**Soothsayers, Legal Culture, and the Politics of Truth in Late-Medieval England**

One day in early May of 1509, Alice White was working in her shop near Fleet Street in London.[[1]](#footnote-1) She looked up, and saw an acquaintance, Anna Notary, walking past, who she wanted to speak to about a matter concerning her husband, the Breton book-printer Julian Notary.[[2]](#footnote-2) Alice called out to her, asking if she would come in to have a talk. Perhaps she was a little edgy – she addressed Anna as ‘mistress’, a formal honorific which recognized her respectable social standing – and in fact, the matter she wanted to discuss was rather delicate.[[3]](#footnote-3) As she explained, she had been on a journey recently with a party that included one Richard Faques, a bookbinder and business partner of Anna’s husband. On this journey, Alice had lost some money, and she had come to suspect that it had been stolen from her purse. In order to find out the identity of the thief, and to recover the money, she had gone to a soothsayer, a person who performed magic on behalf of others in order to solve problems or find out information.

The soothsayer had revealed to Alice ‘by certain tokens’ that the person who had taken her money had a blemish on his face. And as she then realized, this meant that the thief could be none other than Richard Faques, a mutual acquaintance of her and Anna. He was the only one among the fellow travellers who had such a facial mark, and so, she explained to Anna, it had to be him. Adopting something of a supplicatory tone, Alice asked Anna to tell Richard about all of this, and that she wanted her money back; but she was quite willing to let the whole affair blow over without anyone else finding out about it – he could simply cast the coins into her house through a window, or secretly leave them in her garden. But she also related a threat: if he did not return the money, she would ‘trouble him’ for it. And although Anna later reflected that she had been reluctant to tell Richard such things, in the moment she promised Alice that she would pass on the message to him as directed.

Perhaps Anna did tell Faques about the soothsayer, or perhaps not; perhaps he dismissed the story as nonsense, or perhaps he did have something to hide. Whatever his reaction, for several months Alice waited for him to do the right thing, as she saw it, and furtively return the money – but in vain. By mid-August, she could wait no more. She went to the household of the Notarys in the parish of St Clement Danes, and found them sitting with Richard Faques and a skinner named John Wendover. She burst out: ‘I pray you God, may Faques let me have my money…the which I lost and that was taken from me.’ She explained again that she had gone to the soothsayer, and about the facial blemish that gave away his identity as the person who had the money, and once more besought him to give it back to her. Faques, indignant, replied ‘Mistress, I have none of your money. Go and seek of your soothsayer as you will, for I have none of your money, and that you will know shortly.’

We do not know what happened immediately after this exchange, but it was certainly not the end of the dispute. Faques, rebuked in front of his neighbours and business associates, could not let this slight to his reputation stand. He launched a lawsuit for defamation against Alice White in the consistory court of the bishop of London, the more prestigious and expensive of the two main ecclesiastical courts in the city.[[4]](#footnote-4) The witness depositions of Julian and Anna Notary, and John Wendover, whence we can reconstruct this sequence of events, were recorded the following May in 1510. As is so often the case working with late-medieval ecclesiastical records, there is no evidence to indicate the result of the case (indeed, it is quite possible that it never proceeded to judgment), though given that the taking of depositions took place at a late stage in the legal process, it is likely that it had rumbled on for some time.[[5]](#footnote-5) This strange case of divination and defamation was, it seems, a protracted dispute with multiple threads of disagreement.

While the case has been noticed before for what it reveals of the social lives of the first generation of book-printers in England, and as an example of the importance of an honest reputation to medieval masculinity, it also provides an unusually detailed insight into the role of soothsaying in the negotiation of neighbourly relationships.[[6]](#footnote-6) As an illicit magical practice that was proscribed by ecclesiastical authorities, soothsaying has usually been considered within histories of religion, popular culture, and witchcraft – that is, as a form of folk belief which survived within the fabric of late-medieval Christianity.[[7]](#footnote-7) In this article, I would like to suggest that as a means of dealing with disputes, soothsaying should also be understood within the context of the deep-rooted and broad-based legal culture that emerged in the later Middle Ages.[[8]](#footnote-8) Examining soothsaying and law side-by-side, indeed, we can not only better understand the legalities that haunted magic, but also come closer to grasping some of the mysterious qualities of law in this period.

I make three main arguments. The first is that for the church courts which prosecuted this offence in late-medieval England, soothsaying was a problem not only because it was a crime against belief, but also because it was a crime of speech. As the legal historian Richard Helmholz has remarked, ‘spoken words gave rise to the great majority of causes that came before the English ecclesiastical courts during the later Middle Ages.’[[9]](#footnote-9) And while we do find prosecutions against individuals for practising magic, there is a good deal of evidence for soothsaying that comes from cases of defamation, such as that between Richard Faques and Alice White. The pervasive use in the church courts of the legal concept of *fama* – ‘local opinion’ or ‘reputation’ – meant that when soothsayers’ pronouncements spread as rumours, or came to bear on reputations, they could attain a public status.[[10]](#footnote-10) In some cases, indeed, ecclesiastical authorities seem to have pursued action against soothsaying not because it was a form of superstition, but because of its capacity to generate socially meaningful facts.[[11]](#footnote-11)

Following on from this, I would like to suggest that soothsaying might be understood as a kind of ‘jurisdiction’, in its etymological sense of ‘speaking the law’, in itself.[[12]](#footnote-12) There is certainly some evidence that contemporaries conceived of what soothsayers were doing in quasi-legal terms, and even referred to their ‘judgments’ or ‘verdicts’. But more generally, insofar as soothsayers purported to uncover the truth of a matter, they were fulfilling a function that in late-medieval England was normally occupied by law-courts, both secular and ecclesiastical. For people such as Alice White, going to a soothsayer seems to have been an early step in an attempt to solve a problem or conflict, and to do so in a way that avoided the many avenues of legal action to which she might have resorted: speaking to a local official, suing a formal plea framed as debt, detinue, or trespass, or indeed, making a public accusation that he would be forced to refute.[[13]](#footnote-13) Soothsayers offered an alternative to immediately purusing these confrontational options, while allowing them to be held in reserve for later.

For several decades now, medieval historians have understood that social disputes were not one-off events, but processes in which parties might pursue multiple strategies – from outright violence to legal action to informal settlement – aimed at obtaining an advantageous resolution.[[14]](#footnote-14) In late-medieval England specifically, much historiographical attention has focused on arbitration, a mechanism used across a range of social contexts to flexibly resolve disputes, sometimes in concert with, but often outside of law-courts.[[15]](#footnote-15) In one sense, soothsaying can be understood within this paradigm, as another alternative within the panoply of disputing strategies. But at the same time, it offered something quite different: soothsaying did not necessarily aim at establishing peace between parties, but rather claimed to unveil the truth. As Alice White found, this did not necessarily lead to a happy outcome. But it does suggest that resolution was not the only purpose of medieval disputing strategies; the prospect of finding out the truth offered aggrieved parties a different ideal of popular justice in the later Middle Ages, one rooted in knowledge rather than reconciliation.

Thirdly and finally, I argue that by taking seriously the comparison between soothsaying and law-courts we can cast a different light upon legal culture in this period.[[16]](#footnote-16) Medieval law-courts, insofar as they offered people an attractive public arena for the airing of disputes, have been understood by historians as responding sensitively to the preferences of litigants.[[17]](#footnote-17) But the resort to soothsayers, who offered an near-exactly opposite mode of determination – making illicit, allusive, and private pronouncements – suggests that we may have been too quick to assume that the public functions of law-courts worked towards the desires of their users. The relentless publicity of legal culture was also oppressive: if someone wished to solve a problem or resolve a dispute with law, they had to make it public, and do so by relying on the favourable interpretation of the local community and the ‘trustworthy men’ who represented it.[[18]](#footnote-18) To go to a soothsayer in this world was to resist the hard certainties of law, to prize private conviction over common knowledge, to favour sooth over truth.

The first section of the article looks at the emergence of the ‘soothsayer’ as a magical practitioner in fourteenth- and fifteenth-century England, and sets out some of the problems of using legal evidence to try to grasp these shadowy figures. The second section examines the ways in which soothsaying became associated with law and its institutions; both as divinations came to be used as the basis of defamatory allegations, and also as contemporary scribes wrote about soothsaying itself drawing on a legalistic vocabulary. The third section elaborates this comparison between law and soothsaying further by considering the reasons that laypeople went to soothsayers – I emphasize their craft knowledge, participatory rituals, and privacy were what made their methods so attractive – and asking how they might reveal, contrariwise, a dissatisfaction with legal processes. The conclusion attempts to draw out the wider implications of this analysis, suggesting that the publicity of late-medieval legal culture might be seen less as a positive manifestation of popular participation in institutions, and more in terms which emphasize the power relations that underlay it.

**I**

What did it mean for someone to be a soothsayer, in late-medieval England? The chief difficulty in answering such a question is the paucity of cases in the church court records, which provide us with the most direct evidence of magical practice.[[19]](#footnote-19) But even picking over the evidence for soothsaying that we do have, we are confronted by a loose terminology to describe highly various people and practices that do not always fit together well; in many cases, moreover, it is hard to pin down an individual who practised magic – even one who confessed to doing so – as a full-time or out-and-out ‘soothsayer’. As I will suggest here, soothsaying is better understood not as a solid social identity, but rather as a practice, one of the many forms of ‘superstition’ that preoccupied the late-medieval English church.[[20]](#footnote-20) In what follows, therefore, I discuss soothsaying in relation to other forms of magic, the ways in which it was framed by ecclesiastical legal institutions, and finally, the kinds of people who were accused of engaging in it.

One of the reasons that it is difficult to draw tight boundaries around soothsaying is that it sits athwart the conceptual dichotomies with which we often understand medieval magic.[[21]](#footnote-21) In the first place, we find divining or fortune-telling both in ‘learned’ milieux, by clerics with books, just as it was used in ‘unlearned’ or ‘common’ contexts, by men and women who learned magic through oral transmission.[[22]](#footnote-22) Indeed, it is not always that clear that these spheres remained that distinct anyway: people like Nicholas Barton, a Buckinghamshire parson who was accused in 1485 of ‘conjuring with a psalter and keys to find lost things’, were clearly firmly integrated in local society.[[23]](#footnote-23) In the second place, some soothsaying practices clearly involved ‘demonic’ magic in which spirits were summoned to divine the future – a major concern for European clerics – while others seem to have been rather more prosaic forms that relied instead on the occult knowledge of the practitioner, and worked either through nature or something akin to prayer.[[24]](#footnote-24)

It was demonic magic that became a particular source of concern for European clerics during the later Middle Ages, interacting in complex ways with emerging discourses about *maleficium*, that is, witchcraft.[[25]](#footnote-25) But in England, anxieties about magic manifested in rather different ways, in the context of the political turmoil in the late fourteenth and early fifteenth centuries, and the panic caused by the heretical movement known as lollardy.[[26]](#footnote-26) Several high-profile cases in which sorcery was supposedly used to foretell the death of the king (which amounted to treason) did provoke harsh reprisals, but only against the individuals involved.[[27]](#footnote-27) These concerns appear to have had more to do with isolated incidents of political intrigue, and never escalated into more general campaigns against soothsaying. Both secular and ecclesiastical authorities were far more invested in facing down the threat of organized heresy, and as such, magical practice never received the same level of legal scrutiny in late-medieval England.[[28]](#footnote-28)

Indeed, the conceptualization of soothsaying within canon law was rather loose.[[29]](#footnote-29) The most influential collection of late-medieval English decretals, William Lyndwood’s *Provinciale*, stated simply that ‘all kinds of divination [were] wholly forbidden’.[[30]](#footnote-30) In the following sections he lumped together other kinds of magical practice – medical ‘incantations’ with herbs, ‘superstitions’ which involved the conjuring of creatures or demons – in a way that mirrors the vaguer categorization of magic we find in the records of the church courts.[[31]](#footnote-31) Here *sortilegium* was by far the most common word used to describe magical practice in general, even when no soothsaying was involved.[[32]](#footnote-32) Thus Alice Davison was noted in the diocese of Durham in 1452 ‘because she practises the craft of *sortilegium*…a medical craft with a lead vessel, a comb, and an iron’.[[33]](#footnote-33) Such looseness seems to bespeak, once more, the somewhat perfunctory attitude towards the prosecution of magic among church authorities in late-medieval England. Soothsaying was merely typical of the regrettable but unthreatening forms of lay superstition about which many clerical writers in this period were fond of writing.[[34]](#footnote-34)

People who practised soothsaying, or were accused of it, seem to have been regarded as misguided rather than pernicious, socially marginal rather than powerful. While there is not a large number of cases from which to generalize, it is possible to identify the outlines of some trends. The most striking and quantifiable facet of the accused in these cases their gender: more than half of people suspected of having performed magic in late-medieval England were women.[[35]](#footnote-35) Although striking, this finding is particularly difficult to interpret. If more women practised magic, should we understand soothsaying and divination to have represented a strange fissure in late-medieval patriarchy, in which words uttered by women were given special credence in a world from which they were otherwise institutionally excluded?[[36]](#footnote-36) Or is it that female soothsayers were more likely to be reported to the church courts, precisely because their spoken predictions were understood within the pervasive discourse of gossiping and scolding that associated female speech with disorder, harm, and scandal?[[37]](#footnote-37)

These interpretations may not be mutually exclusive, as some evidence also suggests that different kinds of magic were themselves gendered. The use of charms, incantations, and curses seems to have been an exclusively female practice, while the use of magic in the search for buried treasure seems to have been particularly associated with men.[[38]](#footnote-38) This suggests that magic which focused specifically on speech was bound up with the policing of female voices, in the form of legal enforcement and prosecution of gossip and defamation – which as we will see, were the kinds of cases through which soothsayers became tangled up in law-courts.[[39]](#footnote-39) Thus for a woman to be a soothsayer may have allowed her some influence over community opinion, from which she was otherwise structurally excluded; but for her the act of practising spoken magic was also more precarious, placing her at greater risk of prosecution.

Soothsaying also seems to have been associated with poverty. The handful of cases which mention money suggest that magical labour, while it was considered a service, nonetheless bore a peculiar relationship to pecuniary profit. In the Suffolk village of Great Ashfield, Agnes Clerk admitted to having received two shillings ‘from various people, but no more’ on behalf of her soothsaying daughter Marion, who healed the sick, predicted the future, commune with God and ‘the gracious fairies’, and – of course – recovered lost and stolen goods.[[40]](#footnote-40) This case reveals a highly idiosyncratic cosmology behind Marion’s magical practice, and it seems that her mother was attempting to promote her as a holy maiden; it is thus possible that the money given in this case was understood as a kind of alms, or as a gift. Indeed, some other soothsayers are known to have refused payments entirely, on the grounds that it would prevent the magic from working.[[41]](#footnote-41)

The mid-fifteenth-century moral treatise *Dives et Pauper* also focuses on this conjunction between poverty and magic, but in a different light. The author writes that the only reason that soothsayers could discover stolen or lost items is because ‘they commonly are thieves, or in league with them’; and that they ‘have masters to have part of their winnings – taverners, brewers, innkeepers, and needy workless men that go so gay and spend great’.[[42]](#footnote-42) Elite resentment of an indolent poor spending money above their means was a prevalent discourse in late-medieval England, and it is plausible that soothsayers were seen as a part of this poor, potentially criminal underclass.[[43]](#footnote-43) Two cases from the town of Boston suggest similar associations: prosecutions against Isabel Leche and Richard Fleyn, both accused of practising ‘necromancy’, were abandoned ‘because she is a pauper and an invalid’, and ‘because he is paralyzed’.[[44]](#footnote-44) The practice of magic by non-elites seems often to have been read as a marker of deprivation, that might prompt contempt just as much as charity.

Soothsaying, then, can be hard to perceive through overlapping and intertwining clerical discourses about magic, superstition, gender, and poverty. But for all this, it is important to remember that it did not depend only on the discursive co-ordinates that were set for it by Latinate authorities.[[45]](#footnote-45) In the vernacular, ideas about soothsaying were more ambiguous in the later Middle Ages, within the context of the complex semantic realignments of ‘sooth’ and ‘truth’ in this period.[[46]](#footnote-46) Indeed, the word ‘soothsayer’ itself continued to be used in fifteenth-century texts to mean ‘truth-teller’, even as it became a common way of describing diviners and fortune-tellers.[[47]](#footnote-47) In English, then, soothsaying occupied a semantic space closer to the borders of veracity. It was precisely this kind of tension, over the status of truth that soothsayers claimed to reveal, that provoked further difficulties for the church courts as they attempted to regulate public speech – the problem to which we now turn.

**II**

Soothsaying was prosecuted in the church courts because it involved the illicit and superstitious practice of magic. But it was socially disruptive in ways that went beyond this, and so came to the attention of the system of lower ecclesiastical courts broadly concerned with maintaining peaceful relations between parishioners. As we saw in relation to the case between Alice White and Richard Faques, soothsaying might come to the attention of these courts indirectly as divinations became the basis of accusations that caused rumour and scandal.[[48]](#footnote-48) But more than this, soothsaying seems to have constituted a problem for the church courts because it offered laypeople an alternative forum for the procurement of authoritative judgments. In what follows, I first set out how these courts dealt with defamation, gossip and reputation, before turning to the ways that soothsayers became entangled with these processes, and the language that was used to frame their activities.

Defamation in the late-medieval English church courts could either take the form of instance litigation, between two parties, or *ex officio* proceedings by the court against a defendant. In English provincial canon law legislation, defamatory words had to meet six technical criteria, outlined by Richard Helmholz: they had to be spoken with deliberate malice, and impute a specific crime punishable before a law-court; the allegation had to prompt a sworn denial, known as compurgation; the allegations had to be false, and the words had to have lessened the plaintiff’s reputation in the eyes of the ‘good and serious’ people of the parish.[[49]](#footnote-49) While in practice, most of these criteria were ignored – for example, many defamatory insults related to physical appearance rather than imputing a specific crime – it is clear that all late-medieval defamation cases fundamentally rested on the defence and contestation of reputation, or *fama*.

This Roman law concept not only formed the basis of interpersonal litigation over defamation, but also a central aspect of ecclesiastical procedure in the investigation of crime. *Fama*, which had to be believed by ‘persons of credit’, represented common opinion about an individual.[[50]](#footnote-50) This was the pretext for *ex officio* investigations which brought a defendant to answer to a particular offence.[[51]](#footnote-51) Such inquiries stated that an individual had been ‘defamed’ of committing an offence, and gave them the chance to make a sworn denial of innocence in the presence of some neighbours, a process known as compurgation; if they completed this successfully, it was sometimes noted that their good reputation, their *fama*, had been restored to its ‘pristine state’.[[52]](#footnote-52) And just as the language of defamation was used to frame criminal offences, so *fama* could turn interpersonal cases into *ex officio* litigation. Plaintiffs in defamation suits might be asked to prove to the court that the accusation against them was false; if they could not, officials could proceed against them on the basis of that accusation.

*Fama* thus cloaked a complex of accusations and rumours, both inside and outside the courts. Historians have argued over whether *fama* was mainly in the hands of the courts to define, or whether it in fact represented past trails of gossip echoing through the legal system, but perhaps the crucial point is that the two were inextricably related.[[53]](#footnote-53) *Fama* did relate to real gossip, but it also took on new meanings it was handled by the courts, precisely because people paid close attention to what the courts did with rumours. Thus many reported insults in defamation cases made reference to the judgment of a court, as for example, one London defendant who was alleged to have said of her enemy, ‘she is a false woman and cursed in the sentence of the church’ (that is, excommunicated).[[54]](#footnote-54) *Fama* was a co-creation of both the courts and the laypeople who used them; this is precisely what made it such a potent concept. But perversely, it also opened up a space within which other kinds of authoritative speech – such as the divinations of soothsayers – could take on a great deal of significance.[[55]](#footnote-55)

Soothsayers appear in defamation cases when a defendant was alleged, or confessed to having consulted them as the basis for a defamatory accusation they made against a third party. For example, in 1481 William Radclefe was brought before a lower church court in London to answer a charge of defamation because he had accused Geoffrey Whit of having stolen a tunic, taken it back to his own house, and put it in a chest in his room; ‘and he said this upon information from a soothsayer’.[[56]](#footnote-56) But rather than Radclefe himself being prosecuted for defamation or perhaps for going to a soothsayer in the first place it was Whit, the man he defamed, who was asked to appear instead, and to prove his innocence of this alleged crime. He did so successfully, and was dismissed, without any further action being taken against Radclefe. Even if accusations arose from soothsaying, then, the ecclesiastical courts were willing to entertain that they had some basis in fact; they may have done so with the collusion of people like Whit, who wished to put such rumours to bed by making a public, sworn denial.[[57]](#footnote-57)

Through the lens of defamation cases we can also see that secular courts also took action on the basis of rumours prompted by soothsayers. In another case from London, Margaret Curtman was cited for defamation because she had said publicly that Henry and Agnes Nash were false: ‘and she went to a soothsayer to know if they had taken away clothes [from her], and he said that they had them, and thereupon she caused the constables to search their house’.[[58]](#footnote-58) While it is impossible to know whether Margaret told the ward constables – responsible for neighbourhood policing, arrests, and inquiries – the basis of her suspicion, the fact that their house was searched provides further testament to the power of rumour in the later Middle Ages.[[59]](#footnote-59) The response of Henry and Agnes Nash is telling in this regard: after their house had been intrusively searched and their reputation visibly called into question, Margaret’s false accusation, and its woolly basis, was made known publicly through a defamation prosecution. Soothsayers started cycles of rumour which the courts had to stymie and resolve.

More than providing the basis of an allegation, there is also some evidence that ecclesiastical officials understood soothsayers in terms of their capacity to provide authoritative judgements. In a couple of cases, strikingly legalistic language was used to describe divination. A defamation case from the Norfolk village of Hindringham in 1417 recorded that Geoffrey Skinner had accused Emmett Bryte of theft, saying that she had stolen two kinds of woollen cloth from him. Appearing before the court, ‘he asserted that a verdict was announced to his wife, that a certain woman dressed in a green doublet with a lay-cloth had the goods’.[[60]](#footnote-60) This was interpreted by the judge as a confession, both of the defamation, but also, interestingly, of soothsaying – it seems that this ‘verdict’ was in fact the divination of a soothsayer, and indeed, its ambiguous identification of a woman dressed in a certain way fits with the kind of vague pronouncements in which they specialized.

The word ‘verdict’, in the early fifteenth century as now, was more commonly associated with the judgment of a jury in a secular court, in both local customary tribunals and the common law courts.[[61]](#footnote-61) This sense is further hinted at by the use of the word which I have translated as ‘announced’ (from the Latin *referre*), which could also be translated as ‘returned’; it may be that the scribe was alluding to the notion of ‘returning a verdict’, the procedure by which a jury’s judgment was subsequently filed by sheriffs in the system of royal justice. But while these legalistic meanings are present in the trial text, they are also somewhat ambiguous. The word ‘verdict’ is written here as the Latin *veredictum*, which also transliterates as‘true speech’, or perhaps, more germane for a fifteenth-century scribe trying to twist vernacular superstition into the language of law, ‘sooth said’. There seems, then, to have been some slippage between different kinds of authoritative speech – whether legal or magical – in the minds of contemporaries.

That this was more than just semantic coincidence is suggested by the example of Thomas Pelson, a Lincolnshire soothsayer. The citation against him in a visitation of 1500 noted that ‘he advertises himself as a fortune-teller, and gives judgements regarding both thefts and various diseases of men and animals.’[[62]](#footnote-62) There are a couple of points to unpack here. The Latin word *iudicia*, which I have translated as ‘judgements’, could also be translated as ‘opinions’, and certainly this ambiguity hangs over its use in this context. On the other hand, I think the sense of ‘judgement’ fits with the way in which the citation is framed more generally, with Pelson condemned for ‘advertising himself’ as a soothsayer. The outrage of these offences seems to lie not with the superstition of soothsaying, then, but with their claims to hand out authoritative judgements that would become part of public networks of rumour – a function that the church courts wished to retain for themselves.

A final case is the exception that proves the rule. In another Lincolnshire case, Thomas Staynfeld was cited for – and would later confess to – performing divinations and charms to find some stolen cloth for Richard Draper of Hagworthingham. Unusually, Staynfeld had named a particular person, John Ringoth, as the thief. However, he was soon proved dramatically wrong, as the real perpetrator, another man named Couper who lived in the Yorkshire town of Beverley, later admitted to Richard Draper that *he* was the one who had actually taken away the goods.[[63]](#footnote-63) The case is strikingly detailed by the laconic standards of visitation records, and it seems that the court had taken a particular interest in Staynfeld; not only was a very rare order made for his arrest and imprisonment ahead of his appearance before the judge, but he was also questioned about his specific practices, confessing that he had ‘exercised this craft according to rules in a certain book which he had from William Tetteford, now deceased’.[[64]](#footnote-64)

But it is also noteworthy for the very strong emphasis it places on the revelation of truth. According to the citation, Staynfeld’s crime lay in the superstitious offence of ‘practising soothsaying and incantations’, so it was legally irrelevant that he had identified the wrong man or that the thief had confessed. Yet the scribe wrote that the soothsayer was cited for ‘asserting that John Ringoth had stolen the cloth, *of which the contrary is true*’. This pointed remark suggests that Staynfield’s offence was also conceieved in terms of the falseness of the allegations which he had supported. We might say that his prosecution came about after he tried too hard to be certain; this was what made him a bad soothsayer, both from the perspective of his client, and indeed, that of the church courts. But it was precisely this kind of binary thinking, forcing a choice between truth and its ‘contrary’, that soothsayers – those of them who managed to stay out of the courts (and their records) – helped their clients to avoid. It is to this contrast, between legal truth and magical truth, that we now turn.

**III**

In this final section, I would like to make explicit the comparison to which I have been alluding throughout, between soothsayers and law-courts, between magic and the law, as modes of creating and verifying truth in late-medieval England. In what follows, I look at three putative reasons that people might have been attracted to soothsaying as an alternative to legal processes for the resolution of disputes: first, its status as a kind of craft knowledge, second, its inclusive modes of truth production, and third, its tendency towards secrecy, in each case contrasting these features with those of law-courts. I do not want to imply, in laying out these comparisons, that people were always ‘forum-shopping’, choosing in a given instance whether to go to a soothsayer or to a court.[[65]](#footnote-65) Clearly, the options were not mutually exclusive. Rather, I want to draw out the comparison between these methods of producing truth in order to help us to reframe some significant aspects of late-medieval legal culture, in relation to authority, participation, and publicity.

To begin with, it is clear that magic was considered a distinctive kind of skill that gave its practitioners a claim to authority. The language of the church court records routinely refers to magic as an *ars*, and this seems to correspond with the contemporary English word ‘craft’ or perhaps ‘cunning’; a vernacular petition from the late 1460s refers to a divination done with a mirror as the ‘crafte of nigromoncie’, while a case before the London church courts a few years later described fortune-telling as ‘*arte magica*, viz. *wichcraft*’.[[66]](#footnote-66) Like other crafts, it was understood as a skill, learnt from personal instruction or sometimes from books.[[67]](#footnote-67) It was even acknowledged in the case against Thomas Pelson, just above, that ‘he is said to be very learned in such crafts’. And indeed, what we know of the practices themselves suggests that they often involved props and gestures that centred the soothsayer, who looked into crystals, put keys into books, summoned spirits which only they could see, or said special charms and incantations.[[68]](#footnote-68) Their authority to divine, to speak sooth, came from these craft performances.

If it is difficult for us to understand how this hocus-pocus seems could produce credible truth, it is worth considering the options open to laypeople who wished to find out the truth through legal process. Local law-courts in this period were overseen by juries of local ‘trustworthy men’, who made presentments of fact to secular tribunals, reported *fama* to church courts, and set monetary fines and put together local bylaws.[[69]](#footnote-69) They tended to be wealthier than their neighbours, and in some places exercised a monopoly over such posts, fulfilling multiple offices of local governance at once.[[70]](#footnote-70) When people wished to report crime, it was on these men whom they had to depend for their case to go forward to the courts, and for it to receive a favourable hearing there. As Ian Forrest has suggested, the appointment of such officers ‘contributed to local elite formation and the hardening of social inequalities’; on the ground, such men would have been difficult to argue with or criticize.[[71]](#footnote-71)

Whereas the authority of soothsayers to produce truth came from their craft, then, that of trustworthy men came from their status; while the former was performed in discrete rituals, the latter was naturalized in everyday life, obvious in their superior clothing, houses, things.[[72]](#footnote-72) This difference is significant because it helps to explain why so much energy was invested in justifying the ‘craft’ of trustworthy men. Jurors were charged to ‘treuli enqueren & treuli presenten’; they were supposed to give verdicts not to advantage themselves but ‘because it is pious and meritorious to present true testimony for all’; and above all, they were said to have special local knowledge of the matters about which they presented.[[73]](#footnote-73) Such sentiments have largely been accepted by legal historians at face value.[[74]](#footnote-74) Yet compared to soothsaying, they appear rather more clearly as the ideological statements that they were, designed to reinforce the legitimacy of decision-making, and truth-pronouncing, that was built upon hierarchy rather than craft, upon pure authority rather than expertise.

Indeed, turning to the second point here, it is striking that the production of truth by soothsayers was radically inclusive. While soothsayers were themselves specialists in performing the necessary magic, to achieve its full meaning the divination also required the input of their client.[[75]](#footnote-75) Most of the time, the magic did not yield anything so clear as the name of the wrongdoer, but rather a glimpse of the truth – a man with blemishes on his face, a woman wearing a green dress – which the visitor had to interpret for themselves. Etheldreda Nyxon of Barrow, in Suffolk, was said to have told a male servant to beware, for his horse would be stolen in three days; when his mistress came to ask her who was going to steal it, ‘Etheldreda would not tell her the names, but said that she would teach her an art whereby the horse would not be stolen’, using holy bread and holy water.[[76]](#footnote-76) When people went to a soothsayer they were offered the opportunity to help produce truth, and, we might say, could claim some ownership of it.

Once more, this represents a striking contrast with the kind of verdicts and reports made by trustworthy men. It is infamous among legal historians that so little is known about how medieval juries came to their verdicts.[[77]](#footnote-77) We do know, however, that they often did so in clandestine exclusivity, in separate halls or chambers, which they were not supposed to leave; people were fined if they attempted to overhear or interfere with jurors’ deliberations, and especially if they went on to disclose these discussions.[[78]](#footnote-78) Something of the frustration this could provoke among those who found themselves on the wrong end of a verdict is captured by the words of Geoffrey Waryn of Yaxham in Norfolk, against a capital pledge of the local court: ‘You and your fellow head-boroughs from the last leet are false forsworn harlots, and have falsely amerced me…you sat about your verdict making that day as a company of devils, and not as men.’[[79]](#footnote-79) The production of facts by jurors, handed down after exclusive deliberations, offered none of the participatory fulfilment of soothsayers’ truths.

Thirdly, and finally, soothsayers opened up the possibility of creating truth as an intimate, private endeavour. As we saw at the very beginning of this article, Alice White wanted to use the soothsayer’s divination as a kind of leverage against Richard Faques, in order to get her money back while allowing him to save face, even leaving him the option of returning it through a window, or leaving it in her garden. Such a compromise meant that she did not have to put herself in the vulnerable position of making a public accusation against him – which could, if he was willing to make a sworn denial of innocence, be turned back on her as a charge of defamation – and contrariwise, his reputation did not have to be tainted by the whiff of suspicion raised against him by an allegation. In this social world, words could actually carry too much weight for people to bear; it was too difficult to take accusations back, too hard to be anything but completely certain. Soothsayers offered people route to useful ambiguity, an alternative to the severity of public denunciation.

As many historians have pointed out, legal culture across medieval Europe was emphatically public, with proclamations, crowds, and spectacles figured as a central part of law’s apparatus.[[80]](#footnote-80) This publicity has often been interpreted in functional terms, as a reflection of what people wanted from the courts; Dan Smail has argued that the growth of centralized legal systems was a consequence of the fact that, on a large scale, ‘officials were invited into disputes by individual men and women seeking the best way to get back at their enemies.’[[81]](#footnote-81) Without doubting that some people obviously did want to engage in public legal disputes to humiliate their adversaries, it is also clear, from the resort to soothsaying, that others did not. The fact that the legal record shows us so much more of the former than the latter suggests, I think, that we ought to regard the politics of publicity with more suspicion: it seems less responsive to the wishes of the laity than to those of legal authorities, and their desire for more effective forms of control.[[82]](#footnote-82)

Publicity was not a neutral quality of justice: it was intimately linked to the idea that there was, in fact, a ‘truth’ out there, one that it was the task of the courts to identify, investigate, and proclaim. This did, of course, allow medieval subjects to ‘participate’ in legal culture, but it was a participation that relied upon a logic of exposure. This foreclosed the possibilities of legal subjecthood in more fundamental ways, by circumscribing the kind of justice that people could hope to attain from a law-court.[[83]](#footnote-83) It was a form of justice that was predicated upon truth, and so upon inquisition, proof, and verification.[[84]](#footnote-84) In the social world built by medieval law-courts, “…and I’ll prove it!” was a favourite threat, one frequently found appended to defamatory accusations recorded in ecclesiastical records.[[85]](#footnote-85) And how did you prove something, in late-medieval England? With recourse to those forms of truth – the *fama* spoken and believed by trustworthy men, circulated through public discourse – that were favoured by law-courts; the kind of truth that afforded the possibility of legal investigation.

The juxtaposition of law-courts and soothsayers is thus instructive in highlighting the politics of truth in late-medieval England. Through this comparison, I think, we can see more clearly the significance of what law-courts were doing, and render more visible what otherwise seemed like – indeed, were intended to seem like – the natural means of pursuing justice. Medieval law-courts depended crucially on justifying the authority of local representatives to produce truth, on the active exclusion of the majority of people from processes of decision-making, and on the enforcement of publicity as a means of entrenching their own modes of verification. Soothsaying was certainly superstitious, illicit, even dubious, and it may have raised eyebrows among respectable neighbours. But it also offered non-elite laypeople an escape from the vicious publicity of medieval legal culture, its restricted conception of truth as exposure, and a different route to justice.

**IV**

In this article I’ve argued that soothsaying in late-medieval England was not merely a kind of superstitious practice, but also represented a means of uncovering the truth that interfered with the workings of law-courts. The kind of truth that soothsaying purported to uncover, I have suggested, was valuable to people precisely because it did not conform to the co-ordinates set for truth by the trustworthy men who dominated local courts and their decision-making processes. This is significant in the first place because it shows us with more fine-grained detail the contours of the widespread dissatisfaction with the legal system that was endemic in late-medieval England.[[86]](#footnote-86) But it is also instructive because it reveals the politics of this legal culture of publicity, showing up the ways in which this purportedly natural or desirable quality of medieval justice served an ideological imperative of exposure. In this final section, I would like to reflect on the implications of this analysis for the way that we think about medieval legal culture more generally.

As I noted above, the idea of ‘dispute settlement’ has permeated the way that medieval historians have thought about what law-courts were doing for the last thirty years and more.[[87]](#footnote-87) In recent accounts, this has evolved into a broader conception of law and society that, in common with broader trends in legal studies, seeks to smooth the boundary between these domains.[[88]](#footnote-88) Such an approach relies fundamentally on the notion of a common culture of signification between the educated elites who ran the courts and recorded their procedures, the local elites who acted as representatives of their communities, and the people whom they governed. The commonness of this culture, moreover, has been explained *through* the publicity of law-courts. As Chris Wickham has put it, ‘making a legal relationship public was a relatively clear-cut matter of words and actions, spoken or performed in front of an audience. People might well disagree about the meaning of these acts…but they did not disagree that such acts had meaning.’[[89]](#footnote-89)

It is clear that there was a broad cultural understanding of legal signification in the later Middle Ages, and if we are still to call ourselves cultural historians, then we have to believe that the people we study had meaningful interactions with one another – the meaningfulness of which, in turn, depended on mutually-intelligible ideas about meaning.[[90]](#footnote-90) At the same time, however, I would like to suggest that we think more about the concepts that governed these interactions.[[91]](#footnote-91) The idea of publicity, as we have seen, is not innocent. And more generally, we need to become more adept at recognizing those concepts – Ian Forrest has pointed to trust, Valentin Groebner to identification – that seem to act as neutral surfaces for cultural transfer, whilst actually skewing its possibilities in particular directions.[[92]](#footnote-92) It is not just that the ‘public’ is political (though of course it is), then, but that it works to subtly foreclose possibilities of power – emphasizing discourse at the expense of corporeality, attention at the expense of poesis – in ways that shape the very bounds of the political.[[93]](#footnote-93) A critical history of publicity itself, interrogating its lacunae and exclusions, would find a rich terrain in the European Middle Ages.[[94]](#footnote-94)

Concomitantly, we might also think more about the possibilities of dissent within this culture, especially as a way of understanding a broad range of responses to the kinds of hegemony that emerged in the later Middle Ages in concert with, and response to the increasing complexity of governmental institutions.[[95]](#footnote-95) It is useful here, to return to the connections between soothsaying and heresy. For obvious reasons, historians of religious belief have been particularly adept at thinking about what it might have meant for medieval people to oppose the structures of thought propagated and defended by the institutional church. In particular, it is worth reflecting on John Arnold’s recent explication of the ways that ‘important strands of the expression of Lollard belief and identity emerge from and intertwine with other expressions of dissent’.[[96]](#footnote-96) Part of being a Lollard, he argues, lay in a desire to challenge orthodoxy through expressions of anticlericalism, scepticism, disputation (arguing with judges by citing scripture), and rebellion (making a mockery of the church) – in ways that were not always reducible to a particular set of doctrinal beliefs.

This idea has an important resonance for legal culture in the later Middle Ages. The kinds of dissent identified by Arnold have analogues in the ways we sometimes find the medieval laity responding to law: they questioned the authority of officials to give judgments; they expressed scepticism about the capacity of the law to deliver justice; they drew on vernacular interpretations of law to dispute it on its own terms (for example, in the fabled promise of Domesday book to void servile obligations); they used lewd language to pour scorn on the law.[[97]](#footnote-97) The point is not that dissent against law and dissent against religion were the same, though of course, they might be on occasion.[[98]](#footnote-98) Rather, it is that these styles of dissent were emblematic of a wider dissatisfaction with the kind of cultural hegemony that so many late-medieval institutions, both ecclesiastical and secular, attempted to enforce. Of course, soothsayers cannot be said to have played more than a minor role in this politics of truth. But they show us something of the world that existed just beyond the reach of institutions, and its continued resilience. The sooth was out there.

Word count (including notes): 11244

1. This story has been reconstructed from the depositions in the case Faques *c.* White, taken from London Metropolitan Archives [henceforth LMA], DL/C/206, fos. 21v., 22r., 40r., and 42r. Quotes of direct vernacular speech have been translated into modern English. [↑](#footnote-ref-1)
2. Notary is well-known to historians of print both as a collaborator of Wynkyn de Worde, and as a publisher of about forty mainly religious and liturgical works in the early sixteenth century. See H. R. Tedder, rev. N. F. Blake, ‘Julian Notary (b. c. 1455, d. in or after 1523)’ in *Oxford Dictionary of National Biography* [accessed online]. [↑](#footnote-ref-2)
3. Dave Postles, ‘The Politics of Address in Early-Modern England’, *Journal* *of Historical Sociology*, 18:1 (2005), pp. 99-121. [↑](#footnote-ref-3)
4. On the workings of the London consistory court, see Shannon McSheffrey, *Marriage, Sex, and Civic Culture in Late-Medieval London*. Philadelphia, 2006, Appendix 1, pp. 195-8. [↑](#footnote-ref-4)
5. On the use of such depositions in social and cultural history, see Tom Johnson, ‘The Preconstruction of Witness Testimony: Law and Social Discourse in England before the Reformation’, *Law & History Review*, 32:1 (2014), pp. 127-147. [↑](#footnote-ref-5)
6. The story has been related for these purposes respectively in Peter W.M. Blayney, *The Stationers’ Company and the printers of London, 1501-1557*, Cambridge, 2013, and in Derek G. Neal, *The Masculine Self in Late Medieval England*. Chicago, 2008, pp. 38-9. [↑](#footnote-ref-6)
7. The classic account is Keith Thomas, *Religion and the Decline of Magic: Studies in popular beliefs in sixteenth and seventeenth century England*. London, 1971. More recently, see Euan Cameron, *Enchanted Europe: Superstition, Reason, and Religion, 1250-1750*. Oxford, 2010; Catherine Rider, *Magic and Religion in Medieval England*. London, 2012 [↑](#footnote-ref-7)
8. See Anthony Musson, *Medieval Law in Context: The growth of legal consciousness from Magna Carta to the Peasants’ Revolt*. Manchester, 2001, and more recently, Tom Johnson, *Law in Common: Legal Cultures in Late-Medieval England*. Oxford, 2020. [↑](#footnote-ref-8)
9. Richard H. Helmholz, *The Oxford History of the Laws of England: The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s*. Oxford, 2004, p. 565. [↑](#footnote-ref-9)
10. See the essays in *Fama: The Politics of Talk and Reputation in Medieval Europe*, ed. Thelma Fenster and Daniel Lord Smail. Ithaca, NY, 2005. [↑](#footnote-ref-10)
11. On the importance of gossip as a way of policing the boundaries of social groups, see the classic article by Chris Wickham, ‘Gossip and Resistance Among the Medieval Peasantry’, *Past & Present*, 160 (1998), 2-24. [↑](#footnote-ref-11)
12. This point about jurisdiction is elaborated in a different way in Tom Johnson, ‘The Tree and the Rod: Jurisdiction in Late-Medieval England’, *Past & Present*, 237 (2018), 13-51, at p. 25. [↑](#footnote-ref-12)
13. On the various options open to litigants, see Phillipp R. Schofield, ‘Peasants and the Manor Court: Gossip and Litigation in a Suffolk Village at the Close of the Thirteenth Century’, *Past & Present*, 159 (1998), 3-42. [↑](#footnote-ref-13)
14. See the collections *Disputes and Settlements: Law and Human Relations in the West*, ed. John Bossy, Cambridge, 1983, and *The Settlement of Disputes in Early Medieval Europe*, ed. Wendy Davies and Paul Fouracre. Cambridge, 1986. More recently, see Thomas Kuehn, *Law, Family, and Women: Toward a Legal Anthropology of Renaissance Italy*, Chicago, 1994. Influential in all of this has been the work of legal anthropologists Simon Roberts and Simon Comaroff, *Rules and Processes: The Cultural Logic of Dispute in an African Context*, Chicago, 1981. [↑](#footnote-ref-14)
15. On arbitration, see Edward Powell, ‘Settlement of Disputes by Arbitration in Fifteenth-Century England’, *Law & History Review*, 2:1 (1984), pp. 21-43; Carole Rawcliffe, ‘‘That Kindliness Should be Cherished More, and Discord Driven Out’: the Settlement of Commercial Disputes by Arbitration in Later Medieval England’, in *Enterprise and Individuals in Fifteenth-Century England*, ed. Jennifer Kermode, Stroud, 1991, pp. 99-117; Lorraine Attreed, ‘Arbitration and the Growth of Urban Liberties in Late Medieval England’, *Journal of British Studies*, 31:3 (1992), pp. 205-235; Ben R. McRee, ‘Peacemaking and Its Limits in Late Medieval Norwich’, *English Historical Review*, 109:433 (1994), pp. 831-866. [↑](#footnote-ref-15)
16. See Jessie Allen, ‘A Theory of Adjudication: Law as Magic’, *Suffolk University Law Review*, 41:4 (2008), pp. 773-831. For essays that explore the laws concerning magic in modern contexts, see *Law and Magic: A Collection of Essays*, ed. Christine Corcos. Durham, NC, 2010. [↑](#footnote-ref-16)
17. Most notably, in Daniel Lord Smail, *The Consumption of Justice: Emotions, Publicity, and Legal Culture in Marseille, 1264-1423*, Ithaca, NY and London, 2003. [↑](#footnote-ref-17)
18. See Ian Forrest, *Trustworthy Men: How Faith and Inequality Shaped the Medieval Church*. Princeton, 2018. [↑](#footnote-ref-18)
19. Helmholz, *Oxford History of the Laws*, pp. 634-5, remarks that such cases were ‘not particularly frequent’. A pithy characterization of their main business can be found in L. R. Poos, ‘Sex, Lies, and the Church Courts of Pre-Reformation England’, *Journal of Interdisciplinary History*, 25:4 (1995). 585-607. [↑](#footnote-ref-19)
20. Kathleen Kamerick, ‘Shaping Superstition in Late Medieval England’, *Magic, Ritual, and Witchcraft*, 3:1 (2008), 29-53. [↑](#footnote-ref-20)
21. For a useful introduction to the conceptual problems with medieval magic, see Rider, *Magic and Religion*, pp. 10-17. [↑](#footnote-ref-21)
22. On this distinction, see Richard Kieckhefer, *Magic in the Middle Ages* (Cambridge, 1989), p. 53; on the ‘common tradition’, see Catherine Rider, ‘Common Magic’, in *The Cambridge History of Magic and Witchcraft in the West: From Antiquity to the Present*, ed. David J. Collins (Cambridge, 2014), 303-331. For a (mostly postmedieval) history of popular magical practice, see Owen Davies, *Popular Magic: Cunning-folk in English History*. London, 2008. [↑](#footnote-ref-22)
23. *The Courts of the Archdeaconry of Buckingham, 1483-1523*, ed. E. M.Elvey (Aylesbury, 1975), p. 23. Barton appears several more times in these records: accused of fornicating with a miller’s wife, interfering in a defamation case involving local gentry, acting as a compurgator for another priest, and defaming a local man as a ‘chorle’ and ‘boundeman’: respectively, pp. 24, 70-1, 89, 105. [↑](#footnote-ref-23)
24. For examples of (reports of) summoning spirits to find lost goods, see A. Hamilton Thompson, *The English Clergy and their Organization in the Later Middle Ages* (Oxford, 1947), p. 222; *The Register of Thomas Appleby, Bishop of Carlisle, 1363-1395*, ed. R. L. Storey (Woodbridge, 2006), pp. 44-5. [↑](#footnote-ref-24)
25. See Michael D. Bailey, ‘From Sorcery to Witchcraft: Clerical Conceptions of Magic in the Later Middle Ages *Speculum*, 76:4 (2001), 960-990; Pau Castell Granados, ‘“E cert te molt gran fama de bruixa e se fa metgessa e fa medecines”: La Demonización de las práctivas mágico-medicinales femeninas (siglos XIV-XVI)’, *Studia historica. Historia medieval*, 31 (2013), 233-244. [↑](#footnote-ref-25)
26. On this web of connections, see Catherine Rider, ‘Magic and unorthodoxy in late medieval English pastoral manuals’, in *The Unorthodox Imagination in Late Medieval Britain* (Manchester, 2010), 96-114. On fear of, and efforts to prosecute heresy, see Ian Forrest, *The Detection of Heresy in Late Medieval England* (Oxford, 2005); on the broader political climate, see Margaret Aston, ‘Lollardy and Sedition’, in *Peasants, Knights, and Heretics*, ed. R. H. Hilton (Cambridge, 1976), 273-318. [↑](#footnote-ref-26)
27. See H.A. Kelly, ‘English kings and the fear of sorcery’, *Medieval Studies*, 39 (1977), 206-38; Jessica Freeman, ‘Sorcery at court and manor: Margery Jourdemayne, the witch of Eye next Westminster’, *Journal of Medieval History*, 30 (2004), 343-357. [↑](#footnote-ref-27)
28. Heresy inquisitions did not generally turn up other kinds of heterodox practice, perhaps because inquisitors heeded a jurisdictional injunction against investigating sorcery: Forrest, *The Detection of Heresy*, p. 196, fn. 92. On the other hand, one case from a visitation of Kent in 1511 (at a time of ongoing heresy investigations in the area) described a woman who cursed her neighbours as ‘holding an erroneous opinion’, suggesting that the two might still be conflated: see *Kentish Visitations of Archbishop William Warham and his Deputies, 1511-12*, ed. K. L. Wood-Legh. Kent Records, XXIV. Maidstone, 1984, p. 267. [↑](#footnote-ref-28)
29. The Decretals devoted a title on fortune-tellers (*de sortilegiis*) and spent some effort distinguishing divination from prophecy, but the treatment is relatively cursory: Hostiensis, *Summa Aurea* (Venice, 1576), [Lib. V, tit. 21], pp. 1647-50. [↑](#footnote-ref-29)
30. William Lyndwood, *Provinciale seu constitutiones Angliae continens constitutiones provinciales quatuordecim archiepiscoporum Cantuariensium…cum summariis atque eruditis annotationibus, summá accuratione denuo revisum atque impressum*. Oxford, 1679; [De Officio Archipresbyteri, Lib I., Tit. II., k. *Omnia sortilegia*], p. 55. Lyndwood cites Hostiensis here. [↑](#footnote-ref-30)
31. This is unsurprising, given that he was an experienced canon lawyer and court administrator: see R. H. Helmholz, ‘William Lyndwood (*c.* 1375-1446)’, *Oxford Dictionary of National Biography* [accessed online]. [↑](#footnote-ref-31)
32. Karen Jones and Michael Zell, ‘‘The divels speciall instruments’: women and witchcraft before the ‘great witch-hunt’’, *Social History*, 30:1 (2006), 45-63, found that *sortilegii*, *incantaciones* and *arte magica* were the most common, but do not state the incidence of each term: ‘Women and witchcraft’, p. 49. The term *necromancia* was also sometimes used, apparently shorn of its connotations with demonic or learned magic: see below, fn. 43. For uses of *arte magica*, see e.g., LMA, 9065/6, 120r.; *The Register of John Morton, Archbishop of Canterbury, 1486-1500, Volume III: Norwich*Sede Vacante*, 1499*, Canterbury and York Society, LXXXIX ed. Christopher Harper-Bill (Woodbridge, 2000), p. 196. For uses of *incantaciones*, see Thompson, *English Clergy*, p. 221. For still rarer ‘sorcery’ (*sorsoria*), see *Lower Ecclesiastical Jurisdiction in Late-Medieval England: the Courts of the Dean and Chapter of Lincoln, 1336-1349 and the Deanery of Wisbech, 1458-1484* (Oxford, 2001), ed. L. R. Poos, p. 106; and another in Normandy, *Le registre de l’officialité de l’abbaye de Cerisy, 1314-1457*, ed. M. Gustave Dupont (Caen, 1880), p. 80. [↑](#footnote-ref-32)
33. *Depositions and other Ecclesiastical Proceedings from the Courts of Durham, Extending from 1311 to the Reign of Elizabeth*, Surtees Society 21, ed. James Raine. York, 1845, p. 33, with the following transcription: ‘Imponitur sibi quod utitur arte sortilegii, scilicet utitur arte medical’ cum plumbo et pect’ et ferro’.’ [↑](#footnote-ref-33)
34. Generally, see Michael D. Bailey ‘A Late-Medieval Crisis of Superstition?’, *Speculum*, 84:3 (2009), 633-661, and for England in particular, Kamerick, ‘Shaping Superstition’, pp. 52-3. [↑](#footnote-ref-34)
35. Jones and Zell, ‘‘The divels speciall instruments’: women and witchcraft before the ‘great witch-hunt’’, *Social History*, 30:1 (2006), 45-63, p. 50. Only a handful of these cases pre-date 1450. In my own collection of 55 soothsaying cases heard before the church courts, the divide was starker, with 32 of the 55 accused were women, while 22 were men (of which 5 were clergy), and 1 unknown. In his study of 291 early-modern witchcraft prosecutions in Essex between 1560 and 1640, Alan MacFarlane found that it wasold, moderately poor women who were most likely to be accused as witches: Alan MacFarlane, *Witchcraft in Tudor and Stuart England: A Regional and Comparative Study*. Abingdon, 1970. [↑](#footnote-ref-35)
36. On the gender of magical practitioners, see Rider, ‘Common Magic’, p. 323. On the institutional exclusion of women’s voices in late-medieval England, see Forrest, *Trustworthy Men*, p. 182. [↑](#footnote-ref-36)
37. See Sandy Bardsley, *Venomous Tongues: Speech and Gender in Late Medieval England*. Philadelphia, 2006. [↑](#footnote-ref-37)
38. I found four cases in which ‘incantationes’ or the noun ‘incantatrix’ (tellingly gendered female) was used; see also Jones and Zell, ‘Women and witchcraft’, pp. 52-4. [↑](#footnote-ref-38)
39. Poos, ‘Sex, Lies, and the Church Courts’, pp. 597-9. [↑](#footnote-ref-39)
40. *Register of John Morton*, ed. Harper-Bill, p. 215. [↑](#footnote-ref-40)
41. Rider, ‘Common Magic’, p. 321. [↑](#footnote-ref-41)
42. *Dives et Pauper*, ed. P. H. Barnum, Early English Texts Society, o.s., 275 (2 vols., Oxford, 1959). [↑](#footnote-ref-42)
43. Marjorie Keniston McIntosh, *Controlling Misbehavior in England, 1370-1600*. Cambridge, 1998, pp. 108-124. [↑](#footnote-ref-43)
44. Thompson, *The English Clergy*, p. 220: ‘…quia mulier est pauper et valetudinaria’; ‘…quia paraclitus est’. It was not rare for ecclesiastical authorities to revoke prosecution on such grounds, as it formed part of a larger mandate within canon law to act ethically towards defendants: R. H. Helmholz, *The Oxford History of the Laws of England: The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s*. Oxford, 2004, pp. 225-6, 374-5. [↑](#footnote-ref-44)
45. As has sometimes been suggested for heresy, in e.g., R. I. Moore, *The Formation of a Persecuting Society*: *Authority and Deviance in Western Europe 950-1250* (2nd edn., London, 2006). But more recently, John Arnold, ‘Voicing Dissent: Heresy Trials in Later Medieval England’, *Past & Present*, no. 242 (2019), 1-36. [↑](#footnote-ref-45)
46. Richard Firth Green, *A Crisis of Truth: Literature and Law in Ricardian England* (Philadelphia, 1999), pp. 21, 26-30. [↑](#footnote-ref-46)
47. See *Middle English Dictionary*, qv. ‘sọ̄th-seier(e’ (2). [↑](#footnote-ref-47)
48. Interestingly, it nonetheless remained rare for soothsayers themselves to be accused of defamation; I have found only one such case, that of Agnes Bowmer of Witton (in County Durham): *Depositions and other Ecclesiastical Proceedings*, ed. Raine, p. 29. This connection between magic and rumour was much stronger with early-modern witchcraft: Jones and Zell, ‘Women and witchcraft’, p. 60, fn. 123. [↑](#footnote-ref-48)
49. Helmholz, *Select Cases on Defamation*, pp. xxvi-xxxviii. Nb., Lyndwood’s *Provinciale* specified that true statements could still be defamatory, a discrepancy that likely reflects differences between dioceses. [↑](#footnote-ref-49)
50. Helmholz, *Oxford History of the Laws*, p. 572. [↑](#footnote-ref-50)
51. Of course, the question of who gets to decide ‘common suspicion’ is a highly political one, on which see Forrest, *Trustworthy Men*, passim. [↑](#footnote-ref-51)
52. R. H. Helmholz, ‘Crime, Compurgation and the Courts of the Medieval Church’, *Law & History Review*, 1:1 (1983), pp. 1-26, at p. 22. [↑](#footnote-ref-52)
53. See, friendly debate between Chris Wickham, ‘*Fama* and the Law in Twelfth-Century Tuscany’, and Thomas Kuehn, ‘*Fama* as a Legal Status in Renaissance Florence’, both in *Fama*, ed. Smail and Fenster. [↑](#footnote-ref-53)
54. LMA, DL/C/B/043/MS9064/6, fo. 11r. [↑](#footnote-ref-54)
55. On a different manifestation of the flexibility of *fama*, see Marie A. Kelleher, ‘Law and the Maiden: Inquisitio, fama, and the testimony of children in Medieval Catalonia’, *Viator*, 37 (2006), 351-367. [↑](#footnote-ref-55)
56. LMA, DL/C/B/043/MS9064/3, fo. 117v. [↑](#footnote-ref-56)
57. Such an interpretation of these kinds of defamation cases is proposed in Ian Forrest, ‘Defamation, Heresy, and Late Medieval Social Life’ in *Image, Text, and Church, 1380-1600: Essays for Margaret Aston*, ed. L. Clark, M. Jurkowski, and C. Richmond (Toronto, 2009), 142-161, at p. 148. [↑](#footnote-ref-57)
58. LMA, DL/C/B/043/MS9064/11, fo. 158r. [↑](#footnote-ref-58)
59. On the activities of the London ward-motes, to which constables reported, see Christine L. Winters, ‘The Portsoken Presentments: An Analysis of a London Ward in the 15th Century,’ *Transactions of the London and Middlesex Archaeological Society*, 56 (2005),pp. 97-161. More generally, see Christian D. Liddy, ‘Cultures of Surveillance in Late Medieval English Towns: The monitoring of speech and the fear of revolt’, in *T he Routledge History Handbook of Medieval Revolt*, ed. Justine Firnhaber-Baker with Dirk Schoenaers (London and New York, 2017), 311-329. [↑](#footnote-ref-59)
60. Norfolk Record Office, DCN 67/1a, m. 1r. ‘Galfridus Skynnere maliciose diffamavit Emmota Bryte dicendo quod furati fuit I chalon et I linthianum…comparuit et asseruit quod quidam veridictum retulit uxori sue quod certa mulier in viridi tunica duplicata cum panno laico habuit bona et fatetur articulum; abjuravit tam pro sortilegio quam diffamacionis…’ [↑](#footnote-ref-60)
61. See Morris S. Arnold, ‘Law and Fact in the Medieval Jury Trial: Out of Sight, Out of Mind’, *The American Journal of Legal History*, 18:4 (1974), pp. 267-280; the essays in *Twelve Good Men and True: The Trial Jury in England 1200-1800*, ed. J. S. Cockburn and Thomas A. Green (Princeton, NJ, 1988); and John L. Beckerman, ‘Procedural Innovation and Institutional Change in Medieval English Manorial Courts’, *Law & History Review*, 10:2 (1992), pp. 197-252. [↑](#footnote-ref-61)
62. LA, Vj/6, fo. 27r. ‘Thomas Pelson ostendit se divinatorem et dat iudicia tam super furti quam super varijs languiribus [sic] hominum atque pecudum…’ [↑](#footnote-ref-62)
63. Thompson, *English Clergy*, p. 221. [↑](#footnote-ref-63)
64. Ibid., ‘exercuisse huiusmodi artem iuxta regulas in quodam libro quem habuit de Willelmo Tetteford iam defuncto’. [↑](#footnote-ref-64)
65. The classic account of this phenomenon, in legal anthropology, is Keebet von Benda-Beckmann ‘Forum Shopping and Shopping Forums: Dispute Settlement in a Minangkabau Village in West Sumatra, Indonesia,’ in *The Broken Stairways to Consensus*, ed. eadem (Dordrecht, 1984). [↑](#footnote-ref-65)
66. Respectively, The National Archives, C 1/46/425; LMA, DL/C/B/043/MS9064/5, fo. 120r. [↑](#footnote-ref-66)
67. For a case alluding to personal instruction, see *Register of John Morton*,ed. Harper-Bill, p. 215; for a case in which a soothsayer admitted to learning from books, see Thompson, *English Clergy*, p. 221. [↑](#footnote-ref-67)
68. For descriptions of these methods see Thomas, *Religion and the Decline of Magic*, pp. 212-252. [↑](#footnote-ref-68)
69. On the use of presentment, see John S. Beckerman, ‘Procedural Innovation and Institutional Change in Medieval English Manorial Courts’, *Law & History Review*, 10:2 (1992), 197-252; on *fama*, see above, fnn. 49-52. [↑](#footnote-ref-69)
70. Peter L. Larson, ‘Village Voice or Village Oligarchy? The Jurors of the Durham Halmote Court, 1349 to 1424’, *Law & History Review*, 28:3 (2010), 675-709. [↑](#footnote-ref-70)
71. Ian Forrest, ‘The Transformation of Visitation in Thirteenth-Century England’, *Past & Present*, 221 (2013), 3-38, esp. pp. A slightly more optimistic reading can be found in Phillipp R. Schofield, *Peasant and Community in Medieval England 1200-1500*(Basingstoke, 2003), pp. 42-3. [↑](#footnote-ref-71)
72. Forrest, *Trustworthy Men*, p. 227. On the differentiation of peasant living conditions, see Stephen Mileson, ‘Openness and Closure in the Later Medieval Village’, *Past & Present*, 234 (2017), 3-37. [↑](#footnote-ref-72)
73. Quotes respectively from, J. S. Beckerman, ‘The articles of presentment of a court leet and court baron, in English, c.1400’, *Bulletin of the Institute of Historical Research*, 47 (1974), 230-4, at p. 231; Magdalen College Oxford, Brackley 209. It is important to distinguish, here, these local presentment juries from those used in the common law courts, which were generally used in both civil or criminal trials to make decisions *after* cases had been brought. [↑](#footnote-ref-73)
74. Beckerman, ‘Procedural Innovation and Institutional Change’, p. 220; James Masschaele, *Jury, State, and Society in Medieval England* (New York, 2008), p. 13. Though cf., for county-level jurors, the findings of Edward Powell, ‘Jury Trial at Gaol Delivery in the Late Middle Ages: The Midland Circuit, 1400-1429’, in *Twelve Good Men and True: The Criminal Trial Jury in England, 1200-1800*, ed. J. S. Cockburn and Thomas A. Green (Princeton, NJ, 1988), 78-116, at p. 96. [↑](#footnote-ref-74)
75. With a different emphasis, a similar point is made in Thomas, *Religion and the Decline of Magic*, pp. 216-17. [↑](#footnote-ref-75)
76. *Register of John Morton*,ed. Harper-Bill, p. 217. [↑](#footnote-ref-76)
77. Barbara J. Shapiro, *“Beyond Reasonable Doubt” and “Probable Cause”: Historical Perspectives on the Anglo-American Law of Evidence* (Berkeley, CA, 1991), xi, describes the jury as a ‘black box’. But cf. Daniel Klerman, ‘Was the Jury Ever Self-Informing?’, *Southern California Law Review*, 77 (2003), 123-50, which brings together much evidence to nuance this, at least for thirteenth-century royal courts. [↑](#footnote-ref-77)
78. For a vivid account of jury deliberations gone wrong (for the court of Common Pleas), see David J. Seipp, ‘Jurors, Evidences, and Tempest of 1499’, in *The Dearest Birth Right of the People of England: The Jury in the History of the Common Law*, ed. John W. Cairns and Grant McLeod (Oxford, and Portland, OR, 2002), 75-92; on fines for interference, see Anne Reiber DeWindt, ‘Local Government in a Small Town: A Medieval Leet Jury and Its Constituents’, Albion, 23:3 (1991), 627-654, p. 634. [↑](#footnote-ref-78)
79. These words and an accompanying assault saw Geoffrey and his relation John indicted before royal justices: The National Archives, KB 9/234, no. 27. [↑](#footnote-ref-79)
80. For a few recent examples, see James Masschaele, ‘The Public Space of the Marketplace in Medieval England’, *Speculum*, 77:2 (2002), pp. 409-14; Carol Symes, *A Common Stage: Theatre and Public Life in Medieval Arras*. Ithaca and London, 2008, p. 142-3. Helen Carrel, ‘The ideology of punishment in late medieval English towns’, *Social History*, 34:3 (2009), pp. 315ff. [↑](#footnote-ref-80)
81. Smail, *The Consumption of Justice*, p. 16. Influential in the background here is William Ian Miller, *Humiliation* (Ithaca, NY, 1993). [↑](#footnote-ref-81)
82. In a slightly different vein, see the comments on the liberal politics of publicity raised in Shannon McSheffrey, ‘Place, Space, and Situation: Public and Private in the Making of Marriage in Late-Medieval London’, *Speculum*, 70:4 (2003), 960-990, pp. 987-90. [↑](#footnote-ref-82)
83. Cf. Paul Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca, NY, 2003), which attempts to naturalize wrong as an ‘elemental notion’ of law. On the contrary: law is what allows us to construct wrong. [↑](#footnote-ref-83)
84. I am inspired here by the critique of rights discourse put forward in Wendy Brown, *States of Injury: Power and Freedom* *in Late Modernity* (Princeton, NJ, 1996), p. 127. Medieval legal historians have long understood the importance of the law of proof for legal development more generally: see e.g., in the common law tradition, S. F. C. Milsom, ‘Law and Fact in Legal Development’, *University of Toronto Law Journal*, 17:1 (1967), 1-19; and for Roman law, Richard M. Fraher, ‘Conviction According to Conscience: The Medieval Jurists’ Debate concerning Judicial Discretion and the Law of Proof’, *Law and History Review*, 7:1 (1989), 23-88. [↑](#footnote-ref-84)
85. As noted in both *Select Cases on Defamation*, ed. Helmholz, p. xxxiii, and Forrest, ‘Defamation, Heresy, and Late Medieval Social Life’, p. 156. Helmholz sees these words as a legal fiction, inserted by plaintiffs to emphasize that the accusation was truly meant (and not uttered in anger, which was a possible defence in defamation suits); Forrest suggests that the words were genuinely uttered, a cultural trope that signaled the legitimacy of the accusation to bystanders. [↑](#footnote-ref-85)
86. E.g., see the comments in Christine Carpenter, ‘Law, Justice and Landowners in Late Medieval England’, *Law and History Review*, 1:2 (1983), 205-237; Anthony Musson and W. M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke, 1999), pp. 174-5. This dissatisfaction found many other outlets, of course, from the way that lawyers and legal documents were attacked during rebellions to the development of a sophisticated literature of judicial plaint, on which see respectively Steven Justice, *Writing and Rebellion: England in 1381* (Berkeley, CA, 1994), pp. 54-6; Wendy Scase, *Literature and Complaint in England, 1272-1553* (Oxford, 2007). [↑](#footnote-ref-86)
87. See above, fnn. 13-14. For a recent review of this literature, see John Jordan, ‘Rethinking *Disputes and Settlements*: How Historians Can Use Legal Anthropology’, in *Cultures* *of Conflict* *Resolution in Early Modern Europe*, ed. Stephen Cummins and Laura Kounine (Farnham, 2016), 17-50. [↑](#footnote-ref-87)
88. E.g., Musson, *Law in Context*; McSheffrey, *Marriage, Sex and Civic Culture*; but cf. Peter Coss, ‘Introduction’, in *The Moral World of the Law*, ed. idem (Cambridge, 2000), p. 2. [↑](#footnote-ref-88)
89. Chris Wickham, *Courts and Conflict in Twelfth-Century Tuscany* (Oxford, 2003), p. 297. A near-identical sentiment is expressed in Smail, *The Consumption of Justice*, p. 132. [↑](#footnote-ref-89)
90. Has anyone written about this more clearly or more cleverly than Gabrielle Spiegel, ‘History, Historicism, and the Social Logic of the Text in the Middle Ages’, *Speculum*, 65:1(1990), 59-86? [↑](#footnote-ref-90)
91. This is, of course, to gesture towards the concept of cultural hegemony most famously posed by Antonio Gramsci, and developed by Stephen Lukes: a good summary can be found in Simon Gunn, ‘From Hegemony to Governmentality: Changing Conceptions of Power in Social History’, *Journal of Social History*, 30:3 (2006), 705-720. [↑](#footnote-ref-91)
92. Forrest, *Trustworthy Men*, pp. 1-7; Valentin Groebner, *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe*, transl. Mark Kyburz and John Peck (New York, 2007). [↑](#footnote-ref-92)
93. Michael Warner, **‘Publics and Counterpublics’, *Quarterly Journal of Speech*, 88:4 (2002), 413-425.** [↑](#footnote-ref-93)
94. Moves in this direction have been made by Carol Symes, *A Common Stage: Theatre and Public Life in Medieval Arras*. Ithaca and London, 2008. [↑](#footnote-ref-94)
95. See John Watts, ‘The Pressure of the Public on Later-Medieval Politics’, in *The Fifteenth Century IV*, ed. Linda Clark and Christine Carpenter. Woodbridge, 2004. [↑](#footnote-ref-95)
96. Arnold, ‘Voicing Dissent’, p. 31. He is talking chiefly (but not only) about what we would call religious dissent, but I have left the quote uninterpolated because I want to bring out the other resonances here. [↑](#footnote-ref-96)
97. On (sometimes scatological) scorn towards legal officials, see Ian Forrest, ‘The Summoner’, in *Historians on Chaucer: The ‘General Prologue’ to the Canterbury Tales*, ed. Stephen Rigby and Alastair Minnis (Oxford, 2014); on scepticism about the possibility of justice, see Christine Carpenter, ‘Law, Justice and Landowners in Late Medieval England’, *Law and History Review*, 1:2 (1983), 205-237; on the Great Rumour, see Rosamund Faith, ‘The ‘Great Rumour’ of 1377 and Peasant Ideology’, in *The English Rising of 1381*, ed. R. H. Hilton and T. H. Aston. Cambridge, 1986, 43-73. [↑](#footnote-ref-97)
98. As discussed in Scase, *Literature and Complaint*, pp. 83-136. [↑](#footnote-ref-98)