help arrived. On 1 February a writ came to the sheriff from the newly-installed government: he was to proclaim the new king's peace; to raise, if necessary, the *posse comitatus* to repress malefactors; and to seize any who continued rebellious and cast them into the king's gaol.[23] This took the wind out of the townsmen's sails but deterred them not at all from their designs. Abandoning force, they now turned at last to law. The townsmen contributed to a common purse to fund a suit and hired serjeants at law to maintain it, 'to whom they promised in writing perpetual retainers'.[24] The abbot in turn met with his council and laid plans to repulse their legal attacks. As a first step, six *maiores uille*, strengthened now by unnamed neighbouring notables, returned to the monastery to ask for a parlay. Could they meet, they asked, at St Paul's in London to settle the issues between them? Abbot Hugh, worried by the fragile peace which now prevailed, agreed to meet on 23 February.

But the interplay of legal and extra-legal pressure did not cease. On an unknown pretext, the townsmen renewed their siege of the abbey while at the same time others pursued their ends in the capital.[25] On 8 February the townsmen obtained from the new king a writ reciting the claimed liberties of the *burgenses* and commanding the abbot, 'if this be true', not to disturb them in their enjoyment of them.[26] From the king too they elicited an order to the treasurer and chamberlain of the exchequer commanding that Domesday be searched and exemplified to establish 'whether the vill of St Albans be a free borough, and the men of the same vill free burgesses, or not'.[27] The passage was found and produced: the last words of the entry on the town of St Albans in the great ledger were 'The aforesaid burgesses hold half a hide'.[28] Now this, in the late

[23] *Gesta abbatum*, ii, 159–160. The writ ordering the proclamation of the new king's peace was sent to Hertford, as to all other counties, on 29 January 1327: *CCR, 1327–1330*, 1. This does not, however, match the precise terms that Walsingham reports.

[24] *Gesta abbatum*, ii, 160. 'quibus perpetua feoda promiserunt per scripta'.

[25] *Gesta abbatum*, ii, 160–161. Walsingham says simply that they turned again to force having been 'in maximam acti furiam', though he does not say by what.

[26] This writ, addressed to the abbot of St Albans, does not seem to have been enrolled, but is quoted in full by Walsingham.

[27] *Gesta abbatum*, ii, 162–163. 'utrum uilla de Sancto Albani sit liber burgus, et homines eiusdem uille liberi burgenses existant, necne'.

[28] The passage is from 'Great Domesday', TNA, E 31/2/1, f. 135v, and is accurately reproduced in the

eleventh century, cannot have meant what the people of St Albans wished it to mean: the borough had not then reached the degree of legal definition it had in the fourteenth century and the Domesday clerks, whatever they did mean by *burgenses*, did not mean a set of people entitled to borough representation in parliament.[29] But in such a conflict anachronism is no bar to an argument and the description of their forebears as burgesses in Great Domesday gave the townsmen a powerful club indeed with which to confront the monastery.

Thus fortified, the parties met as they had agreed at St Paul's on 23 February, 'furnished with weapons as much as with laws', as Walsingham describes the crowd, an inverted play, perhaps, on the often imitated first words of Justinian's *Institutes*.[30] After much discussion they agreed to submit their dispute to a set of twelve *fidedigni*—knights, lawyers and neighbours—-who could hear the facts and arguments brought forth by each side and then 'state what would be consonant with reason'.[31] These twelve set themselves apart and, after long treatment of the question and consultation with three notables (again unnamed) sent from the king's council, drew up an indenture to settle the conflict. Unhappily for the monks of St Albans, what was held to be accordant to reason seemed to Walsingham to be 'damnosam monasterio'. But when this was done, all nevertheless agreed to meet again on 6 March to come to an agreement regarding the indenture proposed. When they did, it improved matters not at all. The monks produced a charter of Henry II granting the abbey wide liberties; the grant came, however, 'with a market and every liberty which a borough ought to have'.[32] Once again the single word was enough: 'uillani scandalizati sunt in hoc uerbo' and demanded that the monastery confirm their status as burgesses in writing on the spot. This of course the monks refused to do, and the

exemplification and the *Gesta abbatum*. 'Predicti burgenses dimidiam hidam habent'.

[29] J. Campbell, 'Power and authority, 600–1300', in *The Cambridge Urban History of Britain, Volume I, 600–1540*, ed. Pallister, 74ff. See also M. McKisack, *The Parliamentary Representation of the English Boroughs During the Middle Ages* (Oxford, 1932). A (damaged) petition from the townsmen to the king on their representation in parliament survives as TNA, SC 8/318/E306. In another petition, TNA, SC 8/8472, the townsmen claimed that the abbot held the town in chief of the king in exchange for the service of sending burgesses to parliament. The petition is endorsed 'Scrutantur rotuli de Canc' […]' to see if this is truly the case.

[30] Walsingham: 'tam armis quam legibus communita'. Justinian: 'Imperatoriam maiestatem non solum armis decoratam, sed etiam legibus oportet esse armatam'.

[31] *Gesta abbatum*, ii, 164. 'indicarent quod foret consonum rationi'. On the contemporary significations of the term *fidedignus*, see I. Forrest, *Trustworthy Men: how inequality and faith made the medieval church* (Princeton, 2018).

[32] *Gesta abbatum*, ii, 164. 'cum foro et omni libertate quam burgus debet habere'.

matter was deferred again, this time for discussion at Westminster by the king's council on 10 March.

But delay did not change the facts of the situation. The monastery was on the back foot and had, for now, to accept defeat. Three monks went to Westminster, accompanied by Thomas Pyrot, a professor of civil law, to argue the abbey's case.[33] There, after much dispute, it was agreed and indented that twenty-four 'magis fideles' should be selected from amongst the townsmen to perambulate St Albans' bounds and prepare a declaration of its limits and its rights as a borough, to be confirmed and sealed by abbot and convent. This they duly did, and their declaration was a compromise of sorts: the townsmen's claimed privilege of sending representatives to parliament was affirmed; they were to have control of the assize of bread and ale; and the town's own bailiff was to do execution within its bounds. Explicitly excluded was consideration of the question of handmills and mill-suit: the indenture disclaimed any abrogation of the abbey's rights in this regard, but it did not confirm them either. The question was left as it stood. This, Walsingham explains, was the best that could be hoped for in the realm's then disordered state.[34]

The king ordered the monks to seal the indenture and, at Abbot Hugh's urging, they did, but not without first registering their unwillingness and making as clear as possible (in the interests of future reversal of course) that they did so only under duress. The convent summoned two notaries public before whom they recited their protests and made clear that 'this was conceded through force and fear and not through their own free will'.[35] One of the notaries, John le Hay, drew up an instrument attesting the dispute, proceedings and objections. This is copied *in extenso* in the *Gesta abbatum*, and is moreover often followed word-for-word in Walsingham's account immediately before. The *Gesta*'s compiler, that is, relied heavily upon le Hay's narration of events.

All this was endured by an abbot 'considering that the world was against God's church and hostile to His ministers'[36] In Walsingham's telling these failures were the result of inept and feeble leadership: it took the coming of a new abbot to sweep away coerced concessions and reduce the townsmen once again 'to their former degree'. But

[33] Pyrot does appear in Emden, *Biographical Register of the University of Oxford*, iii, 2208, but Emden cites only this same passage in the *Gesta abbatum* and one other attestation. In the latter, Pyrot appears as an executor of the will of one John de Cadomo in 1311: *CPR, 1307–1313*, 394.

[34] On the many difficulties of this period, see W. M. Ormrod, *Edward III* (New Haven, 2011), 55ff.

[35] *Gesta abbatum*, ii 171. 'hoc per uim et metum et non de mera uoluntate concessum'.

[36] *Gesta abbatum*, ii, 175. 'perpendens mundum contra dei ecclesiam eiusque ministris infestum'.

this hardly seems to reflect the real dynamics of the situation. The *uillani* had tried extra-legal means, to be sure, but it was not thus that they succeeded in the end. Their repeated sieges had not overwhelmed the abbey's defences or even its local support. Rather, they had simply maintained pressure upon the monks to come to terms, and it was before arbitrators and at the instruction of central government that St Albans had truly lost its case. This was fundamentally a political process: neither forcible self-help nor legal principle determined its result (though a plausible legal claim was a necessary conduit for political pressure to take effect). And arbitration was the ideal avenue for the townsmen to obtain that result: it allowed them to formalise and give legal solidity to a shift in social power without either the risks and technical vagaries of common-law process or the exposure and insecurity of simply taking by main force that which they held to be their own. With the settlement thus sanctioned from on high, it required not only a new abbot but a new attitude in royal government for the tide to turn and the abbey's defeat to be undone.[37]

That process of undoing was itself lengthy and laborious. It depended upon the patient and opportunistic exploitation of those legal chances which arose; the energy of a new abbot determined to make a fresh start in the monastery's management; and the support of a central government no longer sympathetic to the townspeople's aims. For years the *uillani* enjoyed their hard-won privileges while Hugh's successor, Richard Wallingford, could do nothing, 'on account of the indigence of his house and the fickleness of worldly affairs'.[38] But he was not idle. He cultivated friends and saved money to help his house in the coming struggle.[39] The people of St Albans, meanwhile, carried further their corporate aims: they made a seal, chose officials, collected dues and 'quodammodo sui iuris erant', as Walsingham writes, employing the language of Roman law.[40] This was precisely what the townspeople were not, in his eyes, or should not be: they were and had always been *alieni iuris*—and that *alius* was of course the abbey. In this tutelary conception the abbot, besides being *paterfamilias* to the monks, whose legal personality

[37] Interestingly, Isabella and Mortimer themselves are not mentioned in the *Gesta abbatum* and Walsingham alludes to the political situation only in very general terms. Perhaps the real location of power at the centre was unclear to him.

[38] *Gesta abbatum*, ii, 216. 'propter sue domus inopiam et mutabilitatem seculi'.

[39] The abbey's connections with Richard de Bury, one of the young king's closest confidants in the first years of the reign, date to just this time. See above, pp. 45 and 104.

[40] *Gesta abbatum*, ii, 215–216. See W. W. Buckland, *A Textbook of Roman Law from Augustus to Justinian*, 3rd ed., rev. P. Stein (Cambridge, 1968), 101ff.

dissolved into his own, exercised a watchful and benevolent sovereignty over his banlieu. What need had they then for independence?

Independence, moreover, was not within this framework a positive freedom from exploitation. It was seen, rather, as unbridled licentiousness. As we saw before, Walsingham makes explicit the connection between practical self-direction and moral depravity: the townspeople not only rejected the abbot's secular lordship, but 'so carried away were they with pride that they would not even obey the abbot in spiritual matters'. The effect of this was moral anarchy:

> Men broke their oaths and perjured heedlessly, they committed fornication and adultery indiscriminately, and there was no one to prevent such wickedness.[41]

These were the particular faults which ecclesiastical courts were competent to address, and it is evidently to the townsmen's spurning of the abbot's ecclesiastical jurisdiction that Walsingham refers. The restoration of monastic authority over the town was not thus simply a subjugation of inferiors (though it was that). In Walsingham's view it was in no-one's interest that the natural order of things should be so subverted. Abbot Wallingford, wise politician and careful tactician that he was, seems to have recognised the value of this line of argument. And so his first action against the corporate pretensions of the newly-minted burgesses was directed not at seals or handmills or rights of common, but at the contumacy of a notorious adulterer and suspected murderer, John Taverner or Marshal.[42] The attempt to arrest him, however, turned into a riot and, in the tumult, both Taverner and Wallingford's own marshall, Walter de Amundesham, were killed. The townsmen promptly indicted not only the abbot's servants who had attempted the arrest, but also the abbot and his archdeacon for ordering both deaths and for harbouring the felonious servants.[43] On the circumstances of this affray, therefore, issue would be joined and the monks' and townmen's differences would now be aired and settled before the king's courts.

Attention turned immediately therefore to the constitution of those courts, for on the composition of the jury would turn the outcome of the case. A keeper of the peace for

[41] *Gesta abbatum*, ii, 216–217. 'Fiebant fidei lesiones, exercebantur passim periuria, frequentabantur indiscrete fornicationes et adulteria, et non erat qui tantas nequitias prohiberet.'

[42] *Gesta abbatum*, ii, 217. 'audax ad homicidia perpetranda'.

[43] *Gesta abbatum*, ii, 217–218.

Hertfordshire, William de Baud, ordered the sheriff (Richard Perers, as it so happened) to have twenty-four *uillani* and twenty-four men of the liberty, 'probos et legales' all, gathered for an inquest.[44] To this the townsmen successfully objected: the privileges they had earlier obtained (and still held intact) included that townsmen not be joined with *forenses* in inquisitions. They secured a royal writ to Baud reminding him of the fact and their privilege was acknowledged and allowed. But, procedurally adept as the townsmen may have been, Wallingford's footwork was faster still. He obtained a commission of gaol delivery from the crown addressed to the friendly figures of Richard Willoughby and John of Cambridge.[45] Before an inquest composed of men of Dacorum and two neighbouring hundreds (and no townsmen at all), the abbot and his allies were acquitted of every charge. The passage explaining how the jurors were selected is fragmentary and confused; it appears however, that the abbot's status as *dominus* of the monastic liberty and that of his co-defendants as abbatial tenants gave grounds to argue that jurors from within the liberty were unsuitable.[46]

Safely acquitted, the monks immediately set about reversing the situation. Scarcely ten days later the men of the vill were in turn indicted for the deaths of Amundesham and Elias, another of the abbot's servants, whom the townsmen had likewise slain, in November 1328. The *uillani*, due to be tried before John Hay and that same John de Cambridge who had so often shown himself the abbey's friend, did the sensible thing and asked to come to terms. The parties met, each supported by its friends and allies: on the abbey's side, a long list of local notables; on the townsmen's, Walsingham is at pains to stress, only Simon Fraunceys, a citizen of London (and later lessee of the abbey's manor of Winslow), and Thomas Lincoln, a serjeant at law.[47] The parlay was not a success. The first point of contention raised was also the last for, upon the issue

[44] *Gesta abbatum*, ii, 218–219. On Richard Perers, see above, p. 105.

[45] On these, see Sainty, *The Judges of England, 1272–1990*, *sub nominibus*. On the close connection of John of Cambridge to St Albans, see above, p. 89.

[46] *Gesta abbatum*, ii, 221. This is only one possible reading of the passage, which is clearly incomplete.

[47] For Fraunceys, see above, p. 111. For Lincoln, see J. H. Baker, *The Order of Serjeants at Law: a chronicle of creations, with related texts and a historical introduction* (London, 1984), 155 and 523. The abbot's supporters are said to have been: 'Dominus Philippus de Aylesbury, uicecomes Bedfordie, Dominus Ricardus Pereres, Dominus Ricardus Monchesi, Dominus Iohannes de Cantebrigge, senescallus abbatis, Dominus Hugo Fy-Symond, milites, Iohannes Blonuile, Iohannes Poleyn, Rogerus Louthe, Galfridus de la Leye, Iohannes de la Hay, sub-senescallus, Paganus Port, Willelmus de Hemelhamstede, Willelmus Heron, Iohannes Legat, pater et filius, Iohannes de Mundene, Robertus de Assele, et multi alii ualentes de patria conuicina' (*Gesta abbatum*, ii, 221–222).

of the keeping of handmills, negotiations immediately and irreparably foundered. The settlement of 1327, unwelcome to the abbey though it was, had been made possible only by explicitly excluding consideration of this most fraught problem. And when it was broached here 'the townsmen resisted insolently and to the very end' and nothing at all was accomplished.[48] When this impasse was clear to the monks, they decided that from now on they should proceed 'per placitum, et sine amore'.[49]

And in this proceeding Abbot Wallingford was well suited to success. The house dispatched a petition to the crown reciting its misfortunes.[50] It told of the treacherous behaviour of the townsmen in besieging the abbey, of the grave damages suffered and extortions endured and in particular of the disregard of the *uillani* for the royal power. The king's own bailiff, John de Mundene, had been seized, imprisoned and threatened with beheading until he consented to give the townspeople sixty acres of his land. More shocking still, the petition alleged, they 'caused their peace to be proclaimed, appropriating to themselves a royal power'.[51] This effort to make the king see the implications to his own authority of local subversions of hierarchy and order would be repeated whenever town and abbey clashed, not least in 1381. For now, however, the monastery's petition achieved its object. A trailbaston commission was appointed to sit at Hertford on 15 September 1331. In the days before it sat, the abbot sent a cask of wine to the monastery's dependent priory of Hertford for the comfort of its guests and also dispatched his cellarer with other monks to carry thither whatever meat, fish, corn and other food was necessary to entertain 'honorifice' for a week the justices and any other local worthies 'who might wish to pay a visit to the priory for hospitality's sake'.[52] The justices, Roger de Grey, John of Cambridge and Robert le Bourcer, came on the king's commission to look into the complaints of his beloved house of St Albans, of particular concern to the crown 'inasmuch as the said house is of our advowson'.[53]

[48] *Gesta abbatum*, ii, 222. 'uillani procaciter atque finaliter resistebant'.

[49] By 'sine amore', 'sine diebus amoris' is of course meant, but it seems likely that Walsingham intended as well the slightly sinister pun.

[50] The order of documents is inverted in Walsingham's account. The petition is printed after the king's commission and writ, at *Gesta abbatum*, ii, 227–228. It does not appear to have been preserved among the SC 8s.

[51] *Gesta abbatum*, ii, 228. 'puis feserent crier lour pees, acrochauntez a eux roial poer'.

[52] *Gesta abbatum*, ii, 222–223. 'qui uellent ad prioratum causa hospitalitatis declinare.'

[53] From the king's writ, reproduced at *Gesta abbatum*, ii, 225–226. 'pur tant que la dite meson est de nostre auouerie'.

The indictment returned was long and detailed. More than 120 townsmen were named as having formed a confederacy and sworn to maintain one another's quarrels, 'whether just or unjust, already begun or yet to come'.[54] They formed a common chest and raised (or extorted) money for their aims. The indictment closely matches Walsingham's account (unsurprisingly, as it was evidently one of his sources) but adds a few points which he omitted. The abbot and archdeacon, for example, pleaded benefit of clergy when accused of involvement in Amundesham's death and were in consequence acquitted. They were to be delivered to their ordinary, the indictment relates, but nothing further is said of this.[55] If by ordinary the abbot himself is meant, the decision would be of little effect; if the bishop of Lincoln, it is unlikely that the abbot of St Albans, with his expansive claims of independence from episcopal interference, would consent to appear.[56] Probably nothing was done. The indictment clarifies that the John de Mundene who conceded sixty acres under threat was not only the king's bailiff but the abbot's *ualettus* as well. It specifies the amounts extorted (in money and in wine) and says that seventeen of the *foederati* drew from the sums collected 3d a day for their pains. It adds graphic descriptions of assaults: of the townsman John le Wayte, for example; and of John de Waldene, *capellanus*, whom the townsmen 'seized and imprisoned and whose testicles they cut off, against the peace etc.'[57] With the indictment returned, the sheriff was ordered to attach the accused. Sixty came, of whom eighteen pleaded guilty and were promptly imprisoned. The remaining forty-two denied all, 'et de hoc ponunt se super patriam'.[58] The verdict of the *patria* hardly bore this out: thirty-one were found wholly guilty (and were likewise imprisoned); one Roger Essex wholly so except that he had not bound himself to the others by oath; and several (Walsingham's numbers are here confused but there were perhaps eight or ten) were found to have joined the rebels only under coercion, in fear of death and against their own will. These last, together with Essex, were mainprised to hear judgement anon.

In truth Abbot Wallingford probably had little interest in hanging sixty of his neighbours for felonies. It would not itself undo the concessions his predecessor had been

[54] *Gesta abbatum*, ii, 229. 'siue iustas siue iniustas, inceptas uel incipiendas'.

[55] *Gesta abbatum*, ii, 231.

[56] See above, pp. 51ff.

[57] *Gesta abbatum*, ii, 233. 'ceperunt et inprisonauerunt et testiculos suos absciderunt, contra pacem etc.'

[58] *Gesta abbatum*, ii, 234.

compelled to make and would more probably harden the rest of the townsmen against the monastery forever. What he needed was not the execution of justice by their execution, but rather three things to help render them tractable. First, to remove any support (and any belief in support) for the townsmen's cause from central government; secondly, to bring pressure to bear upon them to settle their dispute; and, finally, to create a situation in which he could, by intervening in their favour, reestablish that relationship of subordination and patronage which the monks desired. To this end he attacked on every front possible. The coroner, John de Muridene, was indicted for his role in the aftermath of Amundesham's death.[59] He had, it was alleged, conspired with several townsmen (and been suborned by a 20s bribe) to replace the panel of *fidedigni* investigating the death with one of the townsmen's choosing: it was these latter who indicted the abbot and his fellows. Muridene denied the charge but was convicted and mainprised to appear again for judgement on the same day as the convicted *uillani*. Before that day arrived the convicted came again before the justices and asked to make a fine with the king for their defaults. They were allowed to and, 'for a certain sum of money to be paid by each of them to the lord king' (the amount is not given), made their peace.[60] But the fine took something of the nature of a suspended sentence: they were forbidden henceforth to go to law in the king's courts unless it were for their own private business, under penalty of that judgement which now hung over them.[61] They could not, in other words, act again in concert, nor maintain one another in their suits as they had before sworn to do. This was a major blow to the ambitions of the newly-fledged *burgenses*.

In the narrative of the townsmen's defeat which follows, Walsingham tells three stories: first, of the abbot's claim for mill-suit; secondly, of the town's surrender of its extorted charters and common seal; and finally of the people of Redbourn's rebellion against tallage (and their defeat). In so ordering his material, however, Walsingham distorts the true sequence of events. He acknowledges and excuses the dislocation, writing that the great events of Abbot Wallingford's time need to be told each as a whole rather than jumping disjointedly from one story to another.[62] And indeed in this respect he does what he intends with some narrative success and flair. What his apologia obscures,

[59] *Gesta abbatum*, ii, 235–236.
[60] *Gesta abbatum*, ii, 236. 'pro certa summa pecunie a quolibet eorum domino regi soluenda'.
[61] The wording is 'nisi pro negotiis suis propriis'.
[62] *Gesta abbatum*, ii, 261.

however, is that, beyond grouping discrete events into coherent sequence, he has also reordered the larger stories in relation to each other—and with significant effect, for the long dispute over obligations of mill-suit came in fact some years after the townsmen's surrender of the gains of 1327. The effect of this displacement is to make the monastery's victory appear far more final than it really was: discontent and strife rumbled on with little cessation through the 1330s and beyond.

First in time, though not first written, came the collapse of the townsmen's collective gains of four years earlier. On 2 February 1332 four townsmen came before the abbot, sent by their fellows, to surrender.[63] They were overwhelmed, we are told, by the expenses of their contest and decided at last (not through any goodness of heart but simply through fear of future loss) that 'contra stimulum calcitrare' was no longer worth the trouble.[64] The terms of their surrender had been worked out before the king's council.[65] First and foremost the townsmen were to surrender the charter of liberties that they had obtained from Wallingford's predecessor; they were to have it cancelled, moreover, in chancery, in the exchequer and everywhere else it had been confirmed. In settlement of the milling dispute (or an attempt at one), the townsmen were, in effect, to rent the abbot's mill for £48 *per annum* and there to grind their barley. They agreed, moreover, to pay 200 marks within five years in settlement of the damage they had caused and to offer further security for good behaviour in future.[66] In exchange the abbot, after consultation with his advisers, agreed to take the townsmen once again into his 'bona gratia'. He explicitly refused to enter into any written obligation, offering instead to protect and help them as their 'fidus amicus'—perhaps a more appropriate relationship, to his mind, than that implied by binding the monastery formally to commitments to its dependants

[63] *Gesta abbatum*, ii, 250. The date is given as 'die Purificationis sequente'. This cannot be that following the last date mentioned in the text (in the dispute over hand-mills) as this would then be several years too late. It must be before the townsmen's final surrender of their charters in chancery on 15 April 1332, recorded in *CCR, 1330–1333*, 558. This gives some support to the idea that the different sections were written separately and only later roughly stitched together into their present form.

[64] An allusion to Acts 26:14.

[65] At some point between September 1331 and January 1332 the king had ordered that a record of the trailbaston proceedings be sent to chancery 'so that we may further cause to be done thereupon what our council shall have ordained' (*Gesta abbatum*, ii, 237: 'ut ulterius inde fieri faciamus quod de consilio nostro contigerit ordinari'). The meeting which ensued probably led to the townsmen's being permitted to make a fine for their transgressions and settled the terms of their surrender to the abbey. Unfortunately nothing is recorded of the process itself. The terms, however, are set out in detail at *Gesta abbatum*, ii, 250ff.

[66] *Gesta abbatum*, ii, 251.

and so placing them on equal ground before the king. Though a deal was made, it was short-lived, for the townsmen soon thereafter refused to fulfil their promises. They thus persisted 'until they were compelled by the severity of the laws to abandon their obstinacy and humble their proud hearts'.[67]

That *seueritas* took a legal form highly characteristic of the abbey's relationships: the extraction of debt bonds on which the obligor might be sued if any further conflict arose.[68] When he saw that the townsmen would not hold to their agreement unpressed, Wallingford conceived a secret scheme which he carried out with the help of a single other monk. He sent his aide to one of the still-resisting men of St Albans, showed him 'many writs of conspiracy and trespass' and threatened to pursue him through the courts even unto death.[69] He said, moreover, that all the others had come to an agreement with the monastery, leaving this man alone to face the full force of the abbot's anger. Now this was not true in the slightest, but the threat had its intended effect: the man came immediately to the abbey. He agreed, first, to quitclaim in writing any benefit he might have gained by reason of the charters previously extorted from the monastery; secondly, to submit to the abbot's judgment 'in alto et in basso' and 'bound himself to this with a simple bond [i.e. without condition] to the abbot and convent for £40, without any writing beside it [i.e. without defeasance]'; and, thirdly, to swear upon the gospel that he and his heirs would observe all the undertakings he had made in his quitclaim, would do mill-suit at the abbey's mill, would seal whatever final agreement the abbot's council might in the end draw up and would do all he could to persuade his neighbours to do the same.[70] And then the man was entirely stuck, for the king's courts at that date treated debt obligations as wholly dispositive. Saving a release or defeasance (and the townsman had none) a plea that a bond had been entered into under a misapprehension or based on a false representation would have no effect.[71] He must answer writing with writing, or not at all. The abbot's ploy may have been morally dubious, but it was legally effective.

[67] *Gesta abbatum*, ii, 252. 'donec per seueritatem legum coacti sunt suam deponere pertinaciam et humiliare cor altum'.

[68] Compare, for example, the abbey's leasing arrangements, or the case of Chilterne (above, pp. 119ff.).

[69] On these writs, see A. Harding, 'The origins of the crime of conspiracy', *Transactions of the Royal Historical Society*, 5th series, 33 (1983), esp. 104–105.

[70] *Gesta abbatum*, ii, 253. 'ad hoc obligauit se per simplicem obligationem abbati et conuentui in quadraginta libris, sine aliquo scripto a latere'.

[71] The history of such bonds is set out (though with a tendentious interpretation) in Palmer, *English Law in the Age of the Black Death*, 62ff.

Wallingford then told the man to go to his fellows in secret, explain what he had done and urge them to do the same. Though it is not entirely clear why they should comply, comply they did, and within a fortnight nearly all the men of St Albans had sealed acquittances and unconditional debt obligations, the sum of which rose to more than three thousand marks. The abbot now had the necessary instruments of renewed domination in his hand and things unravelled quickly. On 13 April 1332 a large group of townsmen came into chancery bringing the royal charter of confirmation of their hard-won liberties.[72] They asked for its cancellation, 'upon which petition the keeper of the said rolls extracted the wax from the said charter and cancelled and condemned the enrolment thereof'. On 13 May the townsmen 'sponte' (which descriptor we may doubt) came to the abbey to surrender their charter, the royal charters of confirmation they had obtained, the record of the arbitration which had long before gone so strongly against the monastery, the record of their perambulation of the town, and the other documents they had collected in support of their cause.[73] They brought their handmills to the abbey church, as a token of their complete renunciation of any right to mill freely, and gave to the abbot both the three keys of their common chest and the chest itself, 'lest they ever again have hope of having a *communitas*'.[74] The town would henceforth be, as the monks had always felt it should be, a member of that larger body having the abbey as its head, not a community apart.

Walsingham writes that there was universal joy with the abbot's actions. Everyone who came before Wallingford left happy, he writes, a fact 'greatly wondrous and notable […] and which is to be attributed not to man but to God'.[75] There may well have been some genuine relief at the final resolution of the conflict (even if one so disappointing for the people of the town). But Walsingham's characterisation more probably reflects the abbot's assiduous attempts to foster an atmosphere of reconciliation. He refused to countenance any discussion of past offences and treated with the utmost consideration all those with whom he had so recently fought, declaring, 'if we were ready to be angry with them for their fault, let us be readier still to pardon them now returning to us and in

[72] *CCR, 1330–1333*, 558.
[73] *Gesta abbatum*, ii, 254–255.
[74] *Gesta abbatum*, ii, 255. 'ne ultra foret eis spes aliquando communitatis habende'.
[75] *Gesta abbatum*, ii, 255. 'mirum ualde atque notabile […] et quod Deo est potius quam homini tribuendum'.

grace to love them.'[76] He himself understood better than his advisers that what the abbey needed was the solid re-establishment of the social ties and structures that the rebellion had strained: force, threat and punishment were only tools to help the recalcitrant to see the error of their ways and the value of the abbey's patronage. When once the townsmen had surrendered their pretended autonomy and given themselves over to the abbot's grace, what was needed was not retribution but rapprochement. Then, '[k]nowing […] from experience that the laws support the vigilant and not those who sleep', Wallingford was careful to ensure that the newly satisfactory state of affairs be given legal force.[77] On 29 June he sent the townsmen to London to make recognisance of their surrender in the court of Common Pleas. This they did, unreservedly, though Wallingford also took the precaution of sending them to London in small groups, fearful of the concerted action that might arise if they could conspire on the road *en masse*.[78]

Secondly, on 12 April 1332, Wallingford had brought three suits against men of the town for failing to do mill-suit, as they ought to have done, for the previous four years.[79] The townsmen's surrender and settlement must have included an agreed resolution of these suits for, when the defendants appeared before the court, they answered that 'they cannot deny that they ought to do and are accustomed to do suit'. After the necessary inquiries into whether the rights concerned were being alienated fraudulently into mortmain, judgment could have been given in the monastery's favour. But it was not, for a legal question emerged which the king's justices were reluctant to resolve.[80] Many of the defendants were holders of urban tenements and messuages in St Albans itself and,

[76] *Gesta abbatum*, ii, 256. 'si parati sumus ad irascendum illis pro culpa, paratiores simus ad ignoscendum iam redeuntibus et diligendum pro gratia.'

[77] *Gesta abbatum*, ii, 256. 'Sciens preterea experimentaliter […] quod uigilantibus non dormientibus iura subueniunt', citing a Roman legal maxim (cf. *Digest* 42.8.24 and *Codex* 7.40.2).

[78] Curiously, the exemplification by royal letter patent of these events (and of the letter close relating the surrender of royal confirmations on 13 April) which Walsingham copies into the *Gesta abbatum* is dated 25 March 1381, barely two months before the outbreak of the great revolt of that year (*Gesta abbatum*, ii, 257–260.) In the weeks leading up to the townsmen's renewed assault on the abbey's ancient privileges, that is, the monks were gathering evidence and legal confirmation of their adversaries' last great defeat a half-century before. Perhaps relatedly, it was Thomas de la Mare who finally broke up the townsmen's silver common seal, surrendered in 1332 and long kept by the martyr's tomb, 'lest it ever perhaps be stealthily taken by one of townsmen, in whose full sight it had been placed there, like a thorn in their eyes' (*Gesta abbatum*, ii, 260: 'ne unquam fortassis furtiue posset alienari per quemquam uillanorum, in quorum conspectu ibidem quasi spina in oculo situm erat').

[79] *Gesta abbatum*, ii, 237–249.

[80] *Gesta abbatum*, ii, 243–249.

although they acknowledged the obligation, the judges refused to proceed to judgment because 'it is not clear to them that this kind of demand for suit had been successfully defended in times past, except only by reason of arable lands from which grew corn'.[81] At issue, that is, was whether mill-suit was a tenurial obligation attached to agricultural land (and its products) only, or whether it could personally bind the owners of urban tenements, wherever they might acquire their grain. On 4 July 1334, following entreaties from Wallingford, the king ordered the justices in the third case to proceed to judgment regardless of these scruples, which, after further inquiry into mortmain and the rights of intermediate lords, they duly did.[82] A writ ordering the sheriff to put this judgment into effect was issued on 15 October 1335.[83] But, while the issue might have been resolved for the moment, there were ample grounds here for the people of St Albans to doubt the lawfulness of their obligation in the future.

And, even for the moment, there was still strife. The people of Redbourn, a manor some four miles northwest of the abbey, refused to be tallaged at the abbot's will, as he believed they ought. They claimed instead to owe a fixed sum of 40s upon the creation of a new abbot, which they collected amongst themselves and repeatedly offered to Wallingford; he refused to accept it.[84] In support of their claim to exemption from arbitrary tallage the *Redburnenses* produced a charter of Egelwin or Aethelwine le Swart, who had given the manor to St Albans in the time of Edward the Confessor.[85] This charter specified and fixed the tenants' services and promptly persuaded the (unnamed) *magni patrie* of the rightness of the villagers' cause. They came before the abbot as 'amici et intercessores' and brought with them the charter to prove to Wallingford the antiquity of the manor's privilege. 'The abbot however, when he had seen and read through the

[81] *Gesta abbatum*, ii, 245. 'pro eo quod [eis] non constitit quod exactio huiusmodi secte temporibus retroactis disrationata fuit, nisi tantum ratione terrarum arabilium unde emerserint blada'.

[82] In the account in the *Gesta abbatum*, it is only in the case of the third suit that this question is raised; the others appear to proceed to judgment smoothly. But an identical writ ordering the justices to proceed to judgment in the second lawsuit, notwithstanding this same concern, was issued on 16 February 1335: *CCR, 1333–1337*, 468.

[83] *Gesta abbatum*, ii, 248–249.

[84] *Gesta abbatum*, ii, 261.

[85] For the history of the manor of Redbourn, see *VCH Hertford*, ii, 365. Aethelwine and his wife, Wynfleda, appear in the monastery's register of benefactors as the donors not only of Redbourn but also of Greenborough, Langley and 'Thwantunam'. Wynfleda is also said to have given to the abbey 'a bell which was long called the prayer-bell' (CCCC MS 7, f. 107v. 'unam campanam que diu uocabatur campana precum'. Printed in *Johannis de Trokelowe et Henrici de Blaneforde*, 444.)

said charter, immediately perceived that it was false and forged, by its manner of speaking'.[86] For the language of the charter was entirely unlike that of St Edward's time: it was a mixture of English and French, 'prout moderne loquuntur', and as had been used only since the Conquest, when (Walsingham explains) 'idioma nostrum' had been corrupted by the presence of the Normans. The monks of St Albans, with their assiduous record-keeping and archives stretching back (as they claimed) to the foundation of their house by Offa in 793, were perhaps better placed than most to spot diplomatic anachronism. Wallingford had the charter read aloud before those local notables and people of Redbourn who had come before him and they were immediately confounded, all denying any hand in the making of the crude forgery. The next Sunday, in every church of the abbot's jurisdiction, the authors and supporters of the fraud were declared excommunicate unless they came to make amends for their wrongdoing.[87] And to make sure that no such claim could ever be raised again, the abbot decided that not only should the tallage be levied now in public, so there could be no doubt in the minds of the community, but that no land would be granted in Redbourn or allowed to pass from one generation to another without the recipient acknowledging in court his liability to tallage at the will of the lord, 'sicut mere natiuus'.[88] The resistance of the *Redburnenses* continued for a time, but they had in the end to yield, to acknowledge their condition and to pay.

This was, for now, the end. What was the role of law in Walsingham's account of this decade-long wrangling between the monks and the men of St Albans and its surrounds? In essence he presents the conflict as one between two different conceptions of the abbey's relationship with its tenants and neighbours. In the monastery's own view the tie was in most (and the most important) respects a vertical one, of dependence, clientage and patronage. In the townsmen's, the borough and abbey were coordinate powers, owing one another certain obligations but fundamentally independent actors beneath the crown. It was thus frequently in the monks' interest to resolve conflicts informally, within the house's own courts, before its council, or with the aid in arbitration of its local friends. The king's law was, at certain moments, of great help in enforcing clearly defined and evidenced obligations and providing that force and compulsion the monks themselves

[86] *Gesta abbatum*, ii, 262. 'Abbas autem, cum uidisset et perlegisset dictam chartam, statim comperuit eam fore falsam atque fictam per modum loquendi'.

[87] Walsingham, ever mindful of procedure, is careful to add, 'facta trina admonitione preuia ante diem'.

[88] *Gesta abbatum*, ii, 263.

could not exert. But in the end what a wise abbot desired was not to hold the town in a cringing and embittered state of subordination, backed by the coercive power of the state, but to reconcile his neighbours to the world-view of the monks and reproduce a feudal world in which their own authority was enough to hold things in the state that they desired. In a moment of conflict a chest full of indefeasible debt obligations was useful indeed, but its proper use was to make such outside onus unnecessary in future.

4.2

The inquiry of 1341

As became amply evident in subsequent years, Wallingford did not succeed in reestablishing lasting social peace following the conflicts of the 1330s. When, in 1341, Edward III sent out commissions to investigate provincial disorder and official dishonesty, the people of St Albans had no shortage of matters to complain of.[89] One of their first grievances was that 'one Richard, formerly abbot of St Albans' (for Wallingford was now long dead) had caused various men of the town to be indicted for the death of Walter Amundesham before John de Cambridge and his fellow justices.[90] As we have seen, the townsmen complained that the justices were 'de consilio dicti Abbatis' and sat before a jury composed of men 'ex affinitate dicti Abbatis'. And Wallingford, the complainants continued, did not cease his pursuit of the accused until they had given him security that they would make recognisance in the king's court that they owed mill-suit and renounced and quitclaimed all the liberties they had gained. The abbot's methods, that is, may have been effective in pressing his case, but they hindered reconciliation. As long as the people of St Albans believed that the abbey had won by foul means not fair, they could hold out hope that another hearing before a differently constituted court would bring a different result. They complained too that Wallingford had exacted obligations for heavy sums from the townspeople—the unconditional bonds discussed above—and took the chests containing the proofs of their liberties.[91] Now this was of course true; what the presentment shows is that the passing of years had done nothing to erase the

[89] On these commissions, see McLane, *The 1341 Royal Inquest in Lincolnshire*, ixff. On complaints about the abbey's ecclesiastical jurisdiction, see also above, pp. 47ff. For the larger political and administrative context in which these inquiries took place, see Ormrod, *Edward III*, 229ff.

[90] TNA, JUST 1/337, m. 3r. 'quidam Ricardus quondam Abbas de sancto Albano'.

[91] TNA, JUST 1/337, m. 3r.

memory of, or their resentment at, the defeat. The jurors of the liberty likewise presented that Wallingford and his monks had seized and imprisoned William son of William le Mareschal, William son of John le Mareschal, and many other townsmen and kept them there until they had given over obligations to the abbey, some for twenty marks and some for £10.[92]

Nor were these the only complaints the jurors proffered against St Albans and its agents. They presented that the late bailiff of the liberty of St Albans had abused his power and 'falsely and maliciously returned original and judicial writs to the people's harm'.[93] They presented that the same bailiff together with Robert atte Welle, bailiff of Dacorum Hundred, had falsely and without warrant attached and imprisoned a large number of men in the king's gaol at St Albans until they agreed to make a fine with the abbot and quitclaim and surrender their liberties 'contra uoluntatem suam'.[94] More incendiary still, the jurors emphasised that the liberties surrendered had been granted and approved by the crown. They complained that the bailiff's abuses had not ceased: Thomas Barn, the current incumbent, continued to make false and malicious returns to writs. In particular, he had several times untruly returned that townsmen lacked sufficient lands and tenements in St Albans to be attached, as a result of which the process of exigent was begun against them. He could, they alleged, on occasion, be persuaded to do his job properly by an appropriate bribe. He took 40d from one Nicholas Dreye, plaintiff in an assize of mort d'ancestor, in exchange for making a return in the case, but took also 40d, three silver spoons and a pair of hose from John West, the defendant in the very same case. 'And so', they conclude with some exasperation, 'he takes from both parties just for doing his job'.[95]

The abbey's more distantly connected agents were held in no higher esteem. Alice Skille, farmer of the 'Maltmylle' and thus representative of the monastery's interests in the ever-contentious sphere of milling, was accused of taking more than the accustomed toll from each quarter of grain she milled, 'And they do this [*sc.* she and her servants] commonly to the grave harm of the whole community of the vill of St Albans'.[96] One

[92] TNA, JUST 1/337, m. 6r.

[93] TNA, JUST 1/337, m. 4v. 'false et maliciose returnauit breuia originalia et iudicialia in dampnum populi'.

[94] TNA, JUST 1/337, m. 4v.

[95] TNA, JUST 1/337, m. 4v. 'Et sic cepit ex utraque parte pro officio suo faciendo'.

[96] TNA, JUST 1/337, m. 4v. 'et sic faciunt communiter ad graue dampnum tocius communitatis uille

Henry le Muleward, farmer of the mills of Sopwell and Stankefeld, was accused of the same misdeed.[97] To confiscate hand-mills, re-impose the burden of mill-suit and lease the abbey's mills to farmers who then attempted to wring whatever they could out of their purchased monopoly can only have inflamed public resentment. Whatever the strength of the monastery's legal rights or logical validity of its claims, this was (if true) poor management. Nor did the townsmen think that the taking of their own mills had been lawful. The jurors of the vill presented that in November 1332 three men had gone on the abbot's orders to the home of John de Rysseborwe and taken away his hand-mill (of a value, they said, of 13s 4d) 'contra pacem regis'. They had done the same, moreover, to Thomas le Chaundeler, Richard Blakeberye and John Stertup, in all some sixty men of the vill.[98]

They complained of corruption in the abbey's internal economy as well. John Brewster, for example, 'clericus compoti', was said to have taken half a mark from Walter Baulond, a servant of the monastery's refectorer on the manor of Kingsbury, in exchange for doing the accounts. When he did render them, he did so falsely, to Walter's great harm, 'and is a common *ambidexter* between lords and servants and in the aforesaid manner has destroyed a great many people.'[99] Many locals were involved in administration of the monastery's disparate interests and such abuse at the joints of the house's economic structure could harm them severely, and did nothing to bolster the abbey's image in local eyes. And the political complaints of the townsmen had not been forgotten, either. The jurors of the liberty presented that, whereas the abbots of St Albans had before always paid the expenses of the knights of the liberty sent to parliament, Wallingford had 'per extorsionem' forced the 'communitatem libertatis et uille' to bear the expense, as they still now did.[100]

Some accusations were simply odd. The jurors of St Albans presented that in August 1338 the seneschal of the liberty had gone to the house of one Agnes Elnach in St Albans. There he had discovered Thomas Sprot of Colchester and Walter de Ingelwode dressed in the habit of hermits and 'having the tops of their heads freshly and widely shaved', in

de sancto Albano'.

[97] TNA, JUST 1/337, m. 4v.

[98] TNA, JUST 1/337, m. 5r.

[99] TNA, JUST 1/337, m. 6v. 'et est communis ambidexter inter dominos et seruientes et in forma predicta quam plures destruxit.'

[100] TNA, JUST 1/337, m. 6r.

the manner of priests. Knowing that the two were laymen, the seneschal was suspicious, arrested both and took them to the town gaol. After he received 56s from the pair, Thomas Sprot was bailed but Walter was not: he languished in prison and there died.[101] Quite what they had been doing is not clear. And this was not the only strange or bungled case. In 1339 the bailiff Thomas Barn had seized from Richard de Nortone (a tanner from St Albans) a cow, two copper pots and a tanned hide, of a total value of 20s 6d. He claimed it in payment of a debt due to the king, but Richard protested that he owed no such debt. In fact Richard de Nortone of Cheshunt, another man entirely, was the debtor, 'and this was proved through the rolls of the exchequer of the lord king'.[102] Even where the abbey and its servants were not immediately responsible for wrongdoing, their oversight was called into question. The jurors of the vill presented that in September 1339 John le Dyere came with his dog and a crossbow and assaulted Robert de Hertford, firing two bolts at him and terrifying Robert into submission. The dog, the jurors added, 'is a common wrong-doer to all its neighbours', entering the homes of those around and stealing their food. And all was compounded by the social position of John: he was a regular juror in the abbot's consistory.[103]

These were all, of course, accusations rather than convictions and it is possible that some charges were exaggerated in the telling. But they were accusations offered by juries of presentment, not individuals, and seem in general worthy of credence. Most did not go any further: 'non habetur processus' appears in the margin beside some entries and others were not pursued because of Wallingford's death.[104] But some did. The various charges against the bailiff Thomas Barn, for example—that he began proceedings in exigent when the accused had ample land to act against instead, that he took money from both parties in an assize of mort d'ancestor and that he distrained against the wrong Richard de Norton when collecting a debt due to the king—were repeated by another jury during the same inquest. This time Barn himself came and, when asked how he could acquit himself of the charges, replied 'that he cannot deny it' and asked instead to be allowed to make a fine for his misdeeds. That he was allowed to pay 10s and walk free can have offered little satisfaction to the townsmen who brought the charges, but

[101] TNA, JUST 1/337, m. 4v. 'coronas latas de nouo rasas habentes'.

[102] TNA, JUST 1/337, m. 5r. 'et hoc uerificatum est per rotulos scaccarii domini regis'.

[103] TNA, JUST 1/337, m. 6v. 'est communis malefactor omnibus uicinis'. The latter appears to be what is meant by 'est communis iurator in consistorio'.

[104] e.g. TNA, JUST 1/337, mm. 6v and 3r.

at least it argues for their truth.[105] On the other hand, when the costs of yielding were so low there was little incentive to fight the accusation. Henry le Muleward, the farmer of the mills of Sopwell and Stankefeld, likewise declined to dispute the charges against him and paid a fine of 40d.[106] Alice Skille, farmer of the 'Maltmylle', paid 6s 8d.[107] And the tanner Richard de Norton did not pursue the bill of trespass he had initiated against Barn and was himself amerced, but whether this means that the charge was false, unprovable, settled out of court, or simply not worth the trouble is unknowable.[108]

Whatever the truth of any individual accusation, the larger significance of the jurors' presentments is that the people of town and liberty were in no way reconciled to Wallingford's settlement. Rather, they viewed his methods as abuses in process and in substance, abuses that placed him in the same category, in their eyes, as extortionate millers and corrupt bailiffs. The legal forms with which he had achieved his victory were not guarantors of its justice but perversions of an ideal. When once an opportunity was offered them to appeal again outside the dependent relationship Wallingford had so carefully reconstructed, they denounced him roundly. The inquest shows too the close connection between petty disputes and constitutional conflict: it was the abrasive daily indignities inflicted by maladministration and corrupt officials which brought again and again to the townsmen's minds their unhappiness with the structure that enveloped them.

4.3

The rising of 1381

In 1381 the townsmen took their chance and rose again against the abbey's rule.[109] In so doing, they provoked not only a material response but also, in Walsingham at least, sustained reflection about the nature of this relationship, for the denunciation of the rebels' massive transgression of social norms required a clear articulation of what (to his

[105] TNA, JUST 1/337, m. 8r. 'quod non potest dedicere'.
[106] TNA, JUST 1/337, m. 8v.
[107] TNA, JUST 1/337, m. 8v.
[108] TNA, JUST 1/337, m. 10v.
[109] The background and course of this rising are described more fully in J. Currie, 'St Albans Abbey and the Peasants' Revolt of 1381', unpublished MPhil dissertation (University of Cambridge, 2012), on which this account draws.

mind) those norms were.[110] His narrative of the events of the Peasants' Revolt in St Albans is consequently a singularly rich source but, as the only substantial account of the revolt there, it must again be used critically. Disaggregating de la Mare's reaction and the depiction of that reaction is difficult and, as in 1327, it is precisely where Walsingham offers the most editorial comment that we should be wary of his narrative choices.[111]

Other sources here offer some help. Walsingham himself includes a large number of transcribed documents embedded in his narrative: a petition from de la Mare to the king, royal letters and writs, statutes and charters of liberties granted to the rebels, for example. The chronicle of Dunstable Priory, a house of Augustinian canons about twelve miles to the north-west, contains a brief account of the revolt in St Albans.[112] The close, patent and fine rolls record writs relating to the revolt's suppression, and a petition by de la Mare for the restitution of extorted charters, different from that recorded by Walsingham, is preserved with the parliament rolls.[113] The most important non-literary sources, however, are the records of the royal courts: a large number of cases were removed to the court of King's Bench from the commission of *oyer et terminer* charged with the revolt's suppression in Hertfordshire and several of those attacked by rebels in St Albans (including de la Mare himself) later initiated civil suits for trespass in the court of Common Pleas.[114] While of questionable veracity in many of their details, these last help to

[110] While his account of 1327 was written up, we may imagine, from documents preserved in the monastery's archives, in 1381 Walsingham was himself an observer of and a participant in the events he records in the *Gesta abbatum*. His account in the *St Albans Chronicle*, ed. Taylor, Childs and Watkiss, i, 410–573, offers fuller consideration of the revolt in the realm at large but much less on St Albans itself.

[111] The course of the Peasants' Revolt in towns outside London (and the importance of rural rebels within towns) has been the subject of many studies. See, for example: A. F. Butcher, 'English urban society and the revolt of 1381', in *The English Rising of 1381*, ed. Hilton and Aston, 84–111 (on Canterbury). R. B. Dobson, 'The risings in York, Beverley and Scarborough, 1380–1381', in *The English Rising of 1381*, ed. Hilton and Aston, 112–142. Réville, *Soulèvement des travailleurs*, 53ff. (on Suffolk and Norfolk). H. Eiden, 'Joint action against "bad" lordship: the Peasants' Revolt in Essex and Norfolk', *History*, 83 (1998), 5–30. R. H. Hilton, *Bond Men Made Free: medieval peasant movements and the English rising of 1381* (London, 1973), 198–209 (on St Albans, Bury St Edmunds and Cambridge). This section focuses on the reaction of the monks to the revolt, largely through a close reading of Walsingham's narrative, and thus adopts an intensive rather than extensive approach. Such an approach has its advantages but unfortunately precludes extended treatment of a comparator (Bury St Edmunds would be particularly suitable), at least within the constraints of the present study.

[112] *Annales monastici, Vol. III: Annales Prioratus de Dunstaplia. Annales monasterii de Bermundeseia*, ed. H. R. Luard (London, 1866), iii, 415ff.

[113] *Rotuli Parliamentorum*, iii, 129.

[114] An invaluable general introduction to the surviving legal records relating to the revolt is A. Prescott, 'Judicial records of the rising of 1381', unpublished PhD thesis (Bedford College, University of London,

establish not only the revolt's events and chronology but also its participants. The townsmen of St Albans were at all times the revolt's chief protagonists but they were joined by the inhabitants of a large number of surrounding manors; given the wealth of surviving manorial records, the abbey's reaction to the rebellion of the inhabitants of those manors is of particular interest. In seeking to understand the monks' response to the revolt, this section will focus chiefly on three of its aspects: the charters of liberties granted, the way in which Walsingham characterised the rebels and de la Mare's intercessory role in the revolt's suppression.

Around midnight on the night of Thursday 13 June 1381, the feast of Corpus Christi, de la Mare was confronted with a large crowd at the abbey gates.[115] They were not violent; they did not shout slogans or clamour for redress; they simply

> explained to the abbot the horrible uprising, trouble and disturbance of the people who had come to London and that they were assured that the said people at London wished to come to St Albans, and they asked for advice.[116]

Why they should have wished to come to St Albans was not said, but the abbot was evidently persuaded, and he was worried: he took counsel and then asked that some of the crowd go to London to discover the rebels' purpose and to prevent their coming. But, if de la Mare thought that the townsmen shared his aims, he was sorely deceived: on the following morning five hundred of them went to London, adding at Barnet still more to their numbers, and there 'treated with [the rebels'] captain as to what they ought to give him to come to St Albans'.[117] That, at least, is one way in which the story begins, in the start of a petition to the king sent by the abbey after the revolt's suppression. It is not the only way: immediately after transcribing the petition Walsingham takes up the story himself. Now it begins on Friday morning, at dawn, before the office of matins is even finished. And now the rural tenants take the lead: men from Barnet came in

1984).

[115] *Gesta abbatum*, iii, 289, part of a petition for redress submitted by the abbey to the king following the revolt. The documents incorporated into Walsingham's narrative will be identified as such in the following footnotes.

[116] *Gesta abbatum*, iii, 289. Petition to king. 'mostrerunt a dit Abbe le horrible lever, treoble, et turbacion des gentz qui furent venuz a Londres, et qils furent certifiez que les dites gentz a Londres vodroient vener a Seint Auban, et demanderunt consail.'

[117] *Gesta abbatum*, iii, 290. Petition to king. 'treterent ovesque lour capitan, que ly dussent doner pur venir a Seint Auban'.

haste to the town and announced that the 'communes' had ordered them to raise all the men they could from Barnet and St Albans and to come to London 'with whatever arms they could best defend themselves with'—otherwise twenty thousand people would come and burn their homes.[118] The abbot was told of this; disbelieving, and afraid to endorse the departure of so many men without the king's order, he directed that twelve of his retainers and twelve important men of the town alone go to London: to find the truth of what was happening, to assure both king and rebels that all was well at St Albans and that there was no need for either to come, and to assert their readiness to fight for the king and the commonwealth.[119] But the malice of townsmen and villeins undermined his plan: spurning his advice, they woke their neighbours and talked of nothing but the liberties they would recover and the injuries they would redress. The abbot's retainers were alarmed: they could not stop such a multitude and, as things stood, they would be seen as its leaders. Going to the earl of Warwick, then at Barnet, they told him of the abbot's plan and asked his help in persuading the king of their good intent, whatever might afterwards happen.[120] The earl promised to do all he could for them and, thus assured, the retainers set out with the townsmen towards London.

The two versions of the revolt's beginning are two attempts to explain an awkward fact: that de la Mare himself first sent men from St Albans to London and in so doing aggravated the situation in the capital. His motive in each telling is the same—to prevent the coming of the London rebels to St Albans—and an understandable one: presented with evidence of a national revolt, de la Mare was anxious that it should not become entangled with the abbey's long-standing local disputes. And things had not been entirely quiet since 1341. In 1356 a special commission of oyer and terminer was granted on de la Mare's complaint that men had broken into his park at Borham and stolen his trees and his deer, and Walsingham records a number of minor disputes.[121] Shortly before the revolt, for example, two monks had gone out into the town to measure some of the abbey's tenements on to which neighbouring buildings seemed to encroach. A man named William Gryndecobbe violently attacked and drove them off, 'wherefore he was soon afterwards compelled to do penance naked before the convent', as Walsing-

[118] *Gesta abbatum*, iii, 296. 'cum armis quibus se defendere sciuere melius'.
[119] *Gesta abbatum*, iii, 297. 'pro utilitate regis et reipublice'.
[120] *Gesta abbatum*, iii, 298. 'quicquid in posterum aliter fieret per communitatem predictam.'
[121] *CPR, 1354–1358*, 493. *Gesta abbatum*, iii, 368–369.

ham concludes with some satisfaction.[122] Faced with a mass of townsmen at the gates at midnight, de la Mare would have had reason to be concerned.

From the very outset, the rebels in St Albans, both from within the town and from without, were determined that the concessions they gained should this time be permanent and thus undertook to alter the written documents on the basis of which rights and powers were distributed.[123] Gathered in London at the church of St Mary-le-Bow on Friday 14 June, the townsmen for their part enumerated what they wanted from the abbey: new bounds for the town within which they might pasture their animals; rights of fishing, hunting and fowling (though only in particular places); the ability to keep hand-mills; exemption from the jurisdiction of the bailiff of the liberty of St Albans; and, above all, to get back the bonds which their ancestors had been compelled to give to Abbot Wallingford and any other documents which would support their struggle.[124] According to Walsingham, opinion in the group then divided: some thought that they should gain the sanction of Wat Tyler, for there would soon be none greater in the kingdom and the old laws would have no force; others that they use this opportunity to get from the king a letter under his privy seal directing the abbot to give them back their former liberties. In the event they did both, but the supposed division is interesting: as Prescott points out, extorting charters presupposed that the legal system would continue to function.[125] Réville thought such actions evidence of the rebels' 'simplicité naïve', for they failed to understand that charters were as much an expression of the distribution of power in society as they were its basis: when the pendulum swung back in the lords' favour, the charters too would change again and if the law functioned as before it would

[122] *Gesta abbatum*, iii, 369. 'quamobrem cito post nudus coram conuentu penitentiam agere est compulsus'. One of the monks, John de Bokedene, is discussed above, p. 15. The other, John Tanner, does not appear in the community list in BL MS Cotton Nero D.vii, ff. 81v–83v. He is described by Walsingham as a 'conuersus' and was likely a new addition to the community.

[123] The rebels' focus on documents in 1381 (and before) has been widely noted and discussed. See, for example: J. H. Tillotson, 'Peasant unrest in the England of Richard II: some evidence from royal records', *Historical Studies*, 16 (1974), 1–16. Faith, 'The "Great Rumour" of 1377 and peasant ideology'. Hilton, *Bond Men Made Free*, 227. S. Justice, *Writing and Rebellion: England in 1381* (Berkeley, 1994), *passim*. W. M. Ormrod, 'The Peasants' Revolt and the government of England', *Journal of British Studies*, 29 (1990), 14.

[124] *Gesta abbatum*, iii, 299. 'obligationes […] quas fecerant quondam parentes eorum pie memorie abbati Ricardo de Walingforde et alias chartas si que forent illis preiudiciales; omnia quoque, breuiter prescribendo, munimenta in abbathia uel illis firmamento uel monasterio detrimento.'

[125] Prescott, 'Judicial records of the rising of 1381', 17.

not guarantee the rebels' newly won liberties but revoke them.[126] For the people of St Albans, at least, such a view is wrong. The rights they won in 1327 had not been immediately rescinded: it took several years and the accession of not only a new abbot but a new king to claw them back. They thought, and with some reason, that limited gains with royal sanction would last and, whatever Walsingham might suggest, their leaders at least seem not to have envisaged the complete overthrow of authority: even at the apogee of their success they were moderate in their demands. Nor were they alone in this. At Dunstable, for example, the charter exacted by the rebels specified that they continued to owe fealty to the prior, as their chronicler recorded 'non sans stupéfaction', in Réville's phrase.[127]

The rebels were not the only ones to believe that changing the documentary basis of authority would have real results: de la Mare evidently did as well. On Friday 14 June William Gryndecobbe, now one of the rebels' leaders, petitioned first Wat Tyler and then the king for help against the monastery, before returning to St Albans that same evening. Hearing of their approach, Moot and several of the abbot's counsellors and lawyers fled St Albans and did not stop until they reached the priory of Tynemouth, 250 miles to the north: Moot, at least, was under no illusions about his popularity with the abbey's tenants.[128] The king granted a letter of support to the rebels on Saturday and early that morning Richard Wallingford, 'the greatest of the townsmen of St Albans', rode back from the capital and presented it to de la Mare in the abbey church.[129] The king ordered the abbot to surrender to the townsmen 'certain charters in your keeping made by our forefather King Henry'.[130] Yet the abbot did not immediately yield: 'he had long since decided rather to die to protect the monastery's liberty' and was with difficulty persuaded by his monks to meet with the rebels at all.[131] Only after a long series of exchanges in *oratio recta* with Wallingford and the revolt's other leaders did he

[126] Réville, *Soulèvement des travailleurs*, 48.

[127] Réville, *Soulèvement des travailleurs*, 46. *Annales monastici*, iii, 418. 'Et nota quod in charta illa quam a nobis ita pertinaciter exigebant continetur quod fidelitatem domino priori facere debent.'

[128] *Gesta abbatum*, iii, 287 and 301.

[129] Confusingly, Richard Wallingford, a wealthy townsman who played a notable part in the revolt, has precisely the same name as the monastery's former abbot. He is described by Walsingham as 'maximus uillanorum Sancti Albani' (*Gesta abbatum*, iii, 304).

[130] *Gesta abbatum*, iii, 306. Royal letter under signet seal. 'que certeines chartres, esteantz en vostre garde, faitz par nostre progenitour, le Roy Henry […] facetz liverer as dites burgeys et bones geuntz, ceo que lei et reson le requeront.'

[131] *Gesta abbatum*, iii, 305. 'iamdudum citius mori decreuerat pro libertate tuenda monasterii'.

agree to hand over the bonds, muniments and rolls which the townsmen demanded.[132] In other cases he did not yield at all. On the same day men from Barnet came to the abbey (or came back, depending on the version of events one chooses to believe) and demanded 'a certain book put together from the court rolls': the court book of Barnet, that is, now preserved in the British Library.[133] They wished to burn it to destroy the evidence it held of their fraudulent alienations and false charters, and so that the abbot could no longer prove that they held land *per rotulos*. The abbot promised that he would hand it over within three weeks, hoping no doubt that in that time the situation would change for the better, as indeed it did. It was hardly 'simplicité naïve' on the part of the men of Barnet to think that destroying the court book would change things on the manor for, as we shall see in the next chapter, many times in the past fifty years that same book had disproved their claims to hold lands freely.[134]

The people of Barnet were only the first trickle in what was to become a flood of rural tenants: the inhabitants of twenty-three villages came to St Albans in the following week to obtain charters of liberties (twenty-five charters in total, for some received more than one).[135] Five of these, as well as the charter for St Albans itself, were written specifically for the place in question and are reproduced by Walsingham *in extenso*. The remaining twenty were identically worded confirmations of the king's general charter of liberties, of which an example is given.[136] The first was the charter granted to the tenants of Barnet on Saturday 15 June: it confirmed the king's general charter of liberties and granted them free holding of their tenements 'in such a way that they can sell them *per cartam* without hindrance'.[137] With those words the monastery abandoned its long fight against illegal alienation on the manor of Barnet.[138] The next were two nearly identical charters granted to the people of Rickmansworth that same day.[139] They were

[132] *Gesta abbatum*, iii, 306-308.
[133] *Gesta abbatum*, iii, 328. 'quemdam librum confectum de rotulis curiarum'. Now BL MS Add. 40167.
[134] See below, pp. 207ff.
[135] *Gesta abbatum*, iii, 324–331.
[136] The chronology of the charters is confused: Walsingham reordered them to fit his narrative and some of their purported dates are demonstrably wrong. For example, the people of Redbourn are said to have demanded their confirmation of the royal charter of liberties on Saturday 15 June, are later said to have obtained it on Monday or Tuesday (i.e. 17 or 18 June), and appear in the list of those granted charters on 16 June (*Gesta abbatum*, iii, 328–331).
[137] *Gesta abbatum*, iii, 324. 'ita quod eas uendere possint per chartam sine impedimento'.
[138] On this conflict, see below, pp. 207ff.
[139] *Gesta abbatum*, iii, 326–327. The reason for the duplication is not clear and the two charters differ

granted free holding of their tenements and the right to alienate them as they wished, they were to pay the accustomed rents to the abbey in place of all other services, their rights of fishing were confirmed and extended, and they were granted rights of common on condition that they pay the abbey 3d *per annum* for each animal that so pastured. The charters, though removing at a stroke nearly all the profits accruing to the abbey from the incidents of villeinage, nevertheless confirmed the abbey's rents and acknowledged its rights over the common: the effect would have been comparable to the abbey's leasing out all the manor's customary lands to its tenants in perpetuity for money rents and waiving suit of court altogether. Particularly striking is the specification of payments for grazing rights: it is hardly likely that de la Mare and his officials would have pressed for such a concession (or that the tenants would have volunteered it) had they thought that the charter would not be binding. The most limited charter of all was granted the next day, on Sunday 16 June: the tenants of Tring demanded and were given an exemption from all tolls within the liberty and nothing else.[140]

The relatively limited nature of the rights granted was the result not only of the monastery's resistance but also of the rebels' moderation in their demands. Much the most important of the charters was that granted on Sunday 16 June to the townsmen of St Albans and its form, though not its content, was bitterly contested. On Saturday the rebels demanded 'a certain ancient charter concerning the liberties of the *villani* which had capital letters of blue and gold'.[141] In this they were perhaps drawing on the story, then current in the town, that Offa had granted liberties to the people of St Albans in thanks for their help in building his monastery there.[142] The repeated protestations of the abbot that he had no such charter were not believed and the next day he was compelled to allow the townsmen to draw up their own to replace it, promising too that he would hand over the ancient charter were it ever found. By Sunday, however, the news of Wat Tyler's death had reached St Albans; the leading townsmen at least knew of the king's conditional pardon for all who ceased to rebel; and the king had sent a letter to all the people of Hertfordshire declaring that, if the monastery had wronged them in anything,

only in some small details, chiefly relating to the area of commons and the extent of fishing-rights.

[140] *Gesta abbatum*, iii, 327.

[141] *Gesta abbatum*, iii, 308. 'quamdam chartam antiquam […] de libertatibus uillanorum, cuius littere capitales fuerunt de auro una, altera de azorio'.

[142] Walsingham discusses, and vociferously rejects, these rumours in his *recapitulatio* of the revolt and its roots: *Gesta abbatum*, iii, 365–366.

he himself would see that justice was done.[143] Though given *carte blanche* to draw up their own charter, the people of St Albans were extremely moderate: they were granted extensive rights of common and rights of way, rights of hunting and fishing, the right to keep hand-mills, and freedom from the bailiff of the liberty, who was not to enter the town without a writ from the king: precisely the aims they had outlined, according to Walsingham, when meeting at the church of St Mary-le-Bow on Friday.[144] Their objectives were the same, that is, in the heady early hours of the revolt in London and later, when the support of the rebels in the capital had faded away, a strong indication of the fundamentally local and limited nature of the revolt in St Albans. Compared to the concessions they had sought in 1327, moreover, their charter was very moderate indeed.[145]

That Sunday, Sir Hugh Segrave and Sir Thomas Percy, the king's steward and chamberlain respectively, wrote to the abbot directing him to yield to the rebels in all things, 'knowing for certain that no loss or damage would come to him or to his monastery from such concessions.'[146] Thereafter the abbot had no reason to prevaricate, for whatever he did could be undone, but the liberties granted do not seem immediately to have become more generous. On Tuesday 18 June a charter was granted to the tenants of Watford and Cashio: they might hunt, fish and fowl whenever, wherever and whatever they wished; they owed no suit of court; were freed from payment of 'Alepenny', from all tolls and levies, and from work on bridges and on parks; they might keep hand-mills and might mill where they pleased.[147] That was the last of the individually drafted charters: all the rest were confirmations of the king's general manumission. In this, perhaps a change can be seen, as the abbey became less serious about its concessions and less concerned about their later effects. According to Walsingham's narrative, on Monday 17 June and Tuesday 18 June the bondsmen of twenty vills gathered and obtained such confirmations.[148]

[143] *Gesta abbatum*, iii, 315–317.

[144] *Gesta abbatum*, iii, 319–320.

[145] *Gesta abbatum*, ii, 157–158. As we saw above, p. 139, on that occasion they demanded that the town be granted borough status and all the privileges that implied.

[146] *Gesta abbatum*, iii, 322–323. 'precipientes ut in uniuersis pareret uulgi petitionibus, sciens pro certo sibi nec suo monasterio de talibus concessionibus ullum dispendium aut preiudicium prouenturum.'

[147] *Gesta abbatum*, iii, 325.

[148] Walsingham's narrative specifies Monday and Tuesday. Beside the name of each vill, however, is written the date on which the confirmation was granted—dates which range from 16 June to 20 June. The true dates are probably unknowable but, fortunately, the distinction is not relevant to the point being made.

These charters post-date the abbot's receipt of the king's assurance and de la Mare and his advisers may have seen that affirming a royal grant which would itself, they knew, be reversed would be easier to undo than detailed specifications of liberties granted to each manor.

Such an explanation is of course speculative but it receives some support from the story of the men of Redbourn.[149] On Saturday 15 June the *Redburnenses* had come to St Albans, compelling a number of neighbouring gentry to speak on their behalf. They demanded a charter granting them free rights of hunting, fishing and fowling, and release from all the services they owed. The abbot replied that he was prepared to grant them a confirmation of the royal manumission but did not know what to do as to the rest; he wished to take counsel and deliberate; if they returned on Thursday he would reply to their other demands. The people of Barnet obtained the right to alienate land by charter and on the same day were told that they would be given the manor's court book within three weeks; the people of Redbourn were given a confirmation of the king's grant but told to come back another day for a specific charter of liberties. In each case de la Mare granted at once what could not be avoided and what, perhaps, could be endured, putting off as long as possible that which might prove more damaging. After the king's retainers wrote to the abbot, however, no one was turned away. Although, given the evidence, it can only be a suggestion, it seems likely that in the first days of the revolt both abbey and rebels believed that the re-distribution of rights would have lasting effect and tempered their positions accordingly. Their interaction was at first governed by local context: by the history of their conflict and the expectation of their co-existence after the revolt. Subsequently, the assurance of the king's advisers linked the outcome of the revolt in St Albans to that in the nation at large and removed any incentive for de la Mare to negotiate in good faith.

Who were these people who came to demand charters? Following the example of Rudé's studies on the Gordon Riots and other Georgian disturbances, a number of historians have worked to disaggregate the 'mob' in the Peasants' Revolt, using prosopographical analyses of manorial and legal records to push past literary depictions of bestial revolutionaries and see who the rebels really were.[150] It is worth considering first how the St

[149] *Gesta abbatum*, iii, 328–330.

[150] See, for example, G. Rudé, *The Crowd in History: a study of popular disturbances in France and England, 1730–1848* (London, 1964), 195ff.; and idem, *The Crowd in the French Revolution* (Oxford, 1959), 178ff.

Albans rebels were aggregated to begin with, for even in Walsingham's sometimes heavily schematised telling they do not form a single homogeneous group. One of the central dynamics in his portrayal of the revolt in St Albans is tension among the rebels themselves. He consistently uses distinctions between the abbey's rural and urban tenants and between rich and poor in the town itself to explain events.[151] This is not particular to his depiction of St Albans: of the revolt at Bury St Edmunds in 1381, he writes that the common people, 'in an amazing way', sought things for the townsmen 'which had very little to do with [the commons] themselves', concluding that they had acted only at the townsmen's instigation.[152] Walsingham's account of events at St Albans follows a similar pattern. The men of Barnet were involved from the beginning: according to Walsingham himself it was they who brought news of the revolt to St Albans; according to the abbey's petition they were recruited by the townsmen on their way to London.[153] But to raise many of the other vills took deliberate action. The petition tells of how the townsmen, having obtained their own charter, proclaimed 'that all the people from the surrounding country should come to the town arrayed in arms', encouraging them 'to come and demand such charters and to do as they [the townsmen] had done.[154] And it was not only encouragement that was offered to the villeins: the people of St Albans ordered the villagers to behead those who refused to come and to tear down and burn their homes.[155] According to Walsingham, on Saturday 15 June the townsmen gathered

A. Prescott, 'Writing about rebellion: using the records of the Peasants' Revolt of 1381', *History Workshop Journal*, 45 (1998), 5ff, explicitly discusses the influence of Rudé. See also Prescott, 'Judicial records of the rising of 1381', 7ff. The most wide-ranging works of this kind are C. Dyer, 'The social and economic background to the rural revolt of 1381', in *The English Rising of 1381*, ed. Hilton and Aston, 9–42; and Eiden, 'Joint action against "bad" lordship'.

[151] See in particular 'Butcher, 'English urban society and the revolt of 1381', 84–85, where the differing approaches of Oman, Dobson and Hilton to classifying the character of the revolt in various towns are briefly sketched.

[152] *St Albans Chronicle*, ed. Taylor, Childs and Watkiss, i, 486. 'ita quidem apud Bury res se hababant, mirum in modum comunibus petentibus pro uillanis que ad eos minime pertinebant'. The word *uillani* is translated in the Oxford edition as 'villeins', which, as mentioned above, is not the way in which Walsingham usually uses the word, nor in context is it likely the sense meant here. In Bury St Edmunds the *maiores*, though secretly on the side of the rebels, pretended to have nothing to do with them. Hilton, *Bond Men Made Free*, 201–202, contrasts St Albans and Bury specifically on this point and ascribes the difference to the closer connection of the townsmen of St Albans to the abbey's manors.

[153] *Gesta abbatum*, iii, 290 and 296.

[154] *Gesta abbatum*, iii, 295. Petition to king. 'que totez gentz de pays environ vendroient al dite ville araiez en lour armez […] de vener et demander tielx chartres et feare com ils avoient feat'.

[155] *Gesta abbatum*, iii, 303.

more than two thousand *rustici* at St Albans, to help them in their rebellion and to obtain liberties of their own. When Richard Wallingford rode into St Albans with the king's letter that morning, he planted the banner he bore, painted with the arms of St George, in their midst and declared that they should follow it as they would in war.[156]

The alleged dichotomy between urban and rural shifts when the rebels from the abbey's manors arrive in the town: thenceforth they are contrasted with the *maiores uille*, the prominent townsmen leading the revolt, and are irregularly assimilated to or distinguished from the commons of the town itself as the narrative requires. In Walsingham's telling, relations were tense and the leading townsmen manipulated those tensions to their own advantage: having brought the rural tenants to the town they used their inability to control the mob to extort concessions from the monastery. When Richard Wallingford presented the abbot with the king's letter directing him to give up the townsmen's charter of liberties, de la Mare at first refused. Wallingford and the other *maiores* remonstrated collectively with the abbot: 'Consider the thousand people who are waiting at the gates of the monastery for a swift response and who will doubtless turn their fury against us if we delay any longer in this matter'.[157] Nor, according to Walsingham, were such statements entirely untrue: when the *maiores* returned with the abbot's answer that he did not have the ancient charter, the *communitas* refused to believe them until the abbot himself swore to it publicly.[158] And the *maiores* were not always able to turn tensions to their own advantage. When, on Sunday morning, the leading townsmen learned of Wat Tyler's death, of the royal letter of protection that the monastery had received and of the conditional pardon granted by the king, they felt they had no choice but to go on, 'lest they seem to [the rural tenants], whom they had summoned with such arrogance, to have been frightened or to have yielded to the commands and warnings of the king too easily.' Afraid of losing face, they kept the pardon a secret and hoped that they could later claim not to have known of it.[159] Though the direction of pressure is reversed, the distinction between urban and rural once again drives the action.

[156] *Gesta abbatum*, iii, 304–305.

[157] *Gesta abbatum*, iii, 307. 'Considerate, inquiunt, ad millia populi ante fores monasterii festinum responsum prestolantis, qui in nos proculdubio suum furorem conuertent si diutius immorati fuerimus pro hac causa'.

[158] *Gesta abbatum*, iii, 309.

[159] *Gesta abbatum*, iii, 315–318. 'ne uiderentur ab hiis, quos tanto fastu uocauerant, nimis faciliter fuisse territi uel regiis mandatis et monitionibus paruisse'.

At most points, Walsingham portrays the abbey's rural tenants as enraged simpletons and the townsmen as plotting schemers using the *ribaldi* for their own ends. He does not, however, thereby absolve the rural tenants of blame: he writes that the people of Redbourn 'demonstrated clearly that in time of peace it was not malice against their lords that they lacked but rather the daring to act wickedly'; the insolence and pride of the townsmen simply gave them the example that they needed to spur them to revolt.[160] He explains that some of the abbey's bondsmen so hated their lords that on Saturday 15 June they wished to destroy the monastery whether they received a charter or not. The monks gave them bread and ale but were entirely unable to calm the crowd until one of the *maiores uille* came and addressed them. He rebuked them, demanding to know why they, who were outsiders, presumed to strike the first blow: 'stop what you are doing', he commanded, 'and follow the burgesses. Do what they have decided to do, for they will lead you'.[161] But Walsingham is not consistent and the dynamics among the rebels are determined as much by narrative considerations as by anything else. During the revolt's suppression, the townsmen refused to hand back the charters they had obtained, claiming that they were too afraid of the anger of the surrounding vills (and particularly of the men of Barnet) if they did so. Yet, he explains, 'they were false men and they spoke falsely': the rural tenants had already surrendered their charters and thrown themselves upon the lord's mercy; so angry were the rural tenants at the townsmen's slander that they declared themselves willing to fight—in single combat, ten against ten, or all against all—to prove the point.[162] Walsingham's characterisation of each group serves above all to highlight the iniquity of the others: as narrative priorities change, so too do the rebels.

How much truth was there, though, at the heart of Walsingham's depiction of the dynamics within the rebels? As has been recognised, a number of problems stand in the way of prosopograpical analysis at St Albans.[163] The records of the commission of *oyer et terminer* tasked with the suppression of the revolt in Hertfordshire do not survive; all

[160] *Gesta abbatum*, iii, 329–330. 'Itaque demonstrauerunt palam tempore tranquilitatis non eis malitiam aduersus suos dominos sed audaciam operandi nequitiam defuisse'.

[161] *Gesta abbatum*, iii, 312. 'Quiescite ab hiis ceptis et burgenses sequimini, et quid ipsi decreuerunt facere faciatis; ipsi enim uos ducent'.

[162] *Gesta abbatum*, iii, 344. 'paratos se ad pugnandum cum eis dixerunt, uidelicet cum singulis singuli, uel cum decem totidem, aut cum omnibus omnes, in hac causa, quod scilicet mendose de eis talia protulissent.'

[163] Dyer, 'Social and economic background', 10, n. 3, excludes the estates of St Albans from his survey 'because the large numbers of records involved, and the complexities of their interpretation, deserve separate study.'

that do are records of those cases which were transferred to the King's Bench to facilitate the proving of pardons.[164] The civil suits for trespass in the plea rolls of the court of Common Pleas provide many more names but, in the absence of the court records of St Albans itself, few of those charged can be identified. The problem is compounded by the erratic recording of origins, particularly in the civil suits: most defendants have no origin stated or, if they appear more than once, it is only occasionally stated or stated without consistency. Henry Clerk, for example, is said to be from both Codicote and Caldecote (two manors of the abbey fully fifteen miles apart) while a John de Bury was sued elsewhere as John Bury de Berkhamsted.[165] Many named without further specification must have been from St Albans itself and familiar for that reason, but this was not always the case: Robert Chaloner, for example, appears both with and without the addition 'de Berkhamsted'.[166] There are other problems as well. By far the greatest number of defendants whose origin was stated came from Berkhamsted, but this was not one of the abbey's manors at all: it had been granted by Edward III to the Black Prince and formed thereafter part of the estates of the duke of Cornwall.[167]

Sixteen cases relating to the revolt in St Albans were removed to King's Bench from the *oyer et terminer* commission headed by Robert Tresilian, the king's chief justice, involving a total of twenty defendants.[168] Of those twenty, fourteen were from St Albans itself, many of them important men in the town: Richard Wallingford, for example, William Berwick, John Garlek and Thomas Peyntour, all *maiores uille*.[169] Thirteen presented letters of pardon and were promptly released; Wallingford, in addition, had twenty marks' worth of forfeited goods restored to him. Only John atte Grene, a carpenter from St Albans, was actually tried, and he was acquitted.[170] By October, of course,

[164] Tresilian's commission of *oyer et terminer* covered both Hertfordshire and Essex, *CPR, 1381–1385*, 73. The returns for Essex do survive, in part, but those for Hertfordshire do not (or cannot be found), though it is possible that they were still available in the nineteenth century. See the discussion in Prescott, 'Judicial records of the rising of 1381', 91–92.

[165] TNA, CP 40/492, m. 193r and 193d.

[166] TNA, CP 40/492, m. 193r and 193d.

[167] *VCH Hertford*, ii, 166.

[168] TNA, KB 27/482, rex, mm. 26r–28d, 29d, 31d and 37r. KB 27/484, rex, m. 18r. KB 27/485, rex, mm. 23d and 33r–33d.

[169] Richard Wallingford: TNA, KB 27/482, rex, m. 26d. Interestingly, the indictment corroborates Walsingham's story of his riding back to St Albans with a banner. William Berwick: KB 27/482, rex, m. 26d. John Garlek: KB 27/482, rex, m. 28r. Thomas Peyntour: KB 27/482, rex, m. 26r. The four are named by Walsingham as the *maiores uille* arrested by Tresilian. *Gesta abbatum*, iii, 350.

[170] TNA, KB 27/482, rex, m. 28d.

when Tresilian sat at St Albans, the rebels from the abbey's manors had long since returned home and those arrested from outside the town must have come to the abbey's notice as out of the ordinary in one way or another.[171] Two of the six rural tenants transferred to King's Bench were involved in the destruction, on Saturday 15 June, of the houses of two of de la Mare's retainers who began civil suits for damages and were perhaps remembered for that reason; another had borne a banner made by Thomas Peyntour. All six presented letters of pardon.[172]

Four people initiated civil suits related to the revolt in St Albans: de la Mare himself; Robert de la Chambre, the abbot's forester; Richard Scriveyn, another of his retainers; and John FitzRobert, a poll-tax collector.[173] Unsurprisingly, given what we have seen of common-law process, only one suit was successful: de la Mare was awarded thirty pounds from Robert Baker of St Albans, who had extorted money from him during the revolt.[174] FitzRobert's suits (for housebreaking and theft) were limited in scope, but de la Chambre and Scriveyn each sued a large number of rebels and, in spite of the paucity of place-names, it is clear that rebels from outside St Albans played a major role in the destruction of their houses.[175] Of the forty-three men named in two cases by Scriveyn, thirteen were explicitly said to have been from elsewhere.[176] The names of two more occur in the court book of the manor of Park.[177] Eight of those thirteen were from Berkhamsted, and perhaps more: Edward Cook of Berkhamsted was later indicted for

[171] *Gesta abbatum*, iii, 350. Walsingham records that eighty people were arrested and this may have included a higher proportion of rural tenants than is represented in the twenty cases recorded in the rolls, though there is no way of knowing.

[172] Edward Cook of Berkhamsted and Thomas Long of Watford: TNA, KB 27/482, rex, m. 28r and KB 27/485, rex, m. 33r. John Dene of Watford: KB 27/482, rex, mm. 26r and 37r.

[173] TNA, CP 40/486, mm. 213d, 409r and 504r. CP 40/487, m. 448r. CP 40/488, m. 54d. CP 40/490, m. 517r–517d. CP 40/492, m. 193r–193d. Robert de la Chambre is described as *custos syluarum* in Walsingham's *recapitulatio*, *Gesta abbatum*, iii, 370. For John FitzRobert's commission as poll tax collector for Hertfordshire: *Cal. Fine Rolls, 1377–1383*, 283.

[174] TNA, CP 40/486, m. 409r. Walsingham records that during the revolt the former farmer of the manor of Kingsbury extorted £20 from de la Mare, claiming to have been wronged by Moot. Robert Baker extorted the same amount, and he may in fact have been the farmer. *Gesta abbatum*, iii, 313–314.

[175] The houses of two of the abbot's other retainers, John Clerk and Simon Lymbrenner, were also attacked, but neither sued and the abbot's petition to the king mentions only de la Chambre and Scriveyn. *Gesta abbatum*, iii, 294 and 312–313. Many of the criminal cases mention these attacks: TNA, KB 27/482, rex, mm. 26r and 27r–28d. KB 27/484, rex, m. 18r. KB 27/485, rex, mm. 23d and 33r–33d. See also Réville, *Soulèvement des travailleurs*, 23 and n. 1; and Prescott, 'Judicial records of the rising of 1381', 255.

[176] TNA, CP 40/490, m. 517r and CP 40/492, m. 193d. Those who are not defendants in the first case but are mentioned as being also present are the defendants in the second, and *vice versa*.

[177] Gilbert Toby and Geoffrey Rook, discussed immediately below.

riding with others from his vill to de la Chambre's house that Saturday and remaining there until it was destroyed; the jurors declared that they did not know the names of the others from Berkhamsted but that there had been forty of them.[178]

How does this relate to Walsingham's depiction of events? In his telling, the destruction of these houses happened immediately after a leading townsman commanded the rural mob to follow the lead of the men of St Albans, and there may be truth to this.[179] One of those named in Scriveyn's suits is John Barbour of St Albans; he can be identified with the John 'Barbitonsor' who appears repeatedly in Walsingham's narrative as one of the revolt's instigators and was eventually executed.[180] Thomas Peyntour, though not sued by Scriveyn, was indicted for his role in destroying the houses of the abbot's servants.[181] That forty men of Berkhamsted, a manor not even owned by the monastery, should have chosen to go of their own volition and destroy the house of the abbot's forester is difficult to believe; it is much more likely that in this action, as Walsingham suggests, the rebels from the countryside were used by the townsmen for their own ends.

Some of the rebels named can be reliably identified in the abbey's manorial court books.[182] Two of those, Robert Marshall and John Millward, came from Barnet and were sued by Scriveyn.[183] In 1378 they were both amerced for breaking the assize of ale and in the following years Millward was repeatedly amerced for defaulting.[184] In 1369 one Simon Pekfithal demised a messuage and adjacent meadow to Robert Marshall without the lord's licence and, when the illegal alienation was discovered seven years later, the monastery seized the land.[185] The punishment exacted was not particularly harsh, however: Pekfithal paid a fine of half a mark and Marshall was allowed to complete his twelve-year term.[186] Three other rebels appear in the court book of the manor of Park, though none is described in the suits as being from there.[187] Gilbert

[178] TNA, KB 27/482, rex, m. 28r.
[179] *Gesta abbatum*, iii, 312–313.
[180] *Gesta abbatum*, iii, 339, 347 and 350.
[181] TNA, KB 27/482, rex, m. 26r.
[182] On these records, see below, pp. 183ff.
[183] TNA, CP 40/486, m. 213d. CP 40/490, m. 517r. CP 40/492, m. 193d.
[184] Brewing: BL MS Add. 40167, f. 119v. Defaults: e.g. ibid., 120r, 122r, 123v and 124v.
[185] BL MS Add. 40167, f. 118v.
[186] BL MS Add. 40167, f. 121r.
[187] M. Tomkins, 'The manor of Park in the fourteenth century', in *The Peasants' Revolt in Hertfordshire: the rising and its background. A symposium* (Stevenage Old Town, 1981), 55, mentions a fourth, one

Toby, sued by Scriveyn for participating in the destruction of his house, was repeatedly presented in the years immediately before the revolt for trespassing with his animals in the lord's pasture.[188] Geoffrey Rook, sued both by Scriveyn and by de la Chambre, was also presented for trespassing on the lord's land.[189] More intriguingly, he was sued by John Petyt, a fellow tenant, for planting a hedge on Petyt's land and then amerced half a mark for disrupting the jury which assembled to see the hedge in question; Petyt failed to press the case and it was dismissed.[190] Finally, William Gryndecobbe himself appears in the court book of Park: in 1377 it was discovered that one Johanna Randolff had alienated an acre of land to him *per cartam* without licence of the lord; the land was seized and no more was heard of it.[191]

This evidence complicates our endorsement of Walsingham's depiction. First of all, the distinction between rural and urban was evidently not as sharp as he suggests: the manor of Park lay immediately south of St Albans and townsmen held land there and were involved in the manorial economy.[192] Secondly, Robert Marshall was undoubtedly among the tenants of Barnet who demanded the surrender of the court book on Saturday: he had a personal interest in destroying evidence of land-holding *per rotulos*.[193] Scriveyn's name suggests that he was one of the abbot's clerks and may perhaps have been involved in compiling the court books; that Marshall and others from Barnet should have destroyed his house that same day hardly supports the idea that they were simply the thoughtless pawns of the townsmen.[194] Many of the rural tenants involved in the revolt were personally aggrieved at the monastery but the evidence does not suggest

William Colyn. Two men of that name, 'William Colyn Whittawyere senior' and 'William Colyn Whittawyere junior' were sued by Scriveyn (TNA, CP 40/487, m. 448r) but I have not identified them in the Park court book, BL MS Add. 40625.

[188] TNA, CP 40/490, m. 517r and CP 40/492, m. 193d. BL MS Add. 40625, ff. 121r–121v, 122r and 125v.

[189] TNA, CP 40/490, m. 517r–517d. CP 40/492, m. 193r–193d. BL MS Add. 40625, f. 121v.

[190] BL MS Add. 40625, ff. 125v and 127v.

[191] BL MS Add. 40625, f. 122r. The entry is reproduced in facsimile in Tomkins, 'The manor of Park in the fourteenth century', facing page 64.

[192] Hilton, *Bond Men Made Free*, 202, draws attention to the 'agrarian element' in the charter demanded by the townsmen of St Albans (in demanding rights of common and fishing rights, for example) and the closeness this suggests to the life of the abbey's rural tenants. Butcher, 'English urban society and the revolt of 1381', 110, describes town and countryside at Canterbury as 'inextricably entwined' and is quoted with approval by Eiden, 'Joint action against "bad" lordship', 10.

[193] *Gesta abbatum*, iii, 328.

[194] Réville, *Soulèvement des travailleurs*, 23, makes the suggestion that both John Clerk and Richard Scriveyn were among de la Mare's secretaries.

the deep-seated, implacable and undirected hatred which Walsingham describes. Their grievances were specific and, in many cases, fairly minor. Importantly, the chief points of substantive conflict—*per cartam* alienation and rights of common—are among those which the abbey's rural tenants sought to eliminate in the charters of liberties which they demanded. Once again, it is likely that Walsingham's characterisation was driven primarily by narrative considerations: to highlight both the terrifying anger of the mob and the wicked scheming of the townsmen, he not only exaggerated the sharpness of the distinction between rural and urban rebels but also downplayed the specificity of the rural tenants' complaints and the directedness of their actions.

The rebellion in St Albans was brief: the last of the charters were granted, at the latest, on Thursday 20 June and, after they obtained the liberties they desired, the rebels dispersed.[195] Its suppression was not, therefore, a violent one; as Réville wrote, '[i]l n'y avait donc pas à les combattre: il suffisait de leur reprendre, de gré ou de force, les chartes de libertés qu'ils avaient extorquées à leurs seigneurs', a process which went on for some months.[196] For de la Mare it was, in Walsingham's telling at least, something of a balancing act: certainly he wished to retract the charters he had been compelled to grant and for that he needed help; on the other hand he was at all times concerned to mitigate the harshness of the king's justice. After the revolt had ended in St Albans the abbot sent some townsmen to join the royal army; some of them, recognised by one of de la Mare's retainers in London as rebels, were arrested and sentenced to death.[197] The abbot was told and was upset: he sent one of his monks to ride as fast as he could London to save them; he did, and they were saved.[198] Tuck's assessment, that 'there is little evidence that the lords took a vengeful attitude towards their tenants', is certainly true of St Albans.[199] Even during the revolt itself the abbot's relations with the greater townsmen, at least,

[195] *Gesta abbatum*, iii, 330. As noted above, the charter's dates are not all clear. According to Walsingham, the inhabitants of the abbey's manors were granted their charters on Monday and Tuesday, 17 and 18 June; according to the dates given beside the list of vills, the last were granted on Thursday 20 June.

[196] Réville, *Soulèvement des travailleurs*, 131. The events of the revolt's suppression, a long-drawn process, are dealt with summarily here. It has been discussed by: Réville, *Soulèvement des travailleurs*, 131ff. Prescott, 'Judicial records of the rising of 1381', 56ff. Trenholme, 'The English monastic boroughs', 64–65. All accounts depend, fundamentally, on Walsingham himself: *Gesta abbatum*, iii, 333–364.

[197] It is a curious illustration of the rebels' complex motivations that they refused to admit that they had come at the abbot's command but boasted that they were there of their own accord.

[198] *Gesta abbatum*, iii, 333–334.

[199] J. A. Tuck, 'Nobles, commons, and the Great Revolt of 1381', in *The English Rising of 1381*, ed. Hilton and Aston, 201.

had retained some element of civility. When Richard Wallingford presented him with the king's letter, de la Mare expostulated that, in all his thirty-two years as abbot, he had never done anything against his people but had always worked to help them. Wallingford and the other *maiores* acknowledged the truth of this: they had not wished to rebel during his abbacy but had wished to wait for his successor; now, however, events had overtaken them and there was nothing they could do.[200] These speeches in *oratio recta* are of course fictions: not what was said but what the historian felt could have or ought to have been said. But it is hardly less significant that Walsingham should invent such an exchange than that it should actually have taken place: he elsewhere applauds Bishop Despenser's brutal suppression of the revolt in Norfolk and the fact that such civility characterised his depiction of interactions in St Albans at the height of the disturbances there shows how differently he understood the events in his own town.[201]

Walsingham consistently highlights the intercessory role not only of de la Mare but of others as well. When the king, then in Essex, heard of the excesses committed by the people of St Albans, he decided to go there with a large force.[202] According to Walsingham, a local man, Sir Walter atte Lee, was so alarmed at the prospect of the king's enormous retinue descending upon St Albans that he persuaded the king to allow him to go personally to effect a settlement.[203] On 28 June Sir Walter was met by the townsmen and escorted into St Albans; summoning all who had taken part to a field, he addressed them at length, elaborating particularly on the great evils which they had escaped through his coming instead of the royal army. He urged the townspeople to hand over the principal malefactors and to do whatever was necessary to come to terms with the abbot; with that done, the king's wrath could be averted.[204] But, in the absence

[200] *Gesta abbatum*, iii, 307–308.

[201] *St Albans Chronicle*, ed. Taylor, Childs and Watkiss, i, 490ff. For example, Walsingham writes approvingly of Despenser's slaughter of fleeing rebels: 'presul, imperatoris circumspecti ubique gerens officium, hos conatus [*sc.* effugiendi] elidit, et fugere meditantes cedendo impedit' (ibid., 494).

[202] *Gesta abbatum*, iii, 335. 'de transgressionibus iustitiam rectam facturus.'

[203] Walter atte Lee was many times an MP for Hertfordshire and Essex; a JP, sheriff and tax assessor; a companion-in-arms of John of Gaunt; and a substantial local landowner. See, *The House of Commons, 1386–1421*, ed. J. S. Roskell, L. Clark and C. Rawcliffe, 4 vols. (Stroud, 1992), iii, 577–579. His seat was at Albury in Hertfordshire and he may be represented in a surviving effigy in the church of St Mary there: *VCH Hertford*, iv, 10 (and the plate facing p. 6). For the fall of his father, Sir John atte Lee, see W. M. Ormrod, 'Parliamentary scrutiny of royal ministers and courtiers in fourteenth-century England: the disgrace of Sir John atte Lee (1368)', in *Law, Governance, and Justice: new views on medieval constitutionalism*, ed. R. W. Kaeuper (Leiden, 2013), 161–188.

[204] *Gesta abbatum*, iii, 335–337.

of force, the people proved intransigent: the jury which Sir Walter summoned refused to indict and his request that the charters be returned was stymied by excuses. He had Gryndecobbe and two others arrested and taken to Hertford but so great was the tumult this excited in St Albans that the abbot recalled to the abbey the esquires who had arrested them and Gryndecobbe was released on bail.[205] Only when news came that the earl of Warwick, a great friend of the monastery, was approaching with a thousand armed men did the townsmen attempt to return the charter and court book they had extorted; the abbot accepted the book but put off negotiations concerning the charter and, when the earl was forced to turn back to attend to his own estates, the townspeople mocked their own foolish fearfulness and grew stubborn once again.[206]

This rejection of intercession is interesting (if true) but still more interesting is Walsingham's reaction, for it provoked his harshest condemnation. Although (as we are assured at some length) de la Mare did all he could to prevent the king's coming, when he came nonetheless the townsmen claimed that the abbot had himself bribed King Richard with £1,000 to procure his presence and to destroy the people: ungrateful, false, wicked and perfidious, 'they concocted such things to defame [the abbot], who was, whether they wished it or not, their lord and their spiritual father'.[207] Compelled finally by the king's impending arrival to come to terms, they hired an expensive pleader—one William Croyser—to treat with the abbot on their behalf and an agreement was quickly reached: they would repair what they had broken, return what they had stolen and pay the abbot £200; for his part de la Mare would do all he could to temper the king's justice.[208] Yet even that was not the end: when the king's justiciar, Robert Tresilian, had executed fifteen of the rebels and arrested eighty, the townsmen attempted to indict the abbot and convent for instigating the revolt. De la Mare had ordered them, they said, to go to London and join the rebels; Tresilian forced them to admit the falsity of their charge and to tear up their indictment.[209] The townsmen then began to slander the abbot to the soldiers and retainers of the king who were billeted in their homes: he was a hypocrite,

[205] *Gesta abbatum*, iii, 339–341.

[206] *Gesta abbatum*, iii, 343. The earl is commemorated in the *Liber benefactorum*, BL MS Cotton Nero D.vii, f. 109r.

[207] *Gesta abbatum*, iii, 345. 'fallax turba, gens perfida, populus dolosus, uiri mendaces, homines fraudulenti, proximi uicini inuidi, beneficiis semper ingrati, talia confinxerunt ad diffamandum eorum, uelint nolint, dominum et patrem spiritualem'.

[208] *Gesta abbatum*, iii, 345–346.

[209] *Gesta abbatum*, iii, 350–351.

they said, who deluded the nobility with his affected sanctity so that he could tyrannise his tenants with impunity and rob the townsmen of their rights.[210] In this view, the abbot's intercession was not merely an act of piety and, in rejecting it, the townsmen were not simply acting out of spite. His intercessory role was an integral part of his lordship and in exercising it he was attempting to reassert not only control over events but also control over his tenants—to re-establish both the moral and the practical value of the hierarchy which the rebels rejected and in so doing to revalidate his *dominium*. In spurning that intercession and continuing to construe the abbot as their opponent, the townsmen were, from Walsingham's perspective, in fact acting more radically than they had during the revolt itself, driven perhaps by the belief that the seigneurial relationship which they had acknowledged even then had been betrayed by the abbot's acceptance of royal assistance.

In conclusion, it seems first of all clear that, in the opening days of the revolt at least, de la Mare, though loath to compromise the monastery's rights, nevertheless negotiated with the rebels in good faith. The abbot seems at all times to have viewed the revolt in St Albans as a local conflict which had to be dealt with within the context of existing relationships. This may be partly the result of Walsingham's narrative decisions: a trusting de la Mare contrasts more effectively with the perfidy of the rebels and his belief, even *in extremis*, in the importance of his responsibility to protect his dependants condemns by implication their rejection of his lordship. But it cannot have been wholly a fiction: de la Mare's early action in sending men to London was later a source of acute embarrassment; he appears to have taken at first little advantage of the *carte blanche* offered him by the king's servants in granting charters; and by repeated and strenuous intercession on the rebels' behalf he attempted afterwards to re-assert their former relationship. Moot took no part at all: as has been said (and as will become clearer in the next chapter), the energy of his estate management may have been effective in preserving the monastery's income but it did not win him many friends. Secondly, though Walsingham's characterisation of the interplay among the different rebel groups seems to have been substantially accurate, in removing from his account of the rural tenants—the basic 'mob' on which the townsmen depended—the specificity of their grievances and the limited aims which they appear genuinely to have sought, he radicalised them more than they did themselves. He

[210] *Gesta abbatum*, iii, 351–352.

seems, in fact, to have been more shocked by the rebellion than de la Mare was: uninvolved in the management of the monastery's estates, he was less comfortable with the idea that the interests of its tenants might be contrary to its own and less aware of the consent—however grudgingly given—on which lordship fundamentally rested. And, finally, Walsingham's concern for intercession in the revolt's aftermath and his ferocious condemnation of its rejection show clearly his continued belief in the capacity of that seigneurial relationship to manage conflict, however shocking the events of 1381 had been. The relationship between the abbey and the town was seriously bent during the revolt but, in Walsingham's view, it did not break entirely.

4·4
Conclusion

This half-century and more of conflict between town and monks was remarkably consistent in its basic dynamics. In spite of the abbey's evident view that the townsmen should be wholly subject, in reality local power was not distributed thus, for the tenants had considerable resources themselves.[211] In spite of their desire to keep out outside authority, therefore, the monks depended always on the king's law and the strength of central government to keeps things in (as they thought) their proper place. And still more (and more curiously) they depended on their own capacity to mediate that law and temper its rigours in order to demonstrate the value of their lordship to the townsmen. Time and again the townsmen took advantage of any wavering in the support of central government to press their claims and redraw the obligations structuring their community. Time and again the monks seized upon the excesses that the townsmen committed in pursuing their goal; brought to bear renewed and fiercer royal justice; and used its mitigation (real or, as in Abbot Wallingford's case, feigned) to reestablish the worth, appeal and present necessity of the paternalist relationship the townsmen had been so anxious to cast off.

At its core the problem was one of the gradual extension of central power, of centralised mechanisms of dispute settlement and of new legal conceptions into a local relationship formerly constituted along quite other lines. The abbey used the authority of

[211] On the the interplay of lords' and tenants' power, see for example C. Dyer, *An Age of Transition?: economy and society in England in the later middle ages* (Oxford, 2005), 34–36 and 86ff.

royal law but was left vulnerable, too, to having that law used against it. The role the king's law should play in this relationship was thus hotly contested and constantly in flux: the monks wished to appropriate its forms and strength to reinforce the social patterning they desired; the townsmen to use it to overthrow that order. Would it stand aside and intervene only to enforce the townsmen's obligations and dependence? Or would it, as they fruitlessly hoped in 1341, step in too to punish and to change those aspects of the relationship which the townsmen now saw as abuses? Would it preserve the old order of things or would it, as the petty assizes had done two centuries before with free tenements, drain lordship of its content and its strength by reviewing and subjecting to outside control the decisions made by local powers?[212] In the fourteenth century the monks had the better of the contest, but it is not only with hindsight that we can see that they would not always.

[212] The earlier story, when (it is argued) the central reviewability of tenurial decisions shifted power, though unintentionally, from lord to crown, is set out in Milsom, *The Legal Framework of English Feudalism*, *passim*.

CHAPTER 5

The Manor

The fourth and final sphere of social interaction to be explored is that of the manor. On the abbey's own estates the manorial economy was structured by legal forms and legal processes. Much ink has been spilled over the 'nature of manorial adjudication': whether the manor courts of medieval England formed an integrated part of a larger national legal system; or rather provided a forum for procedure analogous to modern 'alternative dispute resolution'; whether they simply copied common law practices; or truly embodied local custom; whether declarations of substantive principle were pragmatic rulings guided by 'factual equity'; or real rules to which decisions had to conform.[1] The records from St Albans, as we shall see, suggest a different approach.

Those records are voluminous, and more voluminous still has been the historical writing which such manor court records have produced: sociological, demographic and (more recently) legal-historical.[2] In so vast a field, both of enquiry and of primary sources,

[1] See, in particular: L. Bonfield, 'What did English villagers mean by "Customary Law"?', in *Medieval Society and the Manor Court*, ed. Z. Razi and R. M. Smith (Oxford, 1996), 103–116; P. R. Hyams, 'What did Edwardian villagers understand by "Law"?', in *Medieval Society and the Manor Court*, ed. Razi and Smith, 69–102; J. S. Beckerman, 'Toward a theory of medieval manorial adjudication: the nature of communal judgments in a system of customary law', *Law and History Review*, 13, 1 (1995), 1–22; R. M. Smith, 'Some thoughts on "Hereditary" and "Proprietary" rights in land under customary law in thirteenth and early fourteenth century England', *Law and History Review*, 1, 1 (1983), 95–128; and L. R. Poos and L. Bonfield, *Select Cases in Manorial Courts 1250–1550: property and family law* (London, 1998), xxvii–xxxv; each with reference to earlier discussions. An overview of this historiography is offered by C. Briggs, 'Manor court procedures, debt litigation levels, and rural credit provision in England, *c.* 1290–*c.* 1380', *Law and History Review*, 24, 3 (2006), 519–522.

[2] The extensive historiography of manor court studies to the mid-1990s is admirably sketched in Z. Razi and R. M. Smith, 'Introduction: the historiography of manorial court rolls', in *Medieval Society and the Manor Court*, ed. Razi and Smith, 1–33. This can be supplemented by the more recent summary of Briggs (above, note 1).

this chapter adopts a deliberately and decidedly limited focus. It will look at the nature of the records, at the function of the court as a land registry, at the court's administrative role, and at inter-tenant disputes.

5.1

The court books

Most of the surviving evidence for the abbey's management of its manorial estates comes from the St Albans court books, collections of entries from the rolls on which records of manor court proceedings were initially kept.[3] By the 1350s the difficulty of finding previous entries in the mass of rolls must have become acute and, as we shall see, appeal to the record of the rolls was by this date common. The extraction and compilation into codices was made at Moot's instigation to ease this practical burden.[4] Many court books survive, providing long and continuous runs of records which show the proceedings of the courts on many of the abbey's manors. Not surprisingly, this extensive material has been the subject of much study. As early as 1883, Seebohm used the court book of the manor of Winslow to study the nature of the virgate.[5] In 1937, Bennett drew many examples for his *Life on the English Manor* from the court book of Abbot's Langley. Since the work of Levett, the St Albans court books have been used too for detailed studies of the operations of manorial courts themselves, by Slota and by Beckerman, most notably.[6]

As a basis for such studies, however, the court books are problematic. They represent only a subset of the business transacted by the courts and initially recorded in the rolls. This selection is inconsistent over time and, moreover, varies substantially between courts: different manors were assigned to different obedientiaries who took responsibility for their running.[7] The priorities and practices of the cellarer may not—even insofar as they were consistent—have been those of the kitchener or sacrist. The records, moreover, are pervaded by an air of abstraction and unreality. The monks and monastery are rarely

[3] On these records in general see Levett, *Studies in Manorial History*, 79–96.

[4] See above, p. 24.

[5] F. Seebohm, *The English Village Community* (London, 1883), 22ff.

[6] Slota, 'The village land market on the St. Albans manors of Park and Codicote: 1237–1399'. Idem, 'Law, land transfer, and lordship'. Beckerman, 'Procedural innovation and institutional change'.

[7] The holdings of obedientiaries are set out at CUL MS Ee.4.20, ff. 215r et sqq., to aid in tax calculations. On this system of monastic economy see, in general, Smith, *Canterbury Cathedral Priory*.

mentioned: all actions on their part are ascribed to a singular agent 'dominus', who grants lands and receives fines, and against whose lands and interests miscreants trespass. This standard legal form entirely obscures what happens when, for example, manors are let to farm (as they frequently were). And it should alert us to the fact that what is described in the court record is events as mapped to a system of legal abstraction, not events themselves.

Some idea of the principles of selection underlying the court books can be obtained by comparing them with the few surviving court rolls. Levett drew attention to the scarcity of these latter, attributing it in part to the destruction of abbey muniments during the revolt of 1381.[8] While this no doubt played a role, more important was surely the existence of the court books themselves: once those entries which might be needed as precedents and as evidence had been extracted and could be more easily found elsewhere, what need to preserve the confusing mass of original rolls? When monastic property passed to lay buyers in the sixteenth century the court books were still of value: they recorded the distribution of customary tenements and went with the land to its new owners. And, indeed, until then the rolls may have been preserved, if little used, in the abbey's archives. But when institutional continuity ceased there was no reason at all for the rolls to survive the documentary bottleneck of dissolution.[9]

What, then, went into the court books? A court roll for the year 22 Edward III, now in the Hertford Record Office, includes (among others) the record of a court held at Cashio on 30 October 1348.[10] The same meeting is recorded in the court book of Cashio in the British Library.[11] Every entry in the court book appears in the roll, though not necessarily in precisely the same form. A list of defaulters is extracted and rearranged into a table for ease of reference. Marginal annotations indicating fines and payments are omitted in the book, as is the 'Summa xxi s. ii d.' at the end of the roll. Part of the purpose of the roll was financial, to record and account for the profits of the court. But this was no part of the function of the book. Entries which were copied were taken over largely verbatim, but not necessarily always so, nor in their entirety. An entry in the court book records, for example, that,

[8] Levett, *Studies in Manorial History*, 76.
[9] It should be emphasised that this—though it seems very likely—is speculative.
[10] HRO 10550.
[11] BL MS Add. 40626, f. 68r–68v.

> William Sprot demised by the lord's licence to Stephen Waryn a croft of two acres enclosed by hedges and dikes, called Leuescroft, for ten years beginning from the date of this court. And he gives to the lord for having this term 2s. And the form of the agreement is such that the said William will do the accustomed services owed to the lord during the said term.[12]

Yet this apparently full entry has been truncated. The original entry in the court roll begins identically, but adds a provision that Stephen ought not to cut down any trees growing upon the croft 'except for hedges and enclosures when it is necessary to enclose it'.[13] This part of the agreement was apparently not thought important for future reference and was not preserved. And not every entry in the rolls was copied over into the books. In the Cashio roll four men appear to defend themselves against charges that they trespassed on the lord's land; this was not preserved. Nicholas Robert sued Johanna Howe for a debt of 5s 1d. She acknowledged owing 5d and denied the rest, but failed to make her law, lost and was amerced. This too was of only transitory interest, it seems, and failed to make it into the court books. Likewise, John Saman acknowledged that he owed 11s to Ralph Wymond; this was not copied. Presentments of waste, private suits for broken contracts and amercements for false complaint, among other matters, were ignored by the scribe compiling the Cashio court book.

The principles of compilation, moreover, were not consistent. A leaf of a court roll survives for the manor of Bramfield, for example, recording a court held on 7 July 1383.[14] The same court is recorded in the Bramfield court book.[15] Here every single entry, no matter how slight, is copied into the court book verbatim. That Henry Gate cut down a hedge; that John Shussh was amerced for making a false complaint; that William Wade cut and sold an oak without the lord's licence—all was copied. The scribe of the Bramfield court book here made no selection at all. And even on a single manor practice was not invariable. Another court roll preserves the record of a court held at Bramfield on 22 October 1348 and, again, the same court can be found in the Bramfield court

[12] BL MS Add. 40626, f. 68r–68v. 'Willelmus Sprot per licenciam domini dimisit Stephano Waryn unum croftum sicut includitur cum sepibus et fossatis uocatum Leuescroft . cont' duas acras ad terminum x annorum prox' sequentium post datum istius curie . Et dat domino pro termino habendo .ii. s. Et est forma talis quod dictus Willelmus fac' domino seruicia inde debita et consueta . durante termino predicto.'

[13] HRO 10550. 'nisi pro sepibus et clausuris cum necesse fuerit claudend' etc.'

[14] HRO 40698.

[15] HRO 40704, f. 2r–2v.

book.[16] Here, the scribe of the court book chose to copy only four entries: that the bailiff of the manor was obliged to account for certain rents; that a number of suitors defaulted; that Hugh at More had licence to be married; and that the brewers broke the assize. Many entries were left aside: private suits for trespass and debt; a sale of land to an 'extraneus' without the lord's licence; many presentments for waste; that John Hygge left the court in contempt of the lord: almost all the business of the court, in fact. Nor is it clear that the entries selected were those likely to be of the most enduring interest.

In short, the court books offer an uneven and unreliable guide to the business of the St Albans manor courts. They are most full in recording conveyances of land, whether permanent (through surrender and regrant, upon a tenant's death, or by new grant from the lord) or temporary (by licensed demise for a term of years). These were the entries most likely to be referred to in future courts, and which it was most in the abbey's interest to keep track of. But even here, as we saw with William Sprot's lease to Stephen Waryn, copying might be partial and selective. Every entry in a court book, therefore, offers useful positive evidence: it records a transaction or decision in the court, if not in full, at least to the extent that a later scribe thought it useful to preserve. But no conclusions at all can be drawn from negative evidence. That no tenants were presented for waste at a given court; that private suits for debts, contracts, or trespasses fall or rise in frequency; or that land sales to non-tenants are or are not presented: none of these things necessarily offers evidence for actual patterns in the business of the court. The possibilities for statistical analysis are therefore very limited. What we can do, rather, is look intensively at the content and form of entries preserved from the St Albans manor courts to see, insofar as we can, how law worked there.

5.2

The land registry

The fundamental function of the court books was to serve as a local land registry, recording conveyances of rights in land and the general terms under which those rights were held. As we have seen, the court books elided to a great extent the financial function of the courts, ignoring fines collected and not recording, as the rolls did, the total profits of

[16] HRO 10549 and HRO 40703, f. 12v.

each court. The role of the court as a forum for conveying land was thus only one of its many functions, but it is the one most clearly set before us by the records which survive.

The most basic operation performed in the courts to convey land was that of 'surrender and regrant' of customary holdings.[17] Customary lands were held directly of the lord and could not be subinfeudated. Alienation was thus done by substitution through the lord: the grantor surrendered the land in question to the lord, who then granted it anew to the grantee. At the court held in Barnet on 19 June 1329, for example, 'Adam Leverich surrendered into the lord's hands a meadow called Holewemade with its hedges, ditches and other appurtenances in Terrieslond. And the lord enfeoffed John le Botiler of it, to hold 'sibi et suis' by the services etc.'[18] This conveyance was only the realisation of an agreement reached earlier and elsewhere, and often (as here) says little about that agreement. What John le Botiler paid or gave to Adam in exchange is unrecorded as being of no interest to the lord; the 12d paid in court was merely the fine for effecting the conveyance.

Such conveyances most commonly transferred to the grantee all the rights and all the obligations which the surrenderer had before held. They therefore said nothing of the services and dues for which the land was held from the lord: these simply moved *en bloc* from one tenant to another and, from the lord's perspective, nothing had changed. To see inside this tenurial black box a different sort of registry was needed, one provided at St Albans by a systematic series of extents drawn up for the abbey's manors in 1331–1332. These surveys, made on the basis of sworn testimony from local jurors, record the holdings and obligations of each tenant. These might be very straightforward: at Cashio in 1332, for example, John King held 5 acres of land called Lovedayeslond for which he owed annually 2s 2d as a free rent for all services.[19] Or they might be very complex indeed. In the same survey Juliana atte Hethe was recorded as holding a quarter virgate.[20] The

[17] On this, see J. S. Beckerman, 'Customary law in English manorial courts in the thirteenth and fourteenth centuries', unpublished PhD thesis (University of London, 1972), 137–143; and Poos and Bonfield, *Select Cases in Manorial Courts*, lxvii–lxxxv, esp. lxxxi. An examination of the development of the formulas of surrender and regrant which draws upon evidence from St Albans manors can be found in R. M. Smith, 'Women's property rights under customary law: some developments in the thirteenth and fourteenth centuries', *Transactions of the Royal Historical Society*, 5th series, 36 (1986), 174–178.

[18] BL MS Add. 40167, f. 56r. 'Adam leuerich' reddidit sursum in manus domini unum pratum quod uocatur Holewemade cum haiis et fossatis et aliis pertin' suis in Terrieslond. Et dominus feoffauit inde Iohannem le Botiler' tenend' sibi et suis per seruicia etc. et dat xii. d.'

[19] HRO 6543, f. 2r.

[20] HRO 6543, f. 3r.

extent describes the holding, specifying it more precisely as that formerly held by Alice atte Hathe and now let out for a term to Eleanor le Daye. In exchange for her interest, Juliana had to fulfil a long list of rents and services. She owed 12d *per annum* to the kitchener; a penny and a farthing for the sheriff's aid; a penny and a half for carrying service; two quarters and two bushels of oats; a hen every fourth Christmas; three eggs at Easter; she was to do carefully defined parts of the ploughing, harrowing and harvest; and so on and so on, at great length. Whenever this particular holding was transferred in the manor court and the record declared simply that the new tenant was to hold it by 'the due and accustomed services', it was this elaborate package of obligations that was meant.

Whatever the services they owed, tenants granted land 'sibi et suis' were secure in their holding and had the largest interest it was possible to have.[21] Barbara Harvey's judgment of Westminster, that 'the customary tenant of this period admitted with the words 'sibi et heredibus suis' may be deemed to have possessed a fee simple interest in land', approximates to the situation at St Albans as well.[22] The language used by the court reflected this. The vocabulary of transfers was not consistent: most frequently the lord 'concessit' or 'tradidit' the interest; at times however he 'feoffauit inde' or 'seisiuit inde'.[23] Grants to a tenant and heirs were straightforwardly heritable (on payment of the requisite fees): expectant heirs came to claim their interest as 'proximus heres' or 'filius et heres' of a dead tenant.[24] The abbey's struggle for control over its customary tenants and tenements, however sharp at times, was fought on quite other ground to this in the fourteenth century.

Inheritance was the second primary mode of transfer in the St Albans manor courts. This was routine but expensive. Heriot was paid from the dead tenant's goods and a fine by the heir coming to enter, most frequently a child of the deceased. On 3 May 1379 at Barnet, for example, the jurors presented that Margery Terry had died, who had held six acres. Her son John Neweman was her nearest heir; he came and paid a fine of 7s to

[21] On the problem of the strength of the customary tenant's interest, see Poos and Bonfield, *Select Cases in Manorial Courts*, lxxxvi–cvii.

[22] Harvey, *Westminster Abbey*, 279. Harvey is here discussing principally the fifteenth century at Westminster, but the characterisation applies to St Albans in our period as well. Cf. too Smith, 'Women's property rights under customary law', 176–177, where he compares the language of these conveyances to common law conveyances in fee simple.

[23] For these latter, see for example HRO 40703, ff. 1v and 2r.

[24] For example, again, HRO 40703, ff. 2r and 1v.

take up his inheritance.[25] Where the normal inheritance rules did not achieve a socially desired effect, however, matters could be manipulated. Thus the next year on the same manor, on 17 May 1380, the jurors presented that Gilbert Wylymot had died, who had held a messuage and twelve acres in East Barnet. His heriot was a pig, valued at 12d, and his nearest heir his daughter Isabella. She came to court to claim her inheritance, did fealty for the land in question and paid a fine of 5s.[26] The following two entries assert, however, that during his life Gilbert had surrendered five acres to the lord, which were now granted out heritably and in perpetuity to one John Wylymot. He had also, the record says, 'in uita sua' surrendered into the lord's hands a parcel of meadow, which the abbey now granted to Gilbert's widow Elena for the term of her life, with remainder to Isabella, Gilbert's heir. Likewise, at the court of Cheaping Barnet on the same day, Richard Smyth was declared to have died. Heriot was paid and his son John came to claim his inheritance and pay the requisite fine.[27] The very next entry, however, records that Richard 'in uita sua' had surrendered a messuage and three acres of meadow into the lord's hands; this was now granted to his widow Matilda for the term of her life, with remainder to the right heirs of Richard. In both cases the alleged surrenders are clearly a fiction (though perhaps one perpetrated at the deceased's wish), introduced, probably with the consent of the heirs, to distribute the land in a way that was felt to be more appropriate.[28]

The 'fee simple' was not the only type of interest granted and exchanged in the abbey's courts. Other interests arose in a number of ways. For example, the procedure of surrender and regrant could, like a common law feoffment, be used to alter the terms on which land was held. By surrendering land to the lord and receiving it back, a tenant could, at St Albans as elsewhere, create a limitation in their estate analogous to a common law entail.[29] So at Abbot's Langley on 26 October 1327,

[25] BL MS Add. 40167, f. 122r.
[26] BL MS Add. 40167, f. 123v.
[27] BL MS Add. 40167, f. 123r.
[28] On 'deathbed transfers' in manorial courts, see Poos and Bonfield, *Select Cases in Manorial Courts*, cxxxvi–cxlv; L. Bonfield and L. R. Poos, 'The development of the deathbed transfer in medieval English manor courts', *Cambridge Law Journal*, 47, 3 (1988), 403–427; R. M. Smith, 'Coping with uncertainty: women's tenure of customary land in England *c.* 1370–1430', in *Enterprise and Individuals in Fifteenth Century England*, ed. J. Kermode (Stroud, 1991), 44–45; and idem, 'The English peasantry, 1250–1650', in *The Peasantries of Europe: from the fourteenth to the eighteenth centuries*, ed. T. Scott (London, 1998), 363–364.
[29] On the development and form of the common law entail, see Biancalana, *The Fee Tail and the*

> John le Kitter and his wife Joan surrendered into the lord's hands the quarter virgate of land, together with its appurtenances, that Alexander at Grove had once held. And the lord seised the said John and Joan of it, to be held by the said John and Joan and by the heirs of the said Joan, doing for it the due and accustomed services. And they give as an entry fine 4s.[30]

The land, that is, was received back entailed upon the heirs of Joan, excluding John's children by any earlier marriage, or children arising from a subsequent one. The facts on the ground changed not at all but, for this modification of their estate and its due registration, the couple paid the abbey 4s.

The settlements created in this manner could, it seems, be arbitrarily complex: in exchange for his fee the steward would enact and enrol entails, remainders and reversions just like those at common law.[31] At Barnet, for example, on 30 September 1361, John Josepp surrendered into the lord's hands a messuage and five crofts containing 8.5 acres of arable land, two acres of meadow and seven acres of wood.[32] The lord then granted the same to his minor son John, limited to the heirs of his body engendered. Should the son die without issue, the holding should remain to the elder John's wife, Juliana, for the term of her life. And at her death the whole should revert to the heirs general of the elder John. Since the son was still a minor, custody of the lands was given to Juliana until he should come of age. Noteworthy are the terms used to describe this family settlement: the contingent life interest given to Juliana is to 'remain' to her; the reversion to heirs general is said to be to the 'rectis heredibus' of the elder John (though the record here calls remainder what at common law would be reversion); and, most striking of all, the

Common Recovery, 9ff. On manorial family settlements and entails, see Poos and Bonfield, *Select Cases in Manorial Courts*, cxii–cxv and cliv–clvii. The effects of the statute *De Donis* on conveyances in manorial courts, including on the manors of St Albans, are discussed by Smith, 'Women's property rights under customary law', 186–191 and, more briefly, idem, 'Coping with uncertainty', 60. Smith writes, too, in 'The English peasantry, 1250–1650', 353, that '[i]t is noteworthy how rapidly the transfer of customary land with conditional arrangements reminiscent of *De Donis*, in theory only applicable to freehold, become observable in manorial court proceedings of the 1280s and 1290s.'

[30] Sidney Sussex MS 1, Edw. III, f. 1r. 'Iohannes le Kitter' et Iohanna uxor eius reddiderunt sursum in manus domini unam ferthlingatam terre cum suis pertin' quam Alexander atte Groue aliquando tenuit. Et dominus seisiuit inde predictos Iohannem et Iohannam uxorem eius, tenendo predictis Iohanni et Iohanne et heredibus predicte Iohanne, faciendo inde seruicia debita et consueta. Et dant de fine pro ingressu habendo iiii s.'

[31] On estates in customary land, see Poos and Bonfield, *Select Cases in Manorial Courts*, cliii–clix.

[32] BL MS Add. 40167, f. 101r.

interests thus created are explicitly called estates. The record concludes, 'And the said Juliana gives to the lord 6s 8d as a fine both for her own estate and for the estate of the said John [*i.e.* fils].'[33] Such estates, once created, could be conveyed through the manor court like any other interest. On 3 June 1387 at Barnet, Nicholas Toby, who held a messuage and garden *pur autre vie*, surrendered 'the whole estate which he had' into the lord's hands.[34] Nicholas had acquired a life interest granted to another, and the reversion was therefore to the abbey itself. In exchange for Nicholas' surrender and a payment of ten marks, the monks granted 'the whole estate aforesaid together with the reversion' to Thomas Langeford, so extinguishing the estate *pur autre vie* and the reversion and merging the two into a newly granted 'fee simple'.

Tenants could also transfer their holding subject to provisos, in a form akin to the common law 'fee simple upon condition'.[35] Such an arrangement was commonly used as a retirement scheme.[36] On 15 October 1339 at Bramfield, for example, Adam Parson transferred his messuage and 13 acres of land by surrender and regrant to his son Robert. 'And there is an agreement between the said Adam and Robert', the entry continues, 'such that Adam will have an easement in the said messuage for the term of his life'.[37] It goes on to record the precise terms of his interest: he is to have part of the produce of the garden, a cow and two pigs, straw for his chamber, clothing, shoes and a new pair of slippers each Christmas. Should Robert fail in his obligations to his father, Adam may use the lord's bailiffs to distrain upon him until he is satisfied. These terms differ from common law practice in that the transfer was not void upon failure to meet the condition: remedy was by distraint and in this it was closer in form to a feoffment reserving a rent.

Terms of years could be transferred through the manor court as well.[38] Leases be-

[33] BL MS Add. 40167, f. 101r. 'Et predicta Iuliana dat domino de fine tam pro statu suo quam pro statu dicti Iohannis di' marc.'

[34] BL MS Add. 40167, f. 130r.

[35] On manorial conditional grants, see Poos and Bonfield, *Select Cases in Manorial Courts*, clix–clxvii.

[36] Poos and Bonfield, *Select Cases in Manorial Courts*, cxv–cxxi; and A. Macfarlane, *The Origins of English Individualism: the family, property and social transition* (Cambridge, 1979), 136–138 and 141ff. (though there in support of a very different argument). R. M. Smith, 'The manorial court and the elderly tenant in late medieval England', in *Life, Death, and the Elderly: historical perspectives*, ed. M. Pelling and R. M. Smith (London, 1991), 33–51, discusses the development of this practice using examples drawn from the manorial courts of St Albans. He strongly criticises Macfarlane's argument (ibid., 35–36).

[37] HRO 40703, f. 8r. 'Et est conuentio talis inter dictos Adam et Robertum quod predictus Adam habebit infra mesuagium predictum aysiamentum suum ad terminum uite sue.'

[38] Poos and Bonfield, *Select Cases in Manorial Courts*, clviii.

tween tenants were expected to be made in the court and 'by the lord's licence', though this requirement was not always respected. Such transfers were very frequent. In some cases they recorded little more than the fact of the lease and its dates. On 18 May 1351 at Park, for example, John de Cayshio demised to William le Neweman half of the lands which had belonged to John's father, for a term of nine years. The term was to begin at the Michaelmas next following and the lessee was to perform the accustomed services; a fine of 2s was paid to the lord. Nothing is said of the rent or any other aspect of the arrangement between the parties.[39] This procedure of licence, fine and enrolment, however, did allow parties to such agreements to set down in detail the terms of the demise if they wished. The rent to be paid might be recorded: on 24 May 1350 at Winslow, for example, William Wende demised twenty acres of land for a twenty-year term to John Punteys, specifying that John was to pay 5s *per annum* at the four usual days.[40] More elaborate terms might be specified as well. Thus at Abbot's Langley on 22 October 1347 Geoffrey Aleyn demised by the lord's licence three rods of land to Richard atte Dene for a three year term.[41] The enrolled agreement specified, however, that Geoffrey could re-enter the land at any point during the term if he paid Richard 15s. It added too that if Geoffrey afterwards wished to sell the land then one Alexander le Clerk had first refusal of it, provided that he was willing to pay as much as anyone else might offer. This last provision was indeed formally unrelated to the lease itself but was no doubt part of the larger social agreement being given legal enforceability through this enrolment, whose context we can no longer see.

Granting a lease reduced the interest of the grantor from a 'manorial fee simple' (or whatever other larger interest the grantor might have had) to a reversion: the expectation of the land's return at the end of the term. This reversion could then, like reversions of 'entailed' land, itself be transferred through the court. Thus at Winslow on 13 January 1371 Thomas Broun by licence of the lord granted away the reversion of fourteen acres which he had let out to various other tenants: 'let them remain to William Hobbes and John Piers', the record runs.[42] Besides reversions, other intangible interests were also reified, just as at common law, and transferred through surrender and regrant as real

[39] BL MS Add. 40625, f. 98v.
[40] CUL MS Dd.7.22, f. 55r.
[41] Sidney Sussex MS 1, Edw. III, f. 27r.
[42] CUL MS Dd.7.22, f. 57v. 'remaneant Willelmo Hobbes et Iohanni Piers'.

property. On 16 October 1332 at Bramfield, for example,

> Roger at Noke surrendered into the lord's hands 6d of annual rent which William Chapman has been accustomed to pay him for his tenement. And the lord granted the aforesaid rent to Robert atte Noke to hold 'sibi et suis' by due and accustomed services. And he gives as a fine 12d.[43]

Interestingly, there is no suggestion here that the rent in question had originally arisen through a grant in court. It was an accustomed payment, that is all; but that payment, here as at common law, was enough to create a new proprietary interest, registered and transferred like the land itself.

This public land registry undoubtedly had benefits. Beckerman concluded that,

> [i]n the long run, the benefits of surrender and admittance to tenants were considerably greater than to lords. […] Although the procedure restricted personal freedom in early times, by the mid-fourteenth century it had laid the foundations for the court rolls to serve as a register of land transactions, giving customary tenants an easy way of proving title to land which endured until the mid-nineteenth century.[44]

The benefits of such a system were obvious enough and appeal to the record of the court rolls was common.[45]] On 18 May 1329 at Bramfield, for example, the death of Agnes Wolfrig was announced in court. Her sister came to claim the lands Agnes had held, averring her right to them 'by a fine made to the lord around eleven years ago', and asked that the rolls be searched to find the entry.[46] But the rolls recorded much information, too, that the abbey's tenants might better wish forgotten. On 10 January 1360 at Park, for example, 'it was ascertained by examination of the rolls that Robert Knollyng occupies a croft lying beneath Eywod without the lord's licence'. The holding was seized.[47]

[43] HRO 40703, f. 3v. 'Rogerus at Noke reddidit sursum in manus domini sex denarios annui redditus quos Willelmus Chapman ei reddere consueuit pro tenemento suo. Et dominus concessit predictum redditum Roberto atte Noke tenendum sibi et suis per seruicia inde debita et consueta. Et dat de fine .xii. d. pleg' Rogerus de Alberden'.'

[44] Beckerman, 'Customary law in English manorial courts', 142–143.

[45] On pleading the record of the rolls, see Poos and Bonfield, *Select Cases in Manorial Courts*, lv and lxvi–lxix.

[46] HRO 40703, f. 1v. 'ut per finem inde factum domino circa xi annos elapsos'.

[47] BL MS Add. 40625, f. 107r. 'Compertum est per scrutimium [*sic*] Rotulorum quod Robertus Knollyng occupat unum croftum iacentem subtus Eywod' sine licencia domini. ideo preceptum est seisire in manus domini et respondere de exitibus.'

And it is amply evident that many tenants did not see it as an advantage.[48] Leases made without the lord's licence risked forfeiture, but were made nonetheless. At Cashio on 23 September 1364, for example, it was reported that William Ewer had demised an acre of land sown with barley to William Meleman for three years without licence; the land was ordered to be seized.[49] Such punishment was not necessarily permanent, however: at the very next court, after the 5s value of the produce growing on the land had been levied as a fine, the abbey 'de gratia sua' granted the acre back to William Ewer.[50] Presentments, fines and seizures of land for leasing without licence were extremely frequent. Perhaps particularly for shorter leases of small parcels, the fine owed to the abbey took too large a part of the transaction's potential profit. And, as we shall see, the transfer of manorial holdings *per cartam*, outside the court system of surrender and regrant, was a considerable problem for the abbey.

The baroque profusion of tenures and interests on St Albans' manors mirrored that in the realm at large. From a finite and readily-defined area of land could arise an effectively infinite set of proprietary interests, as legal forms were multiplied to reflect and enforce the complex social facts on the ground. It is very striking that those legal forms should have paralleled so precisely those used outside the manor. The forms of possible dependent interest were just the same—entails and terms of years—and operated in the same way, using the same conceptual building blocks of tenure, estates, heirs of the body and heirs general, possession, remainder and reversion.[51] Limitations of estates could not be created by mere action of a tenant, but required a surrender and regrant, just as at common law a feoffment and refeoffment was needed. And rents arising from land were treated as real property just as elsewhere. In its legal treatment of land, a manor of St Albans in the fourteenth century truly was a feudal world in miniature.

[48] The great variability in the balance between the advantages and disadvantages of customary tenures, and their relation to economic conditions, are noted by Smith, 'The English peasantry, 1250–1650', 343.

[49] BL MS Add. 40626, f. 85r.

[50] BL MS Add. 40626, f. 85v.

[51] Had other mesne tenures more closely analogous to subinfeudation been possible on manors in the thirteenth century, before the passage of the statute *Quia Emptores*? The question of the effects of *Quia Emptores* on manorial tenures is raised, though not resolved, by Smith, 'Women's property rights under customary law', 177–178.

5·3

The lord and the manor

The recording of interests in land is the main matter still preserved for us in the St Albans court books, but it formed only one part of the courts' business. They served also as a mechanism for the economic management and administration of the abbey's customary estates. The surviving records show this very indistinctly and, as discussed above, offer no basis for statistical analysis of such matters. Nonetheless the categories of business can be illustrated and in two cases of legal interest—the leasing of manorial demesne and the struggle against *per cartam* alienation by customary tenants—the monastery's management can be seen in some detail.

Certain categories of administrative business appear in the court books with great regularity. Customary holdings, for example, carried with them an obligation not to commit waste: to despoil a tenement in certain ways for immediate profit. At Park on 23 June 1366, for example, it was found by inquisition that Thomas Dryver had committed waste on his tenement called Ailleward by cutting down hedges, to the lord's damage of 2s.[52] Cutting trees without licence was particularly troublesome. At the very next court it was recorded that the jurors of Park had assembled as ordered *sub fraxino* at St Albans and presented that Robert Grome had cut down and sold fully sixty oaks without licence; that William Athelwyk had caused 3s 4d of damage by felling trees; and that William Aleyn had likewise cut and sold four oaks without licence.[53] Tenants who committed waste were ordered to make good the damage under penalty of a fine or loss of the holding, but frequently with little effect: William Aleyn, for example was told at court after court to repair the damage he had done and threatened with ever-increasing fines.[54] He acknowledged the damage but evidently continued to add to it. Finally on 8 April 1382 it was ordered that his holding be seized—but it is not clear that it was, for at the next court the warnings begin again.[55]

Grants of manorial lands for life terms and for terms of years at St Albans often carried with them an explicit injunction not to commit waste, whether the grant was

[52] BL MS Add. 40625, f. 112v.
[53] BL MS Add. 40625, f. 113r.
[54] e.g. BL MS Add. 40625, ff. 115v, 116r, 116v, 121r, 122r, 123v and 125v.
[55] BL MS Add. 40625, ff. 126v and 127v.

made by the abbey itself or by one tenant to another with the abbey's licence. At East Barnet on 17 March 1362, for example, St Albans granted out six holdings to tenants for life terms at (considerable) money rents.[56] Three of the six grants include the provision 'nec faciet uastum', and in each of the others it is perhaps obscured beneath the scribe's concluding 'etc'. Inter-tenant demises adopted the same term. On 8 December 1368 at Park, for example, Thomas Wodewyk demised a messuage and more than half a virgate to Robert Roys for an eleven-year term at 10s *per annum*. Roys undertook to do the boon-works owed from the tenement and found two pledges to guarantee that he would not commit any waste.[57] The normal form of perpetual grant to a tenant and heirs did not contain any mention of waste; whether because of the abbey's reduced interest in the land or because of scribal truncation of common form, however, is not clear.

Trespasses into the lord's demesne or warren are also regularly presented. On 23 November 1330 at Bramfield, for example, the jurors presented that Tristram de Alberdene had trespassed on the lord's warren and taken eighteen partridges.[58] He was amerced 2d for the fault and found pledges that he would restore the birds' value, assessed at 4s 6d. What the abbey was chiefly concerned about in such situations, however, was protecting its revenue. When on the same manor John Bigge was presented for taking partridges in the lord's warren, he made a fine for the wrongdoing, offered twelve partridges 'ad opus domini' and agreed to pay for the privilege of hunting in the lord's warren for the following five years, contributing part of his catch to the abbey's larder.[59] Certain tenants required the lord's licence to marry and were amerced if they did so without obtaining it. These tenants were not always unfree themselves. On 4 May 1355 at Bramfield, for example, it was reported that,

> Cecilia, an *aduenticia* and freewoman, once the wife of the lord's *natiuus* Richard Palmer, gives the lord 12d for licence to marry, according to the custom of the manor.[60]

Despite her explicit freedom, that is, she still owed merchet, either as an *aduenticia* or

[56] BL MS Add. 40167, f. 103r. These grants are discussed further below.
[57] BL MS Add. 40625, f. 114r.
[58] HRO 40703, f. 2v.
[59] HRO 40703, f. 3v. 'et dabit annuatim xii perdices'.
[60] HRO 40703, f. 16v. 'Cecilia quondam uxor Ricardi Palmere natiui domini, aduenticia et libera propter consuetudinem manerii dat domini xii d. ut habeat licenciam se maritandi.'

as the widow of an unfree tenant.[61] Many other sorts of defects and defaults were also presented, recorded and amerced in court. On 29 September 1328 at Bramfield, for example, it was presented that the same Tristram Alberdene had carried corn from his unfree tenement outside the lord's fee without licence; it was ordered that the land be seized until he made the damage good.[62] Or, again at Bramfield, on 22 April 1362, the jurors presented that Alice Bigge had committed leyrwite; she was amerced 2d.[63] At Norton on 12 May 1338, the unfree tenants of the manor were rebuked for wasting time and money at the tavern at Baldock; they were forbidden to go there in future; a common brewery should be set up in Norton instead.[64] Such matters are recorded irregularly, but enough entries were copied into the court books to show that St Albans was exercising on its manors the sorts of regulation that was elsewhere common.[65]

Two aspects of the abbey's management, however, can be seen in detail: related to terms of land-holding, they were copied into the court books with greater consistency. The first is the leasing of manorial demesne: the extension in the manorial sphere of a legal institution central to the abbey's relationships, as we have seen, in the realm at large.[66] In the course of the fourteenth century many large ecclesiastical institutions decided to abandon or reduce direct management on their manors.[67] In the absence of accounts the process is more difficult to see as whole on the manors of St Albans than it is elsewhere. The process of demesne leasing, however, had of course not only financial but also legal effects, as these lands were conveyed to new holders, the transactions enrolled, and their terms recorded for future reference. In the forms used at different times and

[61] For the extensive debate about this due, see E. Searle, 'Seigneurial control of women's marriage: the antecedents and function of merchet in England', *Past & Present*, 82 (1979), 3–43; P. Brand and P. R. Hyams, 'Seigneurial control of women's marriage', *Past & Present*, 99 (1983), 123–133; R. Faith, 'Seigneurial control of women's marriage', *Past & Present*, 99 (1983), 133–148; and E. Searle, 'Seigneurial control of women's marriage: a rejoinder', *Past & Present*, 99 (1983), 148–160.

[62] HRO 40703, f. 1v.

[63] HRO 40703, f. 18v. On leyrwite, see Poos and Bonfield, *Select Cases in Manorial Courts*, clxxxi–clxxxiv; and M. Bailey, *The Decline of Serfdom in Late Medieval England: from bondage to freedom* (Woodbridge, 2014), 40–41.

[64] *Records of the Manor of Norton in the Liberty of St Albans, 1244–1539*, tr. P. Foden, ed. and with an introduction by the Norton Community Archaeology Group ([Hertfordshire Record Society], 2014), 115.

[65] See, for example, the court roll extracts printed in *The English Manor c. 1200–c. 1500*, ed. and trans. M. Bailey (Manchester, 2002), 194ff.

[66] See above, pp. 110ff.

[67] On the chronology of this see, for example, Lomas, 'The priory of Durham and its demesnes', 339ff. and Campbell, *English Seigniorial Agriculture*, 58–60.

on different manors, we can see how the monastery used a variety of legal institutions deliberately to restructure the pattern of land-holding and exploitation on four of its manors in the second half of the century.[68]

This legal change was, in part, a response to the demographic catastrophe of 1348–1349. The Black Death, though severe in its mortality, does not appear to have led immediately to large-scale vacancies on St Albans' manors: by the court of May 1349 at Abbot's Langley seventy-one tenants had died but only two tenements remained in the lord's hands.[69] Yet, as Holmes wrote, '[i]t was not the immediate shock of the Black Death but the long relaxation of population pressure which altered the position of the landowner' and fifteen years later the situation at Abbot's Langley had deteriorated markedly: in July 1363, there were eleven tenements in the lord's hands and many of them stayed there year after year.[70] At first, however, the plague's effects must have come on other fronts: reduced competition for tenancies, increased wage costs and what Campbell termed the 'demand-side shock' of reduced grain consumption.[71] This last may have hit St Albans' manors within London's 'grain hinterland' particularly hard, as urban food markets not only shrank in absolute terms but were also restructured in favour of greater meat consumption. The manor of Barnet, for example, was the site of a significant market town and lay only ten miles from London along the Great North Road; its profitability must have relied to a great extent on adapting to the capital's changing demand structure.[72] Yet in the first twenty years after the plague grain prices remained high: poor harvests reduced supply in the 1350s and the increase in the money supply, both relative (due to the fall in population) and absolute, pushed prices to levels not seen since the Great

[68] The question is treated at greater length, though in pursuit of a different question, in Currie, 'St Albans Abbey and the Peasants' Revolt of 1381', 35ff., from which the following discussion is largely drawn.

[69] Levett, *Studies in Manorial History*, 253–254. That forty-seven monks died out of a community which is not supposed to have exceeded one hundred is suggestive of very high mortality. Ko, 'Society and conflict in Barnet', 67–68, estimates the mortality on that manor as between 35 and 46 percent, depending upon the methodology adopted. Levett, *Studies in Manorial History*, 248ff., highlights the extremely variable mortality even between manors immediately adjacent to one another, but adopts generally a very low estimate of mortality and considers that recovery was relatively swift. Cf., on this point, J. Hatcher, *Plague, Population and the English Economy, 1348–1530* (London, 1977).

[70] G. Holmes, *The Estates of the Higher Nobility in Fourteenth-century England* (Cambridge, 1957), 115. Sidney Sussex MS 1, Edw. III, f. 47v.

[71] Campbell, *English Seigniorial Agriculture*, 430.

[72] Campbell, *English Seigniorial Agriculture*, 430–433.

Famine forty years before.[73] Wage rates rose but failed to match soaring prices: between 1350 and 1370 real wages declined significantly and never exceeded their immediate pre-plague level.[74] The Ordinance and Statute of Labourers may have played a part in this: Putnam concluded that, though never achieving fully the aims of their enactors, in the decade following the plague they nevertheless succeeded in depressing wages below market rates.[75] However, for large landowners like St Albans these conditions—high grain prices and stagnant real wages—did not necessarily bring wealth: in spite of legislative coercion, wage and material costs did rise and, in the midst of wage- and currency-driven inflation and tumbling population, even stable incomes must have meant substantially reduced purchasing power for landlords.[76] And worse was to come: after *c.* 1370 prices began permanently to fall, and to do so without any commensurate decline in wages.[77] As Campbell notes, '[r]eal wages improved more dramatically during the 1370s than during any other decade on record', a boon for labourers but a sharp knock to the economic position of lords.[78] Prices collapsed still further after the bumper crop of 1376 while wages continued to rise: by 1381 prices had fallen to the level of the late 1340s and real wages were higher than they had been in two centuries.[79] And, as Farmer pointed out, the gap between real wages in London and elsewhere 'widened greatly' after the plague, a fact of particular note on estates as close to the capital as those of St Albans.[80] It was in this context that the abbey used the three institutions of the term of years, the life term and the 'fee farm' (a heritable grant for an economic rent) to reshape their legal re-

[73] Campbell, *English Seigniorial Agriculture*, 6–8 and Fig. 1.01. The effect of the money supply on inflation is emphasised by D. L. Farmer, 'Prices and wages, 1350–1500', in *The Agrarian History of England and Wales: Volume III 1348–1500*, ed. E. Miller (Cambridge, 1991), 441, where he describes it as 'probably the principal reason for the continued high prices of the two decades after the Black Death.'

[74] Campbell, *English Seigniorial Agriculture*, 8 and Fig. 1.01.

[75] Putnam, *Enforcement of the Statutes of Labourers*, 221.

[76] Bridbury, 'Black Death', 581, points out the high wage-costs of many products consumed by large-scale landowners and the consequent distinction between the price-movements of grain and 'real' inflation for such consumers. He also (ibid.) corrects aspects of Holmes' statement (*Estates of the Higher Nobility*, 114) that stable incomes for lords represented a growing share of national production. See also Dyer, *Lords and Peasants*, 132. Lomas, 'The priory of Durham and its demesnes', 345, has figures on wage increases for ploughmen, serjeants and manorial *famuli*.

[77] Campbell, *English Seigniorial Agriculture*, Fig. 1.01. Bridbury, 'Black Death', 584–585. Dyer, *Lords and Peasants*, 128ff, has a useful assessment of movements of grain prices and of the cost of production in the West Midlands in this period.

[78] Campbell, *English Seigniorial Agriculture*, 8.

[79] Bridbury, 'Black Death', 584–585. Campbell, *English Seigniorial Agriculture*, 8 and Fig. 1.01.

[80] Campbell, *English Seigniorial Agriculture*, 8. Farmer, 'Prices and wages, 1350–1500', 432.

lations on certain of their manors in the latter part of the century, though in ways which responded in every case to the economic specificities of the lands in question.[81]

At Winslow in Buckinghamshire, an outlying manor some thirty miles north-west of St Albans, the entire demesne was granted out piecemeal to tenants from an early date. The manor itself had first been let as a whole, first under Abbot Hugh de Eversdone (1308–1327) and in 1330 to Simon Fraunceys, a London mercer.[82] It evidently remained at farm, in whole or in part: references to 'the farmer' are found regularly in the court books.[83] Such farming appears not to have fundamentally altered the manorial economy, however: the cellarer's courts operated as before and it is indeed difficult to tell from the evidence of the court books when a manor has been let.[84] But a great change within the manor itself came shortly before the Black Death. In the Hundred Rolls of 1279 the demesne is given as six virgates and Seebohm's detailed reconstruction of the size of a Winslow virgate suggests that the whole came thus to some 210 acres at that date.[85] In May 1344 the abbey granted to three tenants some 87 acres from the demesne. They were to hold them in perpetuity and pay a total of 42s 1d rent for all services—just under 6d per acre.[86] In April 1345 it leased at least 120 acres from the demesne in a large number of small parcels to tenants for twelve-year terms, at money rents varying from 6d to 12d per acre (an increase of rent of over £4).[87] And over the next two years it

[81] For the chronology and detail of this tenurial restructuring elsewhere, see Bailey, *Decline of Serfdom*, 28–34, 290, and 319–322, drawing on a sample of 38 manors from across England.

[82] Neither the date nor the lessee are noted for Abbot Hugh's lease, *Gesta abbatum*, ii, 180, but the price was 100 marks. Lease to Simon Fraunceys: *CPR, 1327–1330*, 497. The entry in the patent rolls gives the annual rent as £200, which is in all probability an error: in the St Albans formulary the value of the abbot's lands and rents in Winslow are given as £25 4s 8d (CUL MS Ee.4.20, f. 215v) and the value of the church and associated pension, held by the *camerarius*, as £18 13s 4d (ibid., f. 218r).

[83] The farmer mentioned in the 1360s and 1370s (e.g. *Winslow Manor Court Books*, i, 366, 396, 417, 433, 447 and 465) was no longer Fraunceys, as he is referred to in 1342 as 'recently farmer of the manor' (ibid., i, 132).

[84] Almost all of the references to the farmer record stray animals wandering into the manor and subsequently being kept in the farmer's custody. A system whereby a third party benefited from the profits of the manor and paid a fixed rent to the abbey, which nonetheless continued to run the manor court, may seem to offer perverse incentives to all involved. Yet it was apparently such a system that operated. St Albans was not the only landowner for which it is unclear who managed manorial courts during a lease: see, e.g. Bailey, *Decline of Serfdom*, 126.

[85] *Rotuli Hundredorum*, 2 vols. (London, 1812–1818), ii, 338. See also Noy, 'Introduction', in *Winslow Manor Court Books*, i, ix–x. Seebohm, *The English Village Community*, 22–27.

[86] *Winslow Manor Court Books*, i, 153–155. The smallest of the three grants (for five acres) is explicitly *per virgam*; the others are not.

[87] *Winslow Manor Court Books*, i, 160–162. For movements in average land prices in the first half of

made a large number of smaller grants, heritable and with money rents for all services, totalling at least 50 acres.[88] The final push to grant away the demesne evidently came on 9 April 1347, for in the court of that date (after entries recording the demising of some 25s worth of meadow and pasture), there appears the rubric: 'Demising of lands and pastures by brother John de Bynham, cellarer'.[89] What follow are grants of demesne land in villeinage for rents totalling £15 14s 9d; 237.75 acres are specified but the whole must have come to well over 300 acres, as the sizes of tenancies are not always given.[90] This probably represented all the demesne land that remained, for no services were demanded for these tenancies besides heriot and suit of court. This change occurred earlier here than was generally seen elsewhere in England.[91] Winslow was St Albans' most distant manor and it is likely that its produce was intended not for the monks' own consumption but for sale. An acute currency shortage in the late 1330s and early 1340s drove down prices and perhaps removed much of the monastery's incentive to continue direct management there; the poor harvests in the mid-1340s which lifted prices once again would hardly have changed their minds.[92]

At Winslow, tenants thus held large amounts of demesne land for money rents even before the Black Death. Naturally, therefore, when in the 1360s and early 1370s the abbey made a concerted effort to rid itself of lands which had come back into its hands through deaths in the past generation, at Winslow they were leased, and now for longer terms. The court book entry for 8 July 1370, following the rubric 'Demising of demesne lands', records the leasing to tenants of 26 parcels of demesne land for 21-year terms, beginning the following Michaelmas.[93] The entries, again, do not always record the size of the holdings, but the rent for those that do is between 9d and 12d per acre. The

the fourteenth century, see B. M. S. Campbell and K. Bartley, *England on the Eve of the Black Death: an atlas of lay lordship, land and wealth, 1300–49* (Manchester, 2006), 167.

[88] *Winslow Manor Court Books*, i, 168–187.

[89] CUL MS Dd.7.22, f. 42v. 'Dimissio terrarum et pasturarum facta per fratrem Iohannem de Bynham, cellerarium'. Printed in *Winslow Manor Court Books*, i, 195.

[90] *Winslow Manor Court Books*, i, 195–205. The total comes in fact to £16 3s 9d, but 9s worth had previously been granted and thus does not represent any increase in rent.

[91] Bailey, *Decline of Serfdom*, 32, writing that 'hardly any villein tenures were converted to leasehold before c.1350'.

[92] Campbell, *English Seigniorial Agriculture*, 6. Both ice-cores and tree-ring evidence suggest that the climate in the 1340s was exceptionally bad (ibid., 22).

[93] CUL MS Dd.7.22, f. 67r. 'Dimissio terrarum dominicalium'. *Winslow Manor Court Books*, i, 421–424.

increase in rent of £5 14s 6d thus suggests a total of 115 to 150 acres, perhaps again all the demesne lands that had come into the abbey's hands. And the following year the abbey commuted all boon-works on the manor for twenty-one years effective from the Michaelmas just past—exactly coterminous, that is, with the leases. The commutation was granted, 'at the instance and petition of those going to continue as the lord's tenants', on the condition that they pay annually 2s for each boon-worker that they would formerly have supplied; no total is given, but the commutation must have raised a substantial sum.[94] At Winslow, arrangements closely approximating to the abbey's relationships with its tenants in the realm at large, therefore, both pre-dated the Black Death and, in the years following the plague, displaced direct management entirely.

On three other manors, these same economic circumstances led to very different legal results. The manor of Barnet, about ten miles south-east of the abbey on the road to London, had also been leased by Hugh de Eversdone, though for only ten years.[95] A single small lease to a tenant in 1339 is all that followed and the demesne evidently remained substantially untouched until the 1360s.[96] In 1362 the abbey made six grants from the demesne land, to be held for life in villeinage and with money rent for all services. The acreage is not stated but the total increment of £4 16s 4d suggests that—even were the rent a high 12d per acre—around 100 acres were leased.[97] In 1365 a further grant for life was made from the demesne for 13s 4d annually and in 1369 a meadow was granted for life for 46s 8d and two four-horse carts full of hay from the meadow each year.[98] It was not until 1377 that a lease for a term of years was granted: a twelve-year

[94] *Winslow Manor Court Books*, i, 430. It is worth noting that a number of smaller leases made in that year [*i.e.* 1370] were also for 21-year terms beginning the Michaelmas just past (*Winslow Manor Court Books*, i, 425–426). All the leases and the commutation were thus to end at the same time, Michaelmas 1391. Unfortunately the Winslow court books for the reigns of Richard II through Henry V have not survived and it is impossible to say what was next done with the lands. The timeline of demesne leasing and commutation at Winslow is in many respects comparable to that on the estates of Durham Priory, though there the leases began immediately after the Black Death rather than immediately before (Lomas, 'The priory of Durham and its demesnes', 345–346).

[95] *Gesta abbatum*, ii, 180. A useful discussion of leasing on the manor of Barnet is given by Ko, 'Society and conflict in Barnet', 121–146.

[96] The lease to a tenant in 1339 is noted by Ko, 'Society and conflict in Barnet', 125.

[97] BL MS Add. 40167, f. 103r.

[98] BL MS Add. 40167, ff. 105v and 111r. 'duas carectas feni de tractu quattuor equorum de meliori feno in dicto prato'. The total number of demesne leases in the 1360s was thus 8 and not 11 as stated by Ko, 'Society and conflict in Barnet', 125. The initial leasing of 1362 was to 6 rather than 7 lessees, the three crofts granted in 1366 were recent escheats rather than long-standing demesne and were granted out heritably in villeinage, and the grant of 'Clerkfeld' in 1369 was simply a re-grant of land already demised

lease in villeinage for £3 annually for all services.[99] Between 1362 and 1377, therefore, £10 16s 4d worth of land passed from the demesne into the hands of tenants, a substantial figure given the lease of the entire manor and mill for £53 6s 8d per annum under Abbot Hugh.[100] Yet this was by no means all of the demesne at Barnet: Ko points out that the lands leased were overwhelmingly arable and that it was not until the first half of the fifteenth century that the remainder of the lord's meadows and pastures were leased.[101] He argues too that the absence of presentments for default of services after 1361 suggests a general commutation at around this time.[102] Given the sporadic appearance of such entries in the court books, the absence of any record of general commutation like that at Winslow, and the frequent specification in inter-tenant land transfers of which party will perform the services associated with the holding, this seems too strong a conclusion. It can perhaps be said, though, that the abbey's withdrawal from arable demesne farming made conflict over services of ever smaller importance.[103] Whereas at Winslow the entire demesne had been granted out to tenants, at Barnet the arable parts of the demesne were let, largely for life, and most of the meadow and pasture kept in hand for another half century: a response, perhaps, to the changed structure of demand in London and the increased profitability of pastoral farming.[104] The abbey's use of legal institutions depended of course on their economic utility.

At Abbot's Langley, a manor about five miles southwest of St Albans, still another course was pursued. The manor was let to farm in the 1350s to John Chilterne, as we

in 1362.

[99] BL MS Add. 40167, f. 120v. The lessee was 'Anicia, who was the wife of John Fletchere'. Two other grants, one in 1370 and one in 1377, were of recently escheated land, but can possibly be termed demesne leases as they were for life only (ibid., ff. 113r and 120v). The total number of demesne leases in the 1370s was thus three, not four as stated by Ko, who appears to be counting the two pieces of land granted to Anicia as two grants (a change from the way in which he counts other grants).

[100] *Gesta abbatum*, ii, 180. It should be entered as a reservation that the grants of 1362 were in East Barnet, and the lease under Hugh de Eversdone may have excluded the East Barnet demesnes. The *Gesta* reads: 'Idem [*fort. recte* item] dimisit ad firmam manerium de Barnet cum redditu assise de Est Barnet et molendinum de Agate ad terminum decem annorum, et recepit pre manibus quateruiginti marcas.' The figure of £53 6s 8d (or 80 marks) would thus exclude the value of some of the lands demised. The figure of £10 16s 4d does not include the value of the two grants of escheated land mentioned above, as the granting of those lands did not change the former proportion of land held in the lord's hands.

[101] Ko, 'Society and conflict in Barnet', 129.

[102] Ko, 'Society and conflict in Barnet', 271.

[103] For references to services see, e.g., BL MS Add. 40167, ff. 106v, 107v and 108v. Some such statements may of course be formulaic but others seem too specific for that to be the case.

[104] Campbell, *English Seigniorial Agriculture*, 430–433.

have seen, but endless legal wrangling resulted and there is little evidence that the manor was leased again.[105] Nor was the demesne leased out to the tenants on any significant scale after the manor had been resumed. Between 1363 and 1376 the abbey made thirty grants of lands at Abbot's Langley but only eight were of land not explicitly stated to have come back into the lord's hands for one reason or another.[106] Of those eight, four were of 1.5 acres or less; the remaining four were for 16 acres, half a virgate, half a virgate, and a field and meadow respectively—perhaps 60 to 70 acres in total.[107] Much more significant at Abbot's Langley was the problem of vacancies: year after year the beadle was ordered to respond as to the profits of lands escheated, lands without heirs, lands demised without licence and lands simply given up by their tenants.[108] Evidently the demand for land was low: the lease of 16 acres was for only 5s per year (less than 4d per acre) and grants sometimes specified that if the grantee failed in his duties his pledges would be obliged to take the land.[109] It was this problem that most of the grants aimed to address. Between 1363 and 1369, fourteen grants of lands in the lord's hands were made; all were grants in villeinage for 'due and accustomed services'; none were for money rents; and all were heritable, save two wardships and one grant for a term of nine years.[110] As there were no rents and acreages are rarely stated, it is difficult to assess how much land was involved but the amounts were sometimes substantial: at a single court in September 1367, for example, the abbey granted out two half virgates and two ferlingates; and in January of that year William Clerk paid £2 13s 4d to take up lands which no heir had claimed.[111] Thereafter there was a pause, and no further grants were made during John Moot's cellarership. Immediately after taking office, his successor Robert Chestan began a second round of grants: eight in the years 1374 to 1376; all in villeinage; all for services; and all save two (a wardship and a five-year term) 'sibi et suis'.[112] Whether the abbey did not lease lands for years because of low demand, or the refusal of the abbey to lease

[105] Sidney Sussex MS 1, Edw. III, f. 53v, contains a presentment of a number of tenants for not milling at the lord's mill, 'ad dampnum firmarii'. Whether this means that the whole manor was farmed or only the mill is unclear (cf. also ibid., f. 52v).

[106] Sidney Sussex MS 1, Edw. III, ff. 47r–58r.

[107] Sidney Sussex MS 1, Edw. III, ff. 48v, 50r, 51v, 53r and 53v.

[108] For example: Sidney Sussex MS 1, Edw. III, f. 47v, where eleven different tenements are ordered to be kept in the lord's hands.

[109] Land price: Sidney Sussex MS 1, Edw. III, f. 50r. Pledges: ibid., ff. 44r and 53v.

[110] Sidney Sussex MS 1, Edw. III, ff. 47r–53v. The single nine-year grant is ibid., f. 52r.

[111] Sidney Sussex MS 1, Edw. III, ff. 52r and 51r.

[112] Sidney Sussex MS 1, Edw. III, ff. 56v–58r.

for years depressed demand, is difficult to tell, but the very low rents paid for what few leases there were suggests the former. Without any financial incentive to change, St Albans appears to have continued a policy of direct management at Abbot's Langley: the demesne was kept largely in hand, customary land stayed customary land, and labour services remained an important part of the manorial economy—indeed even lessees for money rents sometimes owed labour services as well.[113]

A much more complex situation prevailed on the very large manor of Park, immediately south of St Albans. Between 1360 and 1380 there were fifty-four grants of land at Park, chiefly in two main 'waves': the first from 1363 to 1365 under John Moot, when thirteen grants were made, and the second, twenty grants between 1374 and 1376, coming immediately after Robert Chestan's succession to the cellarership.[114] How much of this was demesne land is difficult to assess but the proportion cannot have been very high: only sixteen of the grants do not include a statement of the land's former holders and no grant is explicitly said to be from the demesne.[115] Even were all sixteen from the demesne, their total rent-value of £5 19s 8d (perhaps 120 acres at a shilling per acre) suggests that they were only a small fraction of the abbey's demesne lands at Park, said in the 1250s to have been sixteen-and-a-half hides.[116] But it did not take large-scale demesne leasing to transform land-holding at Park: the manor was remarkable for its great variety of tenures. Some lands were granted for terms of years for services, some heritably for money rents, and many more on elaborate and carefully specified terms.[117] In 1374, for example, Roger atte Ford was granted a virgate for fifteen years, on condition that he pay 13s 4d *per annum*, find four *carucae* twice a year, reap and hoe with two men for one day each year and gather hay and harvest with two men.[118] Increasingly common

[113] For example: Sidney Sussex MS 1, Edw. III, f. 51v.

[114] BL MS Add. 40625, ff. 110v–112r and 116v–118v. This is of course only 33 of the 54 grants: the rest were spread relatively evenly, but with a slight increase in the rate of grants in the first years of Richard II under Robert Chestan. It is perhaps possible that these two 'waves' related to preceding outbreaks of the plague

[115] Properly seventeen do not include, as part of the grant, a statement of their former holder, but 'Shaddeslond', granted in 1376 (BL MS Add. 40625, f. 118v), is elsewhere stated to have come into the lord's hands through vacancy.

[116] *Matthaei Parisiensis, Monachi Sancti Albani, Chronica Maiora*, ed. H. R. Luard, 7 vols. (London, 1872–1883), vi, 436.

[117] For example, term of years for services: BL MS Add. 40625, ff. 108r and 110v. Heritable money rents: ibid., f. 110r.

[118] BL MS Add. 40625, f. 116v. The *carucae* could be carts or plough-teams, though most likely the latter.

were grants which changed their terms after a set number of years. The practice began under Moot but there was only one such grant under his cellarership: in 1365, amongst a number of leases, Thomas Portere was granted a third of a virgate for nine years for a rent of 9s 6d *per annum*, gathering hay and boon-works; at the end of that term he was to hold the land 'sibi et suis' through the traditional services.[119] Robert Chestan made three such grants at his first court in 1374 and two more in 1376.[120] Depending on the level of the 'accustomed services', such grants could be either discounts to induce permanent take-up of holdings or extra rents levied on lands for which demand was high but, whatever their initial purpose, it seems clear that under Chestan's cellarership they served as inducements, for signs of the decay of rents abound. A virgate granted to Alexander de Slape for nine years in 1365 for £1 2s 2d *per annum* and boonworks was re-granted for six years to Alexander Wykyng in 1374 for 9s for all services.[121] A half-virgate granted in 1365 for 12s 7d *per annum* for all services was re-granted nine years later for 7s.[122] There were explicit reductions of rent as well: two acres and a rood were granted to John Helder in 1374 for 16d per year, 'et solebat reddere per annum 20d'.[123] And, perhaps most strikingly, not a single entry fine was levied for the grants of land made in the years 1374 to 1381. At the same time some lands still brought very high prices: in 1380 half a virgate and two acres of meadow were leased for nine years for £1 6s, and that same year five acres were let for eleven years for 6s 8d, or 16d per acre.[124] That it was meadow probably provides the key: the price of lands of the best quality, and particularly of those lands whose tenants could take advantage of the changed structure of demand, remained high; at the same time, as the population shrank, the demand for lands of poorer quality was simply no longer there. Temporarily discounted land grants reflect not only the abbey's inability to let such lands at the traditional rates, but also its hope—and the belief of some at least of its tenants—that the change was not permanent.

A variety of legal forms, most notably the demise for term of years, thus gave the monastery power to reshape tenurial relationships on its manors as the old forms—'sibi et suis per seruicia debita et consueta' and the rest—ceased to be useful in changed cir-

[119] BL MS Add. 40625, f. 112r.
[120] BL MS Add. 40625, ff. 116v–117r and f. 118r–118v.
[121] BL MS Add. 40625, ff. 112r and 117v.
[122] BL MS Add. 40625, ff. 112r and 117v.
[123] BL MS Add. 40625, f. 117r.
[124] BL MS Add. 40625, f. 124r–124v.

cumstances and, now fossilised, could not be remodelled at will. Just as we saw in the abbey's relations in the realm at large, a 'contractual' approach gave new scope for control. Nor were they alone in this: as Hatcher long ago wrote, 'there is no shortage of detailed evidence that landlords [...] were aware of the financial attractions of contractual tenure.'[125]

The second aspect of management visible in the court books was a transformation of tenure which held no appeal whatsoever for the monks, and which was energetically opposed. Throughout the fourteenth century customary tenants attempted (often successfully, it seems) to alienate land by charter outside the court's control.[126] The first record of alienation by charter occurs in the court book of the manor of Norton in 1272 and, in 1275, perhaps to combat this practice, Abbot Roger de Norton directed, in a series of ordinances relating to the management of the abbey's manors, that no freeman was to be allowed to hold villein land, nor any villein to hold land freely.[127] There was perhaps some slight ambiguity as to the legality of unregistered transfers, for it was the custom on the St Albans manors that demises for terms of less than two years could be made without the abbey's sanction, but in 1355, perhaps as one of the first acts of John Moot's cellarership, the custom was explicitly changed and all room for doubt removed. In each of the court books a 'nouum preceptum' was recorded: all transfers for one or two years were henceforth to be enrolled; in deference to the ancient custom no fines were payable but evasion of enrolment would draw a penalty of 6s 8d.[128] From the lord's perspective, such alienations were triply harmful: not only did they avoid paying for the fines and licences necessary for legal transfers but they both removed what little control the abbey had over who held its lands and, if left unchallenged, provided a possible basis for an eventual claim of free tenure.

During the abbacy of Michael de Mentmore, for example, one William atte Penne acquired a number of tenements in Barnet and South Mimms *per cartam* from the abbot's customary tenants. He was not the only one: Walsingham writes that he and many

[125] J. Hatcher, 'English serfdom and villeinage: towards a reassessment', *Past & Present*, 90 (1981), 17.

[126] On the problems of peasant charters for lords, see Poos and Bonfield, *Select Cases in Manorial Courts*, lxx.

[127] First alienation by charter: Levett, *Studies in Manorial History*, 79, n. 2; and Slota, 'Law, land transfer, and lordship', 128. Ordinances of Roger de Norton: *Gesta abbatum*, i, 453–455.

[128] For example: Sidney Sussex MS 1, Edw. III, f. 38v. CUL MS Dd.7.22, f. 95v (printed in *Winslow Manor Court Books*, i, 296). BL MS Stowe 849, f. 83v.

others at Barnet,

> had had fake and secret charters made for him; and they had had seals of sale and purchase attached to them, as though they were for free land and tenements, without the knowledge of the abbot or his bailiffs. And through these charters they thought that they would hold customary lands and tenements freely and in perpetuity.[129]

William atte Penne for his part took the deception to extremes: in order to make his forged charters appear to be of the antiquity which they claimed, he hung them in the chimney of his house so that the smoke would artificially age the parchment. Mentmore, in Walsingham's telling, decided to proceed vigorously against this William so that, with the most brazen of the offenders suitably chastised, the rest would be afraid to maintain such frauds in the future. Wholly unconcerned, William both showed his forged charters in court and, we are told, so bribed the 'maiores patrie' that the abbot was forced to bribe them all over again himself.[130] According to Walsingham, the suit was won through divine intervention. A girl had fallen into the stream at Redbourn and, though carried though the mill-wheel and evidently doomed to drown, was miraculously revived through the invocation of St Alban.[131] Impressed by this demonstration of divine favour, a knight named William Corbet, until then entirely unknown to the monastery and recently returned from service abroad in the king's wars, decided to support the abbey in its suit. When the abbey's legal representative Henry Green had finished laying the case before the king's justices, Corbet rose and declared:

> The cause which this man has laid out I maintain as true, and defend it by throwing down my gauntlet.[132]

All present fell silent; struck by his words as though by a spear, they did not dare to oppose him; the abbey won its case.

[129] *Gesta abbatum*, ii, 317. 'falsas et occultas chartas sibi fecerat fabricari; et sigilla de uenditione et emptione, quasi de libera terra et tenementis, sine scientia Abbatis uel balliuorum suorum, fecerant hiis apponi: per quas chartas terras et tenementa natiua tenere libere in perpetuum cogitabant.'

[130] On this, see above, p. 90.

[131] *Gesta abbatum*, ii, 326.

[132] *Gesta abbatum*, ii, 326. 'Hanc ait causam quam iste perorauit ego tanquam ueram manuteneo et iactu chirothece mee defendo.'

The truth of the dispute's resolution, however, is at once both less dramatically colourful and legally much more interesting. Abbot Mentmore brought two cases against William atte Penne, by writ of entry, regarding the holdings in Barnet and South Mimms, in turn.[133] William had no entry in the holdings, the abbot alleged, except through an alienation from Walter Bartelmeu and his wife Isabella, who had disseised the abbey. In both cases William came, by attorney, and in the words of the clerk, 'cannot deny' the charge that he had no right of entry in the tenements in question.[134] After the requisite (and standard) inquiry into whether a collusive action was being brought in order to defeat the statute of mortmain, the abbot recovered in each case. Slota wrote that 'William lost this suit and had to recognise the abbot's rights but, as a last resort, accused the abbot of violating the statute of Mortmain.'[135] This is wrong: in both cases it is clear that an agreement had been reached out of court between the parties before the day of the trial; the mortmain inquiries were no last-ditch defence, but a routine part of process; and the abbot's claim was not in fact contested at all. The terms on which they came to peace are not there made clear, but an indenture between the abbey and William atte Penne dated 1347, three years after the assize, was copied into the *Gesta abbatum* by Walsingham and very probably records the substance of their agreement.[136] Its terms are most peculiar.

In the first place the abbey conveys to William and his wife Elena a long series of tenements in Barnet and South Mimms for the term of their joint lives. In return, they are to pay a money rent of 13s 4d *per annum* for the whole and 4d *per annum* for each built-up holding along the road in Barnet; to provide one man for each of the messuages granted them, in order to do a day's work reaping for the abbot in autumn; to give a heriot for each of the tenements when the time comes; to come to the abbot's court at Barnet twice a year, without essoins; and to come to the view of the frankpledge once each year. The abbot and convent grant, moreover, that after both their deaths the holdings should go in succession to each of William and Elena's three sons, each holding for a life term, rendering the same payments and services, and paying heriot on their deaths just like their parents. When all three sons have died, the tenements are to revert to the monastery. Should the family at any point attempt to sell the holdings or commit waste,

[133] The enrolments of both cases are copied by Walsingham: *Gesta abbatum*, ii, 319–325.
[134] 'non potest dedicere quin […]'
[135] Slota, 'Law, land transfer, and lordship', 131.
[136] *Gesta abbatum*, ii, 326–329. The assizes were initiated in 1344. It is not clear why this agreement should be so much later in date.

the abbey may re-enter immediately. The oddest part of the indenture, however, is that specifying what should happen next. After the death of the couple and all their children, and the reversion of all right in the lands to St Albans, the abbot and convent contract to grant them

> to those to whom they would have been rightly demised according to the custom of the manor, if the tenements were held by the said William, Elena [and their three sons] at the will of the said abbot and convent; whether these be the heirs of the said William, or anyone else […]; to be received *per uirgam* according to the custom of the manor.[137]

At the end of the successive life terms, that is, the abbey will re-enter fully into its rights at common law, but contracts to convey the lands to William's heirs (or others) by a customary tenure, as though they had been held *per uirgam* all along. The holdings will then return to the manor but remain in the family. And, in the meantime, the lands will be held on terms identical in every way to a servile tenure, but freely by a contract defensible in the king's courts. As a compromise in their dispute, William and the abbey have created with the tools of the common law an ersatz servile tenure—the inverse and opposite, in many ways, of the entails and settlements taken from the common law and recreated in customary tenures with the apparatus of the manor court.

This ended the conflict with William atte Penne, but he was not the only resident of Barnet to have alienated *per cartam* against the abbey's interests. On 30 June 1345, however, a general settlement seems to have been made.[138] The jurors of the halimote found that eleven tenants were holding lands *per cartam*, to the disinheritance of the monastery. Each came to court, recognised that right in the land belonged properly to St Albans, paid a fine, and received it back again 'by the lord's special grace' to hold *per uirgam* and for the accustomed services. Peter atte Chapelle, for example, had acquired a cottage and curtilage *per cartam* from Robert Saly which had formerly been held *per uirgam* by Edmund Smalhak. That it should rightly be held thus was easily demonstrated from the rolls of the court of 'Easter term in the fifth year of the reign of king Edward son

[137] *Gesta abbatum*, ii, 329. 'illis quibus secundum consuetudinem manerii dimitti debuissent, acsi tenementa predicta per prefatos Willelmum, Elenam, Iohannem, Willelmum, et Thomam, tenerentur ad uoluntatem dictorum abbatis et conuentus, siue sint heredes dicti Willelmi, siue alii quicunque […]; recipienda per uirgam secundum consuetudinem manerii predicti.'

[138] BL MS Add. 40167, ff. 73r–74r.

of Edward in the time when brother Thomas de Bouyngdon was cellerar': that is, thirty-three years earlier.[139] Peter came to court, acknowledged that the land was the abbey's, and 'by his own free will' surrendered the charter by which he held it.[140] He asked that it be granted to him anew in villeinage and, for a fine of 12d, his wish was granted. 'And the said Peter', the record continues, 'will be obedient to the lord in all things just as the other *custumarii* are who hold by the same tenure'.[141] What these proceedings highlight, however, is that presentments for wrongful alienation in the abbey's courts do not show the underlying rate of these alienations themselves but rather the times when those alienations were revealed: times of investigation by manorial officials, perhaps, or of amnesty.

And, however rigorous St Albans' opposition to alienation *per cartam* in theory, the enforcement of that opposition was highly variable, as a direct comparison of four of the abbey's manors shows.[142] Between 1359 and 1380, for example, the court books of Abbot's Langley, Park, Winslow and Barnet record eighty-one presentments, seizures, or other notices of lands demised or occupied without licence but they were by no means evenly distributed across either time or the four manors. The rate of discovery was a product of both frequency of offence and stringency of enforcement, and it can be difficult to disaggregate these two factors, but there are clear patterns nonetheless. At Abbot's Langley there were only five such cases, all between 1360 and 1369 and concerning in total just over three acres of land; even if the total rate on the manor was higher, it was never so high as to provoke a major investigation.[143] Perhaps the low demand for land at Abbot's Langley reduced the abbey's desire to pursue its tenants for this offence. The total was slightly higher at Park, a much larger manor and one with far more land held at money rents: between 1359 and 1379 there were twelve unlicensed alienations or occupations. Fully half, however, came in the first two years (four in 1359 and two in 1360) and no more than one in any other year.[144] Before the Black Death, Slota noted ten presentments in 1295 and ten more in 1348: at Park, therefore, the underly-

[139] BL MS Add. 40167, f. 73r. 'per rotulos hal' termino Pasche anno regni regis Edwardi filii regis Edwardi quinto tempore fratris Thome de Bouyngdon cellerarii'.

[140] 'de mera uoluntate sua'.

[141] 'Et dictus Petrus erit obediens domino in omnibus sicut ceteri Custumarii eiusdem tenure.'

[142] The data used in this analysis were previously discussed in Currie, 'St Albans Abbey and the Peasants' Revolt of 1381', 43ff., on which the following draws.

[143] Sidney Sussex MS 1, Edw. III, ff. 44v, 47v, 50v and 53v.

[144] BL MS Add. 40625, ff. 107r, 107v, 111r, 111v, 115v, 119r, 122r and 124v.

ing rate of alienations was higher than appears from year to year but manorial officials only occasionally made a concerted effort to discover them.[145] At Winslow the number was much greater but the distribution no more even: twenty-eight cases between 1359 and 1371 (the peak coming in 1362 with seven) and none at all thereafter.[146] Evidently alienation *per cartam* had been a regular practice at Winslow and one which was energetically suppressed, for there were only two years between 1359 and 1371 when none were discovered. But, with the final leasing of the demesne and the commutation of all boon-works, the problem disappears entirely. It is possible that, with the great increase in lands held at money rents and the simultaneous reduction of the burdens placed upon customary land, tenants at Winslow largely ceased to transfer land outside the manor court. It is more likely, however, that Moot and his aides simply stopped attempting to discover them. Only at Barnet, where thirty-six such transfers were detected between 1359 and 1380, was there any consistency of offence and detection over time and even there fifteen of the cases came in the first four years.[147] This was of course a long-standing issue at Barnet. The combination there of periodic spikes in numbers and consistent presentments—in only seven years between 1359 and 1380 were there no cases at all—suggests both that the basic rate of such offences at Barnet was higher than elsewhere and that manorial officials were more strenuous in suppression. What the distribution of cases makes clear, however, is that, whatever their opposition to alienation *per cartam*, and indeed however strong their response when such alienations were discovered, the abbey's obedientiaries approached the problem differently on each manor. The occasional spikes and long quiet spells at Park show how much greater was the underlying rate and the complete absence of cases at Winslow after 1371 probably represented an abdication of enforcement. Their pursuit (or not) of *per cartam* alienations was part of the abbey's management of its manors, reacting to the demand for land and conditions of each.

To the extent that the manorial court as a forum of estate management is visible to us, therefore, it shows that the adoption of (or resistance to) new legal institutions and forms in this sphere was driven by economic factors. The variety of pressures which changed economic circumstances exerted on the abbey's many and varied manors pushed its legal

[145] Slota, 'Law, land transfer, and lordship', 129.
[146] *Winslow Manor Court Books*, i, 336–432, *passim*.
[147] BL MS Add. 40167, ff. 96r–124r, *passim*.

adaptations in very different directions on each.

5·4

The settlement of disputes

Among the most interesting entries in the court books are those which record private plaints: suits brought by one tenant against another to which the abbey was not itself party—at least not directly. The recording of these was very irregular indeed: as we saw above, private actions for debts, assaults and the like were largely omitted when the records were abstracted into codex form. A significant number of actions for the recovery of land, however, were preserved, for these, like sales, leases and grants by the lord, became after their conclusion important evidence for tenure. This type of material has already provoked a substantial scholarly literature, the most useful piece of which, by Beckerman, itself draws heavily upon the St Albans court books.[148] What follows will therefore focus chiefly on one theme: the use of common-law ideas in the settlement of disputes in the St Albans manor courts.[149]

Private actions might be initiated by one of two basic forms.[150] The first, and the less common, was to pay for an inquisition into who was the proper holder of some right. On 20 May 1333 at Bramfield, for example, John atte Berne of Hathfeld paid the lord 12d to inquire what right he had to a half share of a messuage and half virgate of customary land with appurtenances which Alice de Alberden then held.[151] The jurors returned that one Roger de Alberden had died seised of the land and left it to his two daughters, Alice and Avelina; Avelina had in turn died and John atte Berne was her son and nearest heir. They added, moreover, a general declaration of law,

> that every hereditament in Bramfield, both Mollond and Werkelond, ought

[148] Beckerman, 'Customary law in English manorial courts'. See also the works cited above, note 1.

[149] This issue has been discussed before using the evidence of the St Albans court books, notably by Smith, who has drawn attention to the adoption of the practices of jointure, entail and deathbed transfers in manorial courts in parallel to their widespread use by freeholders. See, for example, Smith, 'The English peasantry, 1250–1650', 364; and idem, 'Coping with uncertainty', 43–45. At 'The English peasantry, 1250–1650', 350–354, Smith likewise gives other examples of common-law influence, both procedural and substantive.

[150] On litigation procedure, see Poos and Bonfield, *Select Cases in Manorial Courts*, xxxix–xlii.

[151] HRO 40703, f. 4r.

to be divided amongst daughters when there is no male heir.[152]

Armed with this result, John atte Berne turned to the second manner of beginning an action: a complaint directed against a particular person. The two forms were not usually thus combined; perhaps the jurors, aware of the complexities which would later emerge in the case, were reluctant to order that John be put in possession on the strength of the straightforward facts elicited by the inquisition alone. Later in that same court, therefore, John brought a complaint against Alice de Alberden 'concerning a plea of land' and gave pledges for his prosecution. It was ordered that Alice be summoned to the next court.

This case, as it continues, illustrates several aspects of the procedure and substance of the adjudication of inter-tenant disputes, so let us follow it to its end. At the next court, Alice did not appear but made essoin; the case was thus held over until the following halimote.[153] Such excused non-attendances were, by the mid-fourteenth century, part of the normal procedure of the manor court, just as they were of royal courts.[154] At the next meeting of the halimote Alice again did not appear but neither did she make essoin: she simply defaulted. In consequence, it was ordered that the lands in question be seized into the lord's hands and that the parties appear at the next court to settle the question.[155]

By the next court, however, the situation had changed completely: Alice was dead. Rights and obligations did not always transfer intact on a tenant's death—at common law, for example, 'descent cast' could toll a right of entry, rendering the heir's position very different from his predecessor's.[156] In this case, complications arose from the fact the Alice had not held all her lands by the same estate or on the same conditions, and their descent after her death was thus itself the subject of significant disagreement within her family. The jurors presenting her death reported that Alice had held two messuages, a half virgate 'de ueteri tenemento suo' and ten acres by purchase from John de Middleton.[157] She paid heriot for the first messuage but not for the second, 'because it has long not been inhabited'.[158] Her nearest heir was her grandson Tristan, himself son of

[152] HRO 40703, f. 4r. 'Et dicunt quod omnis hereditas in brantefeld tam Mollond quam Werkelond debet partiri inter filias ubi heres masculus non est.'

[153] HRO 40703, f. 4r.

[154] On the chronology of permitted essoins in manorial courts, see Beckerman, 'Customary law in English manorial courts', 252ff.

[155] HRO 40703, f. 4v.

[156] Simpson, *A History of the Land Law*, 41–42.

[157] HRO 40703, f. 5r.

[158] HRO 40703, f. 5r. 'quia non est de antiquo astratum'. This use of the word *astratus* predates by

her eldest son, Hugh. To him passed the two messuages which his grandfather Michael, Alice's dead husband, had bought from Peter Parson. The half virgate, however, did not pass by descent at all: the jurors thought that during her life Alice had surrendered it 'to the use of her [younger] son Roger', reserving for herself a life term in the land.[159] In support of this claim Roger called for the record of the rolls from sixteen years earlier and was given a day at St Albans to appear and prove his case.

Tristan was not persuaded of his uncle's right, however, and himself brought suit 'sub fraxino' at St Albans to recover sixteen acres of the half virgate in question. He alleged that his grandmother Alice had held those acres for a life term and that after her death they should have descended to him, as Hugh's son, 'per formam donationis'. He held, that is, that the lands had originally been entailed: conveyed to Michael and Alice, with remainder to Hugh and his heirs (or a similar construction), and that Alice's grant to her younger son Roger violated the terms of the gift. His suit, echoing the common law actions of formedon, sought to enforce those terms.[160] Roger denied his nephew's claim: the lands in question had, he argued, been bought jointly by Michael and Alice 'per cartam tenendam sibi et suis heredibus'—in 'manorial fee simple', that is. After Michael's death Alice had had full right in the lands and had enfeoffed her son Roger of them. To prove this he called again for the record of court rolls and for the charter of transfer itself, which he said was in the abbot's hands.[161] Should the charter not be found, he put his case upon the testimony of *fidedigni*. At the day set for the next hearing Roger successfully produced his evidences, both court rolls and charters, and won his case; Tristan was amerced for bringing a false claim.

With the descent of Alice's lands within her family now at last resolved, John atte Berne could renew his own claim for his mother's part in the Alberden inheritance. He brought suit against Roger for half a messuage and half of a half virgate: as before, he recited that his grandfather had held them; that they should have passed in equal shares to his two daughters, Alice and Avelina; and that John himself was Avelina's son and heir.[162]

more than two centuries the earliest citation in the *Dictionary of Medieval Latin from British Sources*, ed. R. K. Ashdowne, D. R. Howlett and R. E. Latham (Oxford, 2018), *s.v.*

[159] HRO 40703, f. 5r. 'ad opus Rogeri filii sui'.

[160] On the common law actions, see Biancalana, *The Fee Tail and the Common Recovery*, 69ff.

[161] HRO 40703, f. 5r. 'uisum cartarum quas inde habet que sunt in man' domini Abbatis'. This is an unusual instance in which the abbot *per se* rather than a merely a formalised 'dominus' is referred to.

[162] The grandfather is here repeatedly called Galfridus de Alberden, while in John's earlier cases he is called Roger. The source of error is unclear.

Roger argued in reply that Avelina had been rightly excluded from her inheritance for marrying outside the liberty and taking the lord's goods with her. She had come, he said, to claim her share of her father's lands during Luke de Bovyndon's cellarership. Two separate juries—one of 12 and one of 24 *fidedigni*, drawn from four vills—had found that Avelina had married a *natiuus* of the bishop of Ely and that therefore both she and all her descendants were forever excluded from their inheritance in Bramfield, 'according to the custom of the manor'.[163] And in support of his defence he again called for the record of the court rolls. At the day appointed, Roger came with his evidences and John atte Berne failed to appear; he was amerced 40d for his false claim.

The final recorded action of the halimote sought to tie up any outstanding loose ends and prevent future disagreement. Tristan surrendered a cottage and a small piece of land (an acre and a rood) 'ad opus' of his uncle Roger, together with all the right and claim which he had or could have in the lands which had belonged to Michael and Alice Alberden in the vill of Bramfield.[164] Roger in turn came and gave the lord a 40d fine for having both the land and the right. What was surrendered and granted here (beside the cottage and parcel of land) was not, to be clear, the land which Tristan had lawfully inherited from his grandmother—that he kept. What he surrendered was simply any future claim against Roger, and by this peculiar reification of 'ius et clameum' created an enrolled and reliable 'manorial quitclaim' which foreclosed any future dispute.[165]

The most striking aspect of this elaborate dispute and long series of actions is the fundamental reliance at every point on legal conceptions shared with systems outside the manor.[166] The partibility of inheritance among daughters recognised at John atte Berne's first inquest; the practice of essoin; the bringing of actions patterned upon formedon and mort d'ancestor (when, as repeatedly happened, plaintiffs alleged that their forbear had 'died seised' of the land in question); the basic assumptions of fee simple and entail; of holding jointly; of quitclaiming and of rights. The manor had its specificities, of course: in its procedure and, not least, in the exclusion of Avelina from her inheritance

[163] HRO 40703, f. 5v.

[164] For the use of the phrase 'ad opus' in manorial transfers, see Poos and Bonfield, *Select Cases in Manorial Courts*, lxxix–lxxxi.

[165] HRO 40703, f. 5v.

[166] This reliance has been observed elsewhere (though interpreted in a variety of ways). See, in particular, Hyams, 'What did Edwardian villagers understand by "Law"?'. On the 'forms of action' used in manorial courts, see Poos and Bonfield, *Select Cases in Manorial Courts*, xliii–xlix.

for marrying outside the liberty. But the basic architecture of the legal relations on display here would be familiar to a common lawyer who had never once set foot in a manor court.

These conceptions appear continuously in inter-tenant disputes in the St Albans manor courts. Actions claiming land were frequently made in forms echoing the common-law actions of novel disseisin, mort d'ancestor, or the writs of entry. On the manor of Park in 1377, for example, Thomas Islepe and his wife Cecilia brought suit against Roger Crowe 'in a plea of land' and 'wish[ed] to proceed in the form of a writ of assize of novel disseisin for their free tenement in Park'.[167] He had disseised them, they said, of a small strip, 60 feet long and 18 inches wide, of their tenement by the mill at Park. Roger acknowledged that he held the land in question but denied the disseisin: it was 'extra feodum' of the said Thomas and Cecilia. The couple replied in turn that they held the tenement formerly belonging to John Skele and that they and all their predecessors in the estate, 'from time out of mind', had been seised of the piece of land in question.[168] Thomas denied that either they or their predecessors in title had been seised of the plot and so issue was joined, as it were, on that point. At the first day assigned for hearing, the parties appeared but the jurors defaulted—an ironically exact parallel to normal contemporary common-law process. A new day was set 'sub fraxino' at St Albans and there the jurors returned that Roger had indeed disseised the couple, as they claimed. They were to be put back into possession and Roger was amerced 2d.

In the very next case recorded from the same halimote, Adam Hendegome likewise sued Richard atte Ford 'in a plea of land' and 'made a claim to proceed in the form of a writ of assize of novel disseisin'.[169] The procedure followed was identical and was recorded in the same form of words. Richard first agreed that he held the land in question but asserted that it was 'outside the fee' of the demandant. Adam in turn recited that he had inherited the land from his uncle Gilbert and that both he and Gilbert, whose estate he now held, had been seised of that piece of land. Richard denied that either

[167] BL MS Add. 40625, f. 118v. 'et protestantur sequi in forma breuis assise noue disseisine de libero tenemento in Park'. The precise date of the court has been left blank in the court book. An example of a complaint of disseisin in a manorial court is given by Poos and Bonfield, *Select Cases in Manorial Courts*, 59–62.

[168] BL MS Add. 40625, f. 118v. 'omnes antecessores […] quorum statum habent a tempore quo non exstat memoria fuerunt seisiti de predicta parcella terre'.

[169] BL MS Add. 40625, f. 118v. 'in placito terre . et fit protestatio ad prosequendum in forma breuis assise noue disseisine'.

had been seised and a jury was ordered to meet to decided the issue. In this case both jurors and parties turned up at St Albans the first time as ordered, determining there that Richard had indeed disseised Adam. He was to be put back into possession and, again, the disseisor was amerced 2d.

There are several noteworthy points about this pair of cases. In the first place the closely parallel (effectively identical) patterns of claim, plea, replication and so forth suggest that there was a clear and regular form for a plea of land 'in the form of a writ of novel disseisin' on the manor of Park: when they asked for such a procedure, demandants were choosing a well-defined manner of settling a dispute. Striking too is the liberal, if eccentric, use of common-law terminology in that procedure. In both cases the tenant first asserted that the land in question was 'outside the fee' of the demandant; in both, the demandant replied that both they and those 'whose estate they now held' had been seised of the land. Issue was then joined on the tenant's denial of that seisin. Such usage had little to do with a common lawyer's conception of estate.[170] Most striking of all, however, is how greatly the procedure, in spite of its name, differed from a common law action arising from a writ of novel disseisin.[171] In neither case at Park was a specific act of disseisin actually alleged: instead the demandant alleged that they and their predecessors had been seised, the tenant denied it and the jury made a determination of that question of historical possession. Missing are the normal common-law allegations of unlawful dispossession: of the disseisin, that is, on which the action formally depended.[172] The tortious element of the action has been entirely abandoned and we have instead a straightforward trial of the question of prior seisin. This is not to say, however, that the participants in these manorial actions have ignorantly misunderstood the nature of an action of novel disseisin. Exactly the contrary, in fact: by the fourteenth century the assize was used with fictive or confected disseisins in precisely the same way, to try not dispossession *per se* but merely priority in possession.[173] The question thus became, just as here, one not of wrong but of right. The litigants and clerks of Park, in other words, have adopted both the name and the function of a common-law assize but have aban-

[170] Simpson, *A History of the Land Law*, 81ff.

[171] For the history of the common law action, see D. W. Sutherland, *The Assize of Novel Disseisin* (Oxford, 1973).

[172] See, for example, the actions of novel disseisin brought in the abbey's dispute with Alice Perrers and the Windsors, above, pp. 79ff., and Simpson, *A History of the Land Law*, 28–31.

[173] Sutherland, *The Assize of Novel Disseisin*, 145ff.

doned nearly all its form; unconstrained by serjeants' objections, they were free to leave out those elements now unrelated to the action's real purpose.

Inter-tenant suits in the St Albans courts also borrowed from other common-law forms of action. At Bramfield on 1 May 1327, for example, the same Tristan who would later be involved in the Alberden inheritance dispute sued his grandmother Alice and uncle Roger for a messuage and half virgate which should, he alleged, have descended to him after the death of his father Hugh.[174] His father had died seised of the lands, he said, and Alice and Roger 'have no entry [into them] except after a demise which the said Tristan made to them while he was under age'.[175] In language and in conception he here echoes the common-law writs of entry, where the source of the tenant's title is specified and a particular flaw alleged.[176] Interestingly, too, he uses the generalised form of writ of entry 'in the *post*', which permitted the action to proceed without the demandant's having to specify through whose hands the land had afterwards passed, and which became possible after statutory changes in 1267.[177] This simplification was here unavailing for, while Roger appeared, Alice did not, and Roger alleged that, as she was a tenant and they were jointly seised, he could not answer in her absence. A new day was set, from which they both essoined for illness. Yet another was given, but the case then disappears from the record. At Norton on 19 May 1332, likewise, John Otewey and his wife Agnes sued John Albrede for a messuage and half virgate which should, they alleged, have descended to Agnes from her mother Sarra, who had been married to one Stephen Parnele.[178] Instead they had gone to John Albrede, who 'has no entry unless by the said Stephen in the time when the said Sarra was surviving to whom in her life she could not object'.[179] The land in question, that is, had been alienated by Agnes' step-father without his wife's proper consent. Here there was no delay and no complication: John Albrede admitted the flaw in his title and the justice of the couple's case.

In so doing John Albrede was in fact demonstrating still another close parallel be-

[174] HRO 40703, f. 1r.

[175] HRO 40703, f. 1r. 'non habent ingressum nisi post dimissionem quam dictus Tristam' eisdem fecit dum fuit infra etatem'.

[176] On manorial writs of entry, see Poos and Bonfield, *Select Cases in Manorial Courts*, xlvii.

[177] Simpson, *A History of the Land Law*, 34–35. Plucknett, *Legislation of Edward I*, 27, n. 1.

[178] *Records of the Manor of Norton*, 100.

[179] The translation in *Records of the Manor of Norton*, 100, has '[…] to whom in her life he [*sic*] could not object', but this must be in error.

tween manorial and common-law legal procedures: the use of lawsuits first to provoke and then to give enforceable form to settlements reached between the parties out of court.[180] By the lord's leave John Albrede surrendered any claim or right he might have in the land and, in exchange, the couple demised the land to him for a six-year term for 12d *per annum*. They also undertook that, should they again lease the land after the expiry of John's term, he would have the right of first refusal of the holding.[181] Their action brought him to court, stimulated negotiation and put the resulting agreement on record. The same pattern is visible in the suit of Thomas le Dryver against Sarra of Erdele and her son John, brought at Norton on 9 May 1330.[182] In answer to Thomas' claim that they had unjustly taken from him a messuage and croft, the pair replied that they had received the land in question from the abbot and that Thomas and his father had surrendered it into the lord's hands for that purpose; in proof of this, they called for the record of the court rolls. That recourse proved to be unnecessary, however: at the same halimote they came to an agreement, with the lord's licence, that Thomas should recover the parcel in question after Sarra and John had reaped the crop then growing on the land. And indeed such recourse would have been unhelpful: twenty years before, Thomas' father had indeed surrendered the land in question, but had done so in favour of his son, reserving a life interest for himself.[183]

What these cases show is the extent to which widely shared legal ideas underpinned litigation on the manors of St Albans. While forms were not copied exactly, basic ideas about how rights in land were determined—finding priority in seisin, for example, or specifying the source of a tenants title and declaring it flawed—as well as the basics of procedure, from essoins to pleas and replications to defaulting juries, were drawn from a shared stock of legal conception.

[180] On this, see above, p. 86; and Powell, 'Settlement of disputes by arbitration in fifteenth-century England'.
[181] *Records of the Manor of Norton*, 100–101.
[182] *Records of the Manor of Norton*, 94–95.
[183] *Records of the Manor of Norton*, 58.

5·5
Conclusion

When in 1215 the barons opposed to king John needed an enforcement mechanism to protect the concessions they had lately won, they turned to the private law of distraint. In the words of Plucknett,

> [t]he twenty-five barons, faced with the problem of bringing effective pressure to bear upon the monarch with as little risk as possible of precipitating a civil war, naturally looked to the current practices of the lawyers. There they found that a voluntary agreement to submit to distress was a common and serviceable device. And so [the] sixtieth chapter of the great charter is carefully drawn in the form of a covenant for distress.[184]

At a very different scale of conflict, when in 1336 William Bewuer stole fruit from the monastery, the punishment imposed upon him was that he do penance and 'abjure the abbey', drawing upon the common-law practice of confessing and abjuring the realm.[185] In both cases, a new situation was analogised to an existing one and the legal framing familiar from one sphere was applied to another.

It is this dynamic too that we see again and again in the records of the manorial courts of St Albans. From terms of years to entails, novel disseisin to writs of entry, legal forms from outside the manor were repeatedly applied within it. This was not, however, a matter simply of borrowing or transfer. Rather, ideas formed in response to extra-manorial social circumstances were found useful in understanding (and disputing) the immensely complex edifice of social and legal relationships which grew up on the abbey's lands. Aspects of this dynamic have been noted before: King wrote that the speed with which villein charters on the Peterborough Abbey estates adapted to the statute *Quia Emptores* 'reflects not so much the quickness of any "reaction" as that feudal society was a single entity; that Edwardian legislation tackled problems, common to each level of this society, which individuals were beginning to solve for themselves.'[186]

[184] Plucknett, *Legislation of Edward I*, 76.

[185] See above, p. 87.

[186] E. King, *Peterborough Abbey 1086–1310: a study in the land market* (Cambridge, 1973), 103. I owe this reference to Smith, 'Some thoughts on "Hereditary" and "Proprietary" rights in land', 110.

Smith, likewise, argued that 'not all of the processes of transmission can be readily seen as if they were a form of downward diffusion and in the case of entail and jointure there is even a suggestion of development proceeding in tandem.'[187] Legal forms and ideas were instruments used in action, but they were also (and more importantly) ways of thinking about relationships on the manor. It was this which made conflict over *per cartam* alienation, for example, so persistent: in barring the practice, the abbey was not merely stopping its tenants from using a convenient form of property management, it was advancing an idea about what it meant (and did not) to have the fullest possible interest in a piece of land within its manors—not, it must be said, with notable success. In its constant creation of new interests, in granting out anew what had come back into its hands, in its regulation of transfers among tenants, in its enforcement of inheritance customs and its determination of disputes, the monastery and the legal institutions it controlled had an enormous influence in building and shaping the social world in which its tenants lived. But in understanding the relationships thus created, both monks and tenants drew constantly upon social analyses born both outside the manor and quite outside the control of either.

[187] Smith, 'Women's property rights under customary law', 192.

CHAPTER 6

Conclusion

What then does this attempt at legal biography show of the role of law in the social relationships of the monks of St Albans?

To begin with historiography, it is first of all clear that law was not merely 'superstructural', as Hilton believed. At times it served to reinforce relationships of social or economic dependence, but at others undermined them. The dispute with John Chilterne is a good example: if the king's courts could not be relied upon to compel rent payments from a recalcitrant tenant, they were hardly simple tools of economic domination. And if even the abbey's own leasehold indenture, drawn up with great freedom to create a bond and a relationship as the house saw fit, could not constrain him, they were not very effective ones. The relationship between law and other parts of social life was less direct and more complex. Law was a formalisation and crystallisation of ideas, assumptions and beliefs which arose in many spheres: of trade, of family, of religion, of village community. But, once formed, it did not then move in sync and step with them. It had first of all a life of its own. As Milsom saw clearly, the efforts of each serjeant pushing for his client's cause drove the logic of the law in ways sometimes divorced from the social logic at its root.[1] And legal ideas, moreover, did not stay neatly penned within the social order out of which they grew. They were adopted, adapted and subsumed into new contexts: the range of sources of legal principle invoked by Geoffrey de Lambourn, for example, or in the York will dispute, show how permeable any boundaries were. The monks' long struggle against *per cartam* alienation of customary lands shows that tenurial ideas from

[1] Illustrations of this may be seen in S. F. C. Milsom, 'Trespass from Henry III to Edward III', *Law Quarterly Review*, 74 (1958), 195–224, 407–436 and 561–590; and idem, *Historical Foundations of the Common Law*, 286ff.

'outside' a given legal sphere could not be kept at bay even when they wished. And the long contest with the town of St Albans turned at its root on how the king's justice was to be integrated into this relationship. Law could disrupt as much as it preserved.

Nor was it a 'consensual system' equably mediating social dispute. It depended fundamentally upon compulsion and on force, as the many outlawries, excommunications, imprisonments and hangings scattered through these pages make abundantly clear. And, while not merely 'superstructural', it was hardly divorced from contemporary society and reflected in one form or another all the prejudices native to the age. Nicholas Tybbessone would not see things as Musson and Ormrod do, nor William Grindecobbe, nor the parishioners who complained so loudly (and so ineffectively) of archidiaconal depredations. And it was not simply abuse of process or departure from a higher ideal which provoked complaint (though complainants sometimes phrased things in such terms): the system itself had winners and had losers.

Nor again does it make sense to speak of a legal system 'breaking down' in the fourteenth century, overborne by the weight of its complexity and undermined by unscrupulous manipulations of its process. The eyre did break down before our period.[2] The central courts, of King's Bench and Common Pleas, did not, but went from strength to strength. The endless churnings of disseisin and re-disseisin, of petition and complaint, that seem to Saul and others to be symptoms of a social crisis are not—or are not all. To fail to pay a rent is a disseisin, but many impecunious graduate students would be surprised to see themselves as engenderers of bastard feudal lawlessness.

The role of law here is messier, more granular, more particular. Most of its effects are invisible: far more powerful than any given suit or judgement was the pressure law exercised day by day upon assumptions and expectations. But what we can see (and what itself shaped those expectations) was heterogeneous in the extreme. Law was first of all, of course, not one system but many, overlapping jurisdictions and conceptions stretching from manor court to papal curia. These shared and traded many of the bases of their thought and practice, but not all. And reality was more fragmented still, for the realisation of law in the social relationships of the monks of St Albans was not made up of those ideal systems at all, but of the sum of the vast number of discrete and particular instantiations of legal remedies and ideas in those relationships. When Thomas Gen-

[2] C. Burt, 'The demise of the general eyre in the reign of Edward I', *The English Historical Review*, 120 (2005), 1–14.

tilcors played upon the abbot's ignorance of the defeasibility of a debt bond to extort a living from the monastery; when de la Mare declined to pursue Alice Perrers because of her influence at court and in the courts; when Abbot Wallingford brandished writs of conspiracy and trespass and deceived a townsman into thinking that he stood alone, abandoned by his fellows, and so must sign a bond; *these*, as much as any principle or solemn judgement, were what law did in fourteenth-century English society. And still more powerful, because more frequent, were the daily formalisations of interactions and obligations which caused no dispute at all: a contract with the mason Richard Gobewey to lay foundations for manorial out-buildings, apparently successfully fulfilled; a receipt to the prior and convent of Leeds for an eight-mark payment of a pension from tithes; the hundreds of little grants of land for money rents or services recorded in the abbey's court books. These, taken together in their mass, and not any grand abstraction, were what law did.

As has happened more than once in medieval English historiography, we began to generalise before we had the evidence before us. Our view of law in fourteenth-century society has been over-schematised, driven by model-building or by historiographical preoccupations, not by the sources. Those who have read the evidence, whether legal historians or historians of local society, have done so in pursuing other problems; and those who have thought about our problem have not started from the evidence. Doing so, whether a scribbled notebook full of lengthy lease indentures, the corrupt text of the law-French vulgate year books, or the huge mass of a Common Pleas plea roll, is always time-consuming, sometimes dry, and often unrewarding—but it is necessary. If law's role in society is to be understood, this is the basis on which to do it.

This is the first level of analysis necessary in order to construct a sounder view of the functioning of law in fourteenth-century English society: to see legal interactions as they really were, in their granularity, their specificity and their context. The second necessary level of analysis is to examine logical groupings of these interactions to see what they show together, and it is this that we have done, sphere by sphere and chapter by chapter. Each grouping has told a different story. In 'The Church', we saw the wide variety of forms that law took in social interactions in the ecclesiastical sphere and the strong context-dependence of the realisation of law within the church. In 'The Realm' we saw that legal relations in this sphere were, at their root, patterns of movement and expectations of behaviour. In 'The Town' we saw the way in which legal forms and ideas

were used by two parties to contest the terms and definition of their relationship. And in 'The Manor' we saw the extent to which common legal ideas were used in constructing understandings of local society; the utility of this to the abbey (as in its extension of the institution of the term of years); and its dangers (as in the contest over *per cartam* alienation). The third necessary level of analysis is to see what these groupings show when considered together. What does this legal polyphony (if not cacophony) sound like all together? Is there any harmony, or has adding more evidence led simply to noise?

Happily, there is a consonance. While law as an aspect of social life had as much variety as the relationships in which it was invoked, we have seen nonetheless that it had in every case certain common features. It was always founded on abstraction and formalisation: it attempted to tie the particularities of a unique social interaction to a general schematic. Where there was dispute, it was because the particular could be mapped to the general in different ways or because the facts of the particular were themselves at issue. It was external, in that it depended always on ideas or powers outside the relationship of the two parties in question. And it was reasoned, in a way that social fact itself was not: it stated not only that things were thus and thus, but somewhere in it tried to give a why. These three characteristics—formalisation of the particular, invocation of the external, and reasoning about social facts—point us to an answer.

Althusser wrote that ideology represents 'le rapport imaginaire des individus à leurs conditions réelles d'existence'.[3] Law was, in this sense, an ideology: it mapped the facts of the monks' world to an imagined patterning and gave them a sense of their place within it. It was a collective social imagining (sometimes elective, often mandated from without) which, like common law seisin, was constantly renewed by actors using and accepting its terms to ascribe, communicate and contest meaning in their relationships.[4] And it is only by studying every legal sphere that we can understand the terms and functioning of that system of meaning, for many conceptions, as basic as ownership and inheritance or as elaborated as disseisin, defeasance, essoin and the term of years, were

[3] L. Althusser, 'Idéologie et appareils idéologiques d'état (notes pour une recherche)', in *Sur la reproduction* (Paris, 1995), 296. The closeness of this to the medievalist Georges Duby's conception of ideology is pointed out by P. Burke, *The French Historical Revolution: the Annales school, 1929–89* (Cambridge, 1990), 73, to whom I owe this reference.

[4] In this sense (very different from the one in which he meant it) Maitland's famous bon-mot on Spelman, 'were an examiner to ask […] what was the feudal system? a good answer to that would be, an early essay in comparative jurisprudence', is entirely correct. F. W. Maitland, *The Constitutional History of England: a course of lectures* (Cambridge, 1908), 142.

not confined to a single system. Nor were they simply borrowed or transferred from one silo to another: rather, they formed part of a common stock of social analysis and meaning-making.

In the world of the monks of St Albans, law was not just a manner of governance, of extending their power, defending their rights, and ensuring that the little streams of wealth ran in the courses that they ought. It was more deeply a manner of thinking, of rationalising their place in the church, in the realm, in the town and on the manor, and of making sense of an endlessly complex and messy social world.

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