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The trial of Thomas Frogbrook: bestiality and the law in an early sixteenth-century English rural community*

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Abstract

This article examines the gap between legal theory and practice regarding bestiality in late medieval England. It focuses on a microhistorical analysis of a 1520 trial heard in Chichester consistory court, integrating other archival documents, legislation and legal commentaries to illustrate local and national contexts. I argue first that personal enmity rather than a moralizing agenda was the primary motivating factor in this case, and second that this trial illustrates the broader limitations of English church courts and the system of canon law in affecting popular attitudes to 'unnatural' intercourse and in the suppression of such acts.

Late one Friday morning in February 1518, a young man named Edward Lynfield was travelling on horseback from his home in Cowfold to visit the house of a certain Stutt in West Grinstead, a parish in the diocese of Chichester in south-east England.[1] Riding past a field near his father's house, Edward witnessed one Thomas Frogbrook, a man he had known since childhood, fornicating with a cow. Edward yelled at Thomas, 'Thou lewd fellow, what dost thou?', but Frogbrook did not answer and fled to a croft belonging to Lynfield's father. Lynfield, abandoning his planned visit to Stutt, instead rode on to his father's house, and on the way met another neighbour, Peter a Wever. Edward relayed the shocking scene he had witnessed to Peter, who replied that he himself had spied Frogbrook hidden in a hedge near the field earlier that day. Finally, he reached the home of his father, John Lynfield, where he recounted all that he had witnessed that morning.

This was the series of events as related by Edward Lynfield two years later, as a witness at the trial of Thomas Frogbrook in the consistory court of Chichester. Frogbrook's case is an extraordinary episode in English legal history on the eve of the Henrician Reformation and has wider implications for how we think about the relationship between sexuality, law and popular attitudes at the end of the middle ages. I will examine the trial in close detail in order to unpick those intersections and explore the role that bestiality plays in the broader history of sexuality during the pre-modern era.

Bestiality remains a marginal and stigmatized research theme, both in contemporary sociology and psychology and in historical studies.[2] However, as Midas Dekkers, Harriet

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[1] West Sussex Record Office (hereafter W.S.R.O.), Ep. I/10/2, fol. 53v, Chichester consistory court act books, *ex officio c. Frogbrook*, 22 June 1520.

[2] J. Bourke, *Loving Animals: On Bestiality, Zoophilia and Posthuman Love* (London, 2020), pp. 28–30.

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Ritvo and Joanna Bourke demonstrate, scientific, literary and visual representations of inter-species intercourse have been central to how past and present societies have thought about sexuality.[3] In the late medieval and early modern periods, accounts of 'monstrous births' of beings allegedly conceived through bestiality fuelled a range of cultural anxieties, from practical questions of whether hybrid monsters were entitled to receive the sacrament of baptism or possessed legal personhood, to the more abstract problems that they posed for systems of taxonomic classification.[4] Medieval and early modern Christian authors drew on accusations of bestiality as a tool of othering; for instance, Gerald of Wales deployed this against the Irish in order to emphasize their barbarity and hence justify Anglo-Norman expansion in Ireland.[5]

Nowhere were anxieties concerning bestiality and monstrous hybridity expressed more keenly than in representations of Pasiphaë, the wife of Minos of Crete, and her desire for a white bull. Medieval depictions drew upon her portrayal in the works of the first-century Roman poet Ovid, in particular his *Metamorphoses* and *Ars amatoria*, both of which circulated widely throughout the later middle ages through innumerable translations and reinterpretations and became among the most significant influences on late medieval European literary culture.[6] One such adaptation, *Ovide moralisé* (*c.*1317–28), which was later translated into English by William Caxton in 1480, combined narrative elements from both *Metamorphoses* and *Ars amatoria* to produce a graphic account of Pasiphaë's bestial affair.[7] *Ovide moralisé* recounts how Pasiphaë fell desperately in love with the bull and burned with jealousy for the cows who were her adversaries for his affection.[8] In a parody of romantic rivalry, Pasiphaë plotted against her bovine competitors in order to have them slaughtered as ritual sacrifices. Then, crafting a hollow cow made of wood and covered in cowhide, she climbed inside and deceived the bull into mounting the model. In this way she conceived the monstrous minotaur.

Despite the prevalence of bestiality in medieval literary, theological, scientific and legal discourses, relatively little work has been done to piece together a broader history of inter-species intercourse in this period. Joyce Salisbury is one of the few medievalists to approach the subject from a systematic perspective. Salisbury identifies a broad rise in theological, polemic and legislative action against bestiality across Europe from the twelfth to the sixteenth century, contrary to a culture of lenient attitudes in the early middle ages.[9]

[3] M. Dekkers, *Dearest Pet: On Bestiality*, trans. P. Vincent (London, 1994); H. Ritvo, *The Platypus and the Mermaid, and Other Figments of the Classifying Imagination* (Cambridge, Mass., 1997), pp. 85–130; and Bourke, *Loving Animals*, pp. 11–54.

[4] L. Daston and K. Park, *Wonders and the Order of Nature, 1150 –1750* (New York, 1998), pp. 173–214; J. B. Friedman, *The Monstrous Races in Medieval Art and Thought* (Syracuse, N.Y., 2000), pp. 59–86, 178–96; D. Cressy, *Agnes Bowker's Cat: Travesties and Transgressions in Tudor and Stuart England* (Oxford, 2001), pp. 9–50; M. van der Lugt, 'L'humanité des monstres et leur accès aux sacrements dans la pensée médiévale', in *Monstre et imaginaire social: Approches historiques*, ed. A. Caiozzo and A.-E. Demartini (Paris, 2008), pp. 135–61; and K. Steel, 'Centaurs, satyrs, and cynocephali: medieval scholarly teratology and the question of the human', in *The Ashgate Research Companion to Monsters and the Monstrous*, ed. A. S. Mittman and P. J. Dendle (Farnham, 2012), pp. 257–74.

[5] A. S. Mittman, 'The other close at hand: Gerald of Wales and the "marvels of the West"', in *The Monstrous Middle Ages*, ed. B. Bildhauer and R. Mills (Toronto, 2003), pp. 97–112; and J. J. Cohen, *Hybridity, Identity, and Monstrosity in Medieval Britain: On Difficult Middles* (New York, 2006), pp. 76–108.

[6] On the immense medieval popularity of Ovid's work, see R. Hexter, 'Ovid in the middle ages: exile, mythographer, and lover', in *Brill's Companion to Ovid*, ed. B. W. Boyd (Leiden, 2012), pp. 413–42.

[7] Renate Blumenfeld-Kosinski and Robert Mills have written on the author's unique process of adaptation of the Pasiphaë story and its relation to theological and literary understandings of unnatural vice (R. Blumenfeld-Kosinski, 'The scandal of Pasiphae: narration and interpretation in the *Ovide moralisé*', *Modern Philology*, xciii (1996), 307–26; and R. Mills, *Seeing Sodomy in the Middle Ages* (London, 2015), pp. 99–113).

[8] W. Caxton, *The Booke of Ovyde Named Methamorphose*, ed. R. J. Moll (Toronto, 2013), pp. 259–61.

[9] J. E. Salisbury, *The Beast Within: Animals in the Middle Ages* (2nd edn., New York, 2011), pp. 66–80.

She links this trend to broader intellectual and cultural changes in the academic study of nature, which in turn generated anxieties regarding the epistemological instability of the categories of human and animal and the birth of monstrous hybrids.

Early modernists, to a far greater extent than medievalists, have sought to analyse patterns of bestiality prosecution and draw broader historical conclusions from these records. Courtney Thomas has identified a continuous decline in prosecutions in England from the sixteenth to the nineteenth century, taking place concurrently with the development of bestiality as a partisan metaphor in religious satire and the rise of prurient interest in cases of human-animal intercourse, as reported through popular literature such as pamphlets and broadsides during this same period.[10] P. G. Maxwell-Stuart explains the dramatic temporary increase in bestiality trials in 1650s Scotland as a consequence of Oliver Cromwell's interference in the Scottish legal system during this decade.[11] William Monter's study of sixteenth- and seventeenth-century Switzerland shows that persecution of bestial intercourse and other forms of 'sodomy' intensified at moments of religious upheaval during the Reformation; he likewise notes that the sixteenth-century Aragonese Inquisitions reclaimed jurisdiction over sodomy and bestiality from secular authorities, leading to a frenzy of executions.[12] Jonas Liliequist explains the exceptional period of bestiality prosecutions in seventeenth- and eighteenth-century Sweden as having been caused by societal tensions over shifting patterns of labour and gender roles within the rural economy.[13] It is evident that an analysis of the legal history of bestiality can help us reach useful conclusions about past societies beyond mere trivia.

By the late middle ages theologians and canonists regarded bestiality as among the most grievous of all sins. Inter-species intercourse was condemned in the strictest terms in the Old Testament. According to Leviticus, the punishment for this act was death: 'He that shall copulate with any beast or cattle, let him die, the beast also ye shall kill. The woman that shall lie under any beast, shall be killed together with the same: their blood be upon them'.[14] However, as Erik Wade argues, attitudes to bestiality in early medieval Christianity were more complex, with the act regarded as a lesser sin equivalent in severity to masturbation; this lenient attitude hardened from the seventh century onwards under the influence of the *Paenitentiale Theodori*, a handbook of penance derived from the judgements of the late seventh-century Archbishop of Canterbury Theodore of Tarsus, which elevated bestiality to the same degree of severity as homosexual intercourse.[15]

After this period bestiality was placed firmly in the category of vices against nature, namely sexual acts that were especially sinful because they could not result in conception. The thirteenth-century Dominican theologian Thomas Aquinas classified bestiality (*bestialitas*), which he defined as 'intercourse with a thing of another species' (*si fiat per*

[10] C. Thomas, '"Not having God before his eyes": bestiality in early modern England', *The Seventeenth Century*, xxvi (2011), 149–73.

[11] P. G. Maxwell-Stuart, '"Wild, filthie, execrabill, detestabill, unnatural sin": bestiality in early modern Scotland', in *Sodomy in Early Modern Europe*, ed. T. Betteridge (Manchester, 2002), pp. 82–93.

[12] E. W. Monter, 'Sodomy and heresy in early modern Switzerland', *Journal of Homosexuality*, vi (1981), 41–55; and W. Monter, *Frontiers of Heresy: the Spanish Inquisition From the Basque Lands to Sicily* (Cambridge, 1990), pp. 276–99.

[13] J. Liliequist, 'Peasants against nature: crossing the boundaries between man and animal in 17th- and 18th-century Sweden', *Journal of the History of Sexuality*, i (1991), 393–423.

[14] 'Qui cum jumento et pecore coierit, morte moriatur: pecus quoque occidite. Mulier, quae succubuerit cuilibet jumento, simul interficietur cum eo: sanguis eorum sit super eos' (Leviticus 20:15–16; Clementine Vulgate/Douay-Rheims).

[15] E. Wade, 'The beast with two backs: bestiality, sex between men, and Byzantine theology in the *Paenitentiale Theodori*', *Journal of Medieval Worlds*, ii (2020), 11–26.

concubitum ad rem non ejusdem speciei), as a form of 'unnatural vice' (*vitium contra naturam*), one of the 'species of lechery' (*species luxuriae*).[16] According to Aquinas, it was the gravest of all sins. Aquinas distinguished bestiality as a separate kind of act from the 'vice of sodomy' (*sodomiticum vitium*), which he defined as intercourse 'with a person of the same sex, male with male and female with female' (*si fiat per concubitum ad non debitum sexum, puta masculi ad masculum, vel foeminae ad foeminam*).[17] However, this distinction between bestiality and sodomy was not always preserved: for instance, in 1515 one Richard Noryngton was presented in Rochester consistory court, accused of having committed a 'sodomitic crime' (*crimine sodomitico*) with a cow.[18] Bestiality was always an 'unnatural' act; sometimes it was also a 'sodomitic' one.

It is also important to briefly note the technical distinction between a 'sin' and a 'crime' in this context. Strictly speaking, a 'sin' (*peccatum*) was a private matter of conscience, to be dealt with solely between the sinner and their confessor, whereas a 'crime' (*crimen*) was an act that broke the laws of the church.[19] Just because an act was a 'sin', it did not necessarily follow that it could be tried in court. In practice, authors and court clerks alike often used the two terms interchangeably. Nevertheless, in this same period bestiality was cognizable as a crime that could be litigated in the ecclesiastical courts as well as a sin that necessitated confession.

Multiple legal systems were in operation in Europe during the late middle ages, and their jurisdictions at times overlapped or came into dispute. In England the system of canon law, whose legitimacy derived ultimately from the pope, operated alongside the common law, whose authority derived from the monarch. Broadly speaking, common law extended its jurisdiction over offences against the person (murder, manslaughter, assault and so on) and against property (theft, arson and so on), whereas canon law extended its jurisdiction over matters such as marriage litigation, testamentary issues, defamation and moral correction. Canon law itself operated on multiple levels of jurisdiction: firstly, legislation that applied to all Catholic Christendom; and secondly, provincial/diocesan legislation that covered a particular province (an area under the authority of an archbishop) or diocese (an area under the authority of a bishop). Each level of the ecclesiastical hierarchy, from the pope to the archbishops and bishops, had its own courts pertaining to its relevant jurisdiction.[20]

Several pieces of canonical legislation and royal statutes established the judicial procedure for the prosecution of bestiality in the English ecclesiastical courts. In the first instance, Augustine's declaration that 'grievous offences which are against nature, such as those which were of the Sodomites, should everywhere and at all times to be rejected and punished' provided a fundamental underpinning for the litigation of unnatural vice under canon law.[21] Canon eleven of the Third Lateran Council (1179) reiterated the role of the church in the detection and punishment of these acts:

[16] T. Aquinas, *Summa Theologiae*, ed. and trans. T. Gilby and others (London, 1964–75), 2a2ae 154, 11.

[17] Aquinas, *Summa Theologiae*, 2a2ae 154, 11.

[18] Kent Archives, DrB/Pa6, fol. 113v, Bishopric of Rochester act book, *ex officio c. Noryngton*, 15 June 1515.

[19] R. H. Helmholz, 'Local ecclesiastical courts in England', in *The History of Courts and Procedure in Medieval Canon Law*, ed. W. Hartmann and K. Pennington (Washington, D.C., 2016), pp. 344–91, at p. 344.

[20] This is admittedly an oversimplification of the much more complex situation on the ground. Charles Donahue provides a more extensive overview of the system of canon law and its courts in England (C. Donahue, 'The ecclesiastical courts: introduction', in Hartmann and Pennington, *History of Courts and Procedure*, pp. 247–99).

[21] 'Flagicia, que sunt contra naturam, ubique ac semper repudianda atque punienda sunt, qualia Sodomitarum fuerunt' (*Corpus Iuris Canonici*, ed. E. Friedberg (2 vols., Leipzig, 1879–81), i. 1143).

Let all who are found guilty of that unnatural vice for which *the wrath of God came down upon the sons of disobedience* and destroyed the five cities with fire, if they are clerics be expelled from the clergy or confined in monasteries to do penance; if they are laymen they are to incur excommunication and be completely separated from the society of the faithful'.[22]

The canons of Lateran III were confirmed at the Council of Westminster in 1200 and hence became applicable specifically to the operation of the church courts in England.[23] While the original canons referred only to the vaguer 'unnatural vice' (*incontinentia, quae contra naturam est*), the English writer John de Burgh interpreted this canon as applicable to the specific case of a person copulating with an animal in his priest's manual *Pupilla oculi* (1385), showing that the applicability of the canon to bestiality was explicitly recognized by contemporaries.[24] Some dioceses pursued cases of unnatural intercourse more actively than others: in the mid thirteenth century Bishop Fulk Bassett of London ordered that 'it is furthermore to be carefully inquired in every religious chapter whether the rectors, vicars or chaplains have any parishioners that are defamed among good and dignified persons … concerning any sin that is against nature'.[25]

In response to a dispute involving the bishop of Norwich, Edward I issued the statute of *Circumspecte agatis* (1285), which instructed the king's judges to 'use yourselves circumspectly in all matters concerning the Bishop of Norwich and his Clergy, not punishing them if they hold Plea in Court Christian, of such things as be meer spiritual, that is to wit, of Penance, enjoined by Prelates for deadly Sin, as Fornication, Adultery, and such like'.[26] This meant that going forwards, they were not to try cases that fell under the church's jurisdiction, including mortal sins. The legal commentator William Lyndwood glossed this statute in his *Provinciale* (1422–34), the pre-eminent reference work for canon law during this period. Lyndwood explained that the statute's reference to deadly sins implicitly covered other matters 'which are contained under the sin of luxury' (*quae sub peccato Luxuriae continentur*), including 'sins against nature' (*vitia contra naturam*), and hence specifically granted exclusive jurisdiction over these acts to the church courts.[27] Consequently, the crime of bestiality was cognizable in the ecclesiastical courts, and remained one that these courts were theoretically compelled by canonical legislation to investigate. This state of affairs persisted until the passing of the Buggery Act (25 Hen.VIII, c. 6) in 1534, which created the felony offence of 'buggery' (defined in the act as including both homosexual and human-animal sexual intercourse), punishable by death, and stripped the ecclesiastical courts of jurisdiction over this crime.[28]

[22] 'Quicumque incontinentia illa, quae contra naturam est, propter quam venit ira Dei in filios diffidentiae et quinque civitates igne consumpsit, deprehensi fuerint laborare, si clerici fuerint eiciantur a clero vel ad poenitentiam agendam in monasteriis detrudantur, si laici excommunicationi subdantur et a coetu fidelium fiant prorsus alieni' (*Decrees of the Ecumenical Councils*, ed. and trans. N. P. Tanner (2 vols., London, 1990), i. 217). Original emphasis.

[23] *Councils and Synods, With Other Documents Relating to the English Church*, ed. D. Whitelock, M. Brett and C. N. L. Brooke (2 vols., Oxford, 1964–81), i. 1067.

[24] J. de Burgh, *Pupilla Oculi*, ed. A. Agge (Paris, 1510), fol. 44v.

[25] 'Inquiratur etiam diligenter in singulis capitulis a rectoribus, vicariis, capellanis, utrem habeant aliquem parochianum infamatum apud bonos et graves … super aliquo peccato quod est contra naturam' (Whitelock, Brett and Brooke, *Councils and Synods*, ii, pt. 1, p. 632).

[26] 'Circumspecte agatis de negotio tangente dominum episcopum Norwycensem et eius clerum, non puniendo eos si placitum tenuerint de hiis que mere sunt spiritualia, videlicet de correctionibus quas prelati faciunt pro mortali peccato, videlicet fornicationibus, adulteriis, et huiusmodi' (*The Statutes of the Realm*, ed. A. Luders and others (11 vols., London, 1810–28), i. 101).

[27] W. Lyndwood, *Provinciale, seu constituiones Angliae*, ed. H. Hall (Oxford, 1679), p. 96.

[28] Luders and others, *Statutes of the Realm*, iii. 441. The implications for the church courts' jurisdiction regarding unnatural acts were recognized by contemporaries, such as the anonymous author of one legal treatise, who noted that 'the clergy may theryn take no examinations for the cryme ffor if they shold their processe and sentence therafftor myght blynde the treuthe vpon the triall of the ffelonye at the kynge lawe' (British Library, Cotton MS. Cleopatra F. II, fol. 251v).

A paradox emerges here. Despite the firmly established judicial mandate and scriptural justification for the prosecution of bestiality, there are barely more than a handful of trials of human-animal intercourse in all the surviving records of the English ecclesiastical courts. While the total number of cases is unknown, Karen Jones's comprehensive study of the church courts operating within the county borders of Kent offers a representative sample: out of 2,880 recorded offences presented to the courts in 1462–1560, only two involved bestiality (*ex officio c. Indry*, 1464 and *ex officio c. Goldworth*, 1505).[29] To these can be added the two cases already mentioned (*ex officio c. Norynngton*, 1515 and *ex officio c. Frogbrook*, 1520), as well as the case of Richard Mayne from Tingewick, who was recorded in a 1519 visitation in the diocese of Lincoln as having had sex with a horse.[30] A review of the limited body of published late medieval church court and visitation records reveals no further cases.[31] If Jones's analysis and the opinion of historians such as Richard Helmholz and Martin Ingram is any indication, a systematic investigation of unpublished material is likely to be just as fruitless.[32] The kind of large-scale analysis of patterns and trends in the prosecution of unnatural intercourse as conducted by early modernists is a tool that is simply unavailable to the historian of late medieval England.

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While a focus on the macroscopic picture cannot get us very far, instead we can look to the long and storied tradition of microhistory for a productive way forward. This approach to archival material, pioneered by Natalie Zemon Davis and continued in the work of medievalists such as Jeremy Goldberg, Tom Johnson, Bronach Kane and Katherine Zieman, emphasizes close reading of trial records as texts, not just to mine them for easy data but to think carefully about questions such as the deeper motivations of the litigants and witnesses, and how the messy complexities of what 'really happened' were moulded into a narrative to fit the needs of the courtroom and its participants.[33]

[29] K. Jones, *Gender and Petty Crime in Late Medieval England: the Local Courts in Kent, 1460–1560* (Woodbridge, 2006), pp. 129–33. The cases in question are Kent Archives, DCb/J/X/8.3, fol. 32r, Canterbury consistory court act books, *ex officio c. Indry*, 23 Feb. 1464; and Kent Archives, DCb/PRC/3/2, fol. 22r, Canterbury Archdeacons' Court act books, *ex officio c. Goldworth*, 10 June 1505. I am indebted to Dr. Jones for sharing with me the call numbers for these cases, which are not published in her monograph.

[30] *Visitations in the Diocese of Lincoln, 1517–1531*, ed. A. H. Thompson (3 vols., Hereford, 1940–7), i. 47.

[31] *Depositions and Other Ecclesiastical Proceedings From the Courts of Durham, Extending From 1311 to the Reign of Elizabeth*, ed. J. Raine (London, 1845); *Acts of the Chapter of the Collegiate Church of SS Peter and Wilfrid, Ripon, 1452–1506*, ed. J. T. Fowler (Durham, 1875); F. S. Pearson, 'Records of a Ruridecanal Court of 1300', in *Collectanea*, ed. S. G. Hamilton (London, 1912), pp. 70–9; *Registrum Hamonis Hethe, Diocesis Roffensis*, ed. C. Johnson (2 vols., Oxford, 1948); S. L. Parker and L. R. Poos, 'A consistory court from the Diocese of Rochester, 1363–4', *English Historical Review*, cvi (1991), 652–65; *Lower Ecclesiastical Jurisdiction in Late-Medieval England: the Courts of the Dean and Chapter of Lincoln, 1336–1349*, ed. L. R. Poos (Oxford, 2001); and C. Whittick and I. Forrest, 'The thirteenth-century visitation records of the Diocese of Hereford', *English Historical Review*, cxxxi (2016), 737–62. A search of the online databases that index the consistory court records of London (partially) and York (completely) likewise returned no relevant material (*Consistory: Testimony in the Late Medieval London Consistory Court* <http://consistory.cohds.ca/> [accessed 1 March 2018]; and *Cause Papers in the Diocesan Courts of the Archbishopric of York, 1300–1858* <https://www.dhi.ac.uk/causepapers/> [accessed 8 Apr. 2022]).

[32] R. H. Helmholz, *The Canon Law and Ecclesiastical Jurisdiction From 597 to the 1640s* (Oxford, 2004), p. 629; and M. Ingram, *Carnal Knowledge: Regulating Sex in England, 1470–1600* (Cambridge, 2017), p. 34.

[33] N. Z. Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in 16th-Century France* (Stanford, 1987); J. Goldberg, *Communal Discord, Child Abduction, and Rape in the Later Middle Ages* (New York, 2008); T. Johnson, 'The preconstruction of witness testimony: law and social discourse in England before the Reformation', *Law and History Review*, xxxii (2014), 127–47; B. C. Kane, 'Defamation, gender and hierarchy in late medieval Yorkshire', *Social History*, xliii (2018), 356–74; and K. Zieman, 'Minding the rod: sodomy and clerical masculinity in fifteenth-century Leicester', *Gender and History*, xxxi (2018), 60–77.

Microhistory has its risks of overgeneralizing from the exceptional or the unusual, but in this instance it is the best and only option available for untangling the contradiction between legal theory and practice in the late medieval prosecution of bestiality.

Of our miniscule corpus of late medieval bestiality cases, only *ex officio c. Frogbrook* lends itself to substantive microhistorical analysis. The primary documentation for this trial comes from the records entered in the act book of Chichester consistory court, now held in the West Sussex Record Office, which records both the legal proceedings of the case and the depositions of four witnesses across eight non-continuous folia. This was far more comprehensive than was usual for *ex officio* cases. Of our other cases, only *ex officio c. Noryngton* comes close to this level of detail in recording the depositions of its two witnesses; for the rest we have nothing more than the name of the defendant, the accusation and in only one instance a recorded outcome.

On 12 June 1520, at a session of the court held in the parish church of Pulborough, Thomas Frogbrook, *alias* Thomas White, was cited to appear, accused of having 'committed misdeeds against nature with a cow' (*commisit contra naturam cum vacca*).[34] The case was recorded as *ex officio*: that is to say, the court acted as prosecutor, which was the standard procedure for litigation involving unnatural acts.[35] However, it had been instigated at the 'promotion' (*ad promocionem*) of one Emery Pynfold.[36] In other words, Pynfold had brought the matter to the attention of the court and had asked them to initiate the proceedings against Frogbrook. During this session, Pynfold requested to be admitted to prove the crime of which Frogbrook was accused and produced two witnesses to support the case: Edward Lynfield, the man who claimed to have witnessed Frogbrook in the act, and Peter a Wever, who reported having seen Frogbrook in the area but had not witnessed the intercourse itself. At this stage the judge set the number of compurgators at 'three hands'.[37] This meant that, should Frogbrook have wished to contest the allegation against him (a process known as 'purgation'), he would have needed to produce three compurgators: men of good standing in his local community who would make sworn declarations of their belief in his good character. As we shall see further on, the process of compurgation was not, strictly speaking, a demonstration of innocence, but rather a means of bringing about a workable resolution when the facts of the case could not be settled, similar in function to the verdict of 'not proven' in modern Scots law.

The proceedings against Frogbrook continued at a subsequent session of the court, on 3 July in Storrington church.[38] At this stage Frogbrook empowered one Master Segar to act as his proctor in the case, essentially serving as his legal counsel. Pynfold produced two further witnesses: John Lynfield, the father of Edward; and Henry Sopar, a man whom Edward had visited on the same day as his encounter with Frogbrook and whom he had told about the events. After John Lynfield and Henry Sopar had testified, the judge ordered, following the requests of both Frogbrook and Pynfold, that the four witnesses' testimonies were to be entered into the act book and copies thereof be made for both parties. The case against Frogbrook concluded at a third session of the

[34] W.S.R.O., Ep. I/10/2, fol. 55r. Frogbrook is variously identified as both Thomas White and Thomas Frogbrook in the act book and in other documents.

[35] Helmholz, *Canon Law and Ecclesiastical Jurisdiction*, p. 629.

[36] W.S.R.O., Ep. I/10/2, fol. 63v.

[37] The more common term for the presiding officer in senior ecclesiastical courts during this period was 'official' (*officialis*). However, in the Chichester consistory court act books this position is designated as 'iudex'.

[38] It should be noted that the Chichester consistory court, like most courts of its type, did not sit permanently in a single venue but progressed throughout the diocese, sitting temporarily in parish churches to hear cases.

court, held on 30 July at Horsham parish church.[39] Frogbrook answered the charges against him and produced three compurgators: John Parson, John Mylis and John Milis.[40] Consequently, Frogbrook was declared innocent, and he then instigated an 'instance' case against Pynfold to demand compensation for the expenses occurred in the process of the preceding litigation. Although Pynfold refused to appear at the first session pertaining to this new instance case and was consequently fined for 'contumacy', the ultimate outcome of this case is not clear from the records.[41]

While the act book tells us relatively little directly about the social background of the individuals involved in this case, we can piece together suggestions from this text and through corroboration with other material such as parish registers, taxation records and wills. West Grinstead was a rural, heavily wooded agricultural parish, whose economy was dominated by pasturage; arable farming would not become economically significant here until a greater area of land was reclaimed through assarting later in the sixteenth century.[42] Edward Lynfield's references to his father's pasture (*pastura*) and croft (*croftam*) indicate that John Lynfield was a farmer. According to the records of the lay subsidy of 1524–5, Edward Lynfield, John Lynfield, Henry Sopar and Thomas Frogbrook were all assessed on the value of their goods – that is, capital assets – rather than income from land or wages.[43] In the context of rural areas, this usually indicated that the taxpayer was a farmer.[44] Peter a Wever was the sole exception, being assessed for the value of his yearly wages as a day labourer. All the men were assessed for £1 or £2, the lowest taxable amount under the subsidy. To put this into perspective, the lay subsidy identified forty-one individuals liable to pay tax in the parish of West Grinstead, of whom thirty-three were assessed for between £1 and £3. In the absence of demographic data for the parish, the proportion of the working population that fell below the tax threshold remains unknown.

At the time of the trial in 1520, Edward Lynfield was twenty-two years old, Peter a Wever was twenty-three and Henry Sopar was thirty. John Lynfield did not state his age, but assuming that he had fathered Edward no earlier than fourteen (the age of majority), in 1520 he would have been at least thirty-six; given that the average age at first marriage in this period was between twenty and twenty-five years old, it is more likely that he would have been in his early forties.[45] This would place him in his mid seventies to early eighties at the time of his death in 1559.[46] Frogbrook's age is harder to determine. Henry Sopar stated that he had known Frogbrook 'from childhood' (*a pueritia*), and John Lynfield said that he had known him from the year that he was born, meaning he had to have been younger than Lynfield. Similar dates for significant events in the lives of Sopar and Frogbrook further suggest that the two men were close in age. Frogbrook made a will in 1557 and was buried in 1567.[47] Henry Sopar made a will the year after Frogbrook

[39] W.S.R.O., Ep. I/10/2, fol. 63v.

[40] 'John Mylys' and 'John Myllys' both appear in the lay subsidy rolls for West Grinstead, assessed at £1 and £2, respectively (*The Lay Subsidy Rolls for the County of Sussex, 1524–1525*, ed. J. Cornwall (Lewes, 1956), p. 59).

[41] W.S.R.O., Ep. I/10/2, fol. 83r, *Frogbrook c. Penfold* (2), 22 Sept. 1520.

[42] *A History of the County of Sussex*, ed. T. P. Hudson (9 vols., London, 1905–97), vi, pt. 2, pp. 83–99.

[43] Cornwall, *Lay Subsidy Rolls for the County of Sussex*, pp. 59–60, 90.

[44] R. W. Hoyle, 'Taxation and the mid-Tudor crisis', *Economic History Review*, li (1998), 649–75, at pp. 652–53.

[45] J. Goldberg, *Women, Work, and Life Cycle in a Medieval Economy: Women in York and Yorkshire, c.1300–1520* (Oxford, 1992), p. 358.

[46] W.S.R.O., Par. 95/1/1/1, fol. 33r, West Grinstead Parish Registers, burial of John Lynfield, 26 May 1559.

[47] W.S.R.O., Ep. I/27/STC I/9, fol. 6v, Archdeaconry of Chichester will registers, will of Thomas Frogbrook, 17 Nov. 1557; and *The Parish Registers of Bolney, Sussex, 1541–1812*, ed. E. Huth (Lewes, 1912), p. 67.

and was buried in 1570, aged eighty.[48] Consequently, we can deduce that Frogbrook was probably in his late twenties or early thirties at the time of the trial.

We need to consider the role of Frogbrook's age and social status as determining factors in the court's decision to hear the case against him. Jonas Liliequist argues that early modern Swedish courts displayed some leniency in sentencing towards boys and young men who engaged in human-animal sexual intercourse, as there was an understanding that individuals from this group were more prone to commit such acts on account of their proximity to animals without adult supervision.[49] A grown man who copulated with an animal was doubly transgressive because his behaviour was perceived as childlike. A similar dynamic may have influenced the Chichester consistory court's initial willingness to seriously entertain the charges against Frogbrook. The fact that he was an adult with some degree of social standing in 1520 meant that the accusation against him was regarded as more serious and hence worthy of litigation than if he had been a boy at the time.

Broadly speaking, the defendant and witnesses were, from an economic and social perspective, middling members of their local communities, possessing sufficient wealth to qualify for the lay subsidy and to justify writing wills at the end of their lives, yet still being among the majority of their taxpaying neighbours in paying only the minimum rate. Emery Pynfold is the sole individual involved in the case whose identity remains elusive. He was not assessed in the lay subsidy, and no will for him has been recorded in the main indexes of Sussex wills for this period.[50] The Steyning parish register records that Elizabeth, a daughter of one Emery Penfold, was baptized on 15 April 1572 and that this same Emery was later buried on 30 October that same year.[51] It is unclear if this is the same man as our Emery Pynfold. If it is, he would have been at least seventy years old when he fathered Elizabeth, an unusual though not impossible feat. What little we can say about Pynfold is that he certainly understood the system of canon law and the operation of the church courts sufficiently well to promote an office case and to conduct the business of producing witnesses. In sum, we are dealing here with people who were relatively low on the social hierarchy: not the intellectual, political or economic elite, nor even the middling gentry or the mercantile class.

At this stage we need to recognize one of the key dynamics at play in the case, namely the long-running enmity between Frogbrook and Pynfold. On 7 March 1520, several months prior to the trial for bestiality, Frogbrook had launched a defamation suit against Pynfold in the Chichester consistory court on the grounds that Pynfold had been claiming that he had 'committed fornication' (*committere fornicationem*) with one Margaret Jobes.[52] On 27 March the court compelled Pynfold to receive penance for this crime.[53] In light of this, Pynfold's promotion of the case against Frogbrook and his personal involvement in the examination of the defendant seems to be an act of opportunistic revenge based on a history of antagonistic relations between the two men. Officials of

[48] W.S.R.O., Ep. I/27/STC I/9, fol. 165r, will of Henry Sopar, 23 Feb. 1558; and W.S.R.O., Par. 95/1/1/1, fol. 36r, Burial of Henry Sopar, 16 June 1570.

[49] Liliequist, 'Peasants against nature', pp. 413–15.

[50] *Calendar of Wills in the Consistory Court of the Bishop of Chichester, 1482–1800*, ed. E. A. Fry (London, 1915); and *Transcripts of Sussex Wills as Far as They Relate to Ecclesiological and Parochial Subjects, Up to the Year 1560*, ed. R. Garraway Rice (4 vols., Lewes, 1935–40).

[51] W.S.R.O., Par. 183/1/1/1, fol. 3r, Steyning Parish Registers, baptism of Elizabeth Penfold and burial of Emery Pynfold, 15 Apr. and 30 Oct. 1572.

[52] W.S.R.O., Ep. I/10/2, fol. 31v, *Frogbrook c. Penfold* (1), 7 March 1520.

[53] W.S.R.O., Ep. I/10/2, fol. 37v, 27 March 1520.

the consistory court appear to have recognized the element of personal grievance in the case that blurred the boundaries between office and instance business: a marginal note for the 30 July session, in which Frogbrook purgated himself, designates the case as '*Pynfolde contra Whyte*', whereas the previous session had designated it '*Whit ex officio*'. In this way, the case against Frogbrook was the continuation of an earlier round of litigation between the two men, and one that would continue on into the instance case instigated by Frogbrook against Pynfold in retaliation.

In a similar vein, we need to consider the judge's own assessment of the weakness of the case against Frogbrook. Three 'hands' was an unusually low number of compurgators to be held by; defendants were more commonly required to produce five or six or more.[54] This had been the case in the trial of Peter Indry in the Canterbury consistory court in 1464, in which the defendant had successfully purgated himself by six hands against the charge of having intercourse with a calf.[55] Canon law permitted judges' discretion in the choice of the number of compurgators as a means of countering abuses in the system of purgation, but the question of why the judge opted for leniency in *ex officio c. Frogbrook* despite the seriousness of the charge against him prompts further questions.[56] In the first instance, the evidence against Frogbrook was weak. Pynfold had been able to produce only one actual eyewitness to the act itself. In theory, canon law required two eyewitnesses for a case to be proven, and these witnesses had to be objective in terms of their relationship to the parties and had to have personally witnessed the crime, although, as Sarah White argues, the English church courts tended not to adhere strictly to these requirements.[57] Furthermore, Pynfold had brought the case to the court's attention over two years after the events had purportedly taken place. Consequently, it is likely that the judge regarded the testimony as too weak to prove the case yet could not dismiss outright the evidence of an eyewitness without recourse to compurgation. Alternatively, perhaps the judge perceived a threat to social cohesion should Pynfold's grievance have been vindicated through a verdict of guilty against Frogbrook and regarded an easy compurgation as a tactful resolution to the case. It is worth noting that, as Richard Helmholz remarks, compurgation was usually successful: between two-thirds and three-quarters of those who attempted canonical purgation succeeded.[58] Judges perceived the procedure not necessarily as a means of asserting facts, but rather as a way of restoring the honour of the defendant. It is probably beyond our powers to say definitively whether Frogbrook actually committed the crime of which he was accused. On the one hand, we have the fact that he was acquitted. Likewise, the case against him was evidently motivated at least in part by personal grievance. On the other hand, to the best of my knowledge there is no evidence to suggest that the witnesses shared with Pynfold a pre-existing enmity against Frogbrook; it is not inconceivable that they could have conspired with Pynfold to commit perjury through such a significant accusation, but we have no textual grounds to support this interpretation. Similarly, as noted already, successful compurgation did not necessarily mean that one was genuinely innocent, but rather that it was, from the court's perspective, a more favourable outcome to ensure social cohesion. In any case, for our purposes here the 'truth' of the accusation is less important than what it helps us discern about attitudes to bestiality and how these could

[54] C. R. Chapman, *Ecclesiastical Courts, Officials and Records: Sin, Sex and Probate* (2nd edn., Dursley, 1997), p. 51.

[55] Kent Archives, DCb/J/X/8.3, fol. 32r.

[56] Helmholz, 'Local ecclesiastical courts', p. 382.

[57] S. B. Brown, 'The procedure and practice of witness testimony in English ecclesiastical courts, c.1193–1300', *Studies in Church History*, lvi (2020), 114–30.

[58] Helmholz, *Canon Law and Ecclesiastical Jurisdiction*, p. 616.

be deployed in a community context. Nevertheless, going forward we ought to retain some scepticism about the testimony of our witnesses and to think in terms of how they were constructing a particular set of narratives, rather than thinking of their testimony solely as a record of 'what actually happened'.

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We also need to briefly consider the broader context of judicial reform in the diocese of Chichester at the time of the trial. Bishop Robert Sherborne took the see of Chichester in 1508 and remained in the position until 1536. While in office, Sherborne pursued numerous reforms pertaining to the operation of ecclesiastical justice in his diocese including limiting the jurisdiction of archdeacons and installing men supportive of his reforming aims in judicial positions.[59] Crucially, under his administration, the Chichester courts litigated a substantially higher number of office cases. Prior to his appointment, the diocese's courts heard fewer of these cases on account of their unprofitability in comparison to more lucrative instance matters. In 1506–7 the courts processed 220 instance cases and only 65 office cases; however, in 1520 they processed 227 instance cases and 195 office cases.[60] Under Sherborne's drive for moral improvement, the 1520s were a time of strenuous activity in Chichester consistory court, which began to wane only in the 1530s due to the break with Rome. While we cannot discern a direct influence of Sherborne's reforms on the case, it is possible that the officials of the consistory court may have felt emboldened by Sherborne's reforming agenda to take Pynfold's promotion of the case more seriously than they would have otherwise.

Having examined these broader factors, we turn now to the matter of the witness testimony as recorded in the act book. These took the form of responses to 'interrogatories', that is, sets of questions posed to the witnesses to clarify their testimony. Edward Lynfield described the moment of the confrontation between himself and Thomas Frogbrook as follows:

> When asked in what way [Frogbrook] committed misdeeds with the aforesaid cow, [Lynfield] said that he stood on top of a log with a three-foot-long rod in his hand. And he said that he spoke to him thus, saying 'Thou lewde felow, what dost thou?'. And the said White [alias Frogbrook] was silent and went away to a certain croft of his father's.[61]

Note that the instance of reported speech by Lynfield was recorded in its original English in this text, but otherwise the rest of his testimony was translated into Latin by the court clerk. This was standard procedure in the ecclesiastical courts. This moment was crucial to understanding the rest of the case. Lynfield related here that he did not merely passively observe Frogbrook's crime, but actively confronted him. 'Thou lewde felow' is in a distinctly contemptuous and hostile register, using an informal second-person pronoun usually reserved for addressing one's social inferiors. The adjective 'lewd' had a variety of connotations in this period, most commonly being used to describe a lay person or an uneducated person, specifically someone who could not read or write Latin.[62] However, as it was used by Lynfield, it denoted someone who was foolish, boorish or wicked. It could also signify that the subject was sexually lascivious or inappropriate in a similar manner to the connotations of 'lewdness' in modern English, though I hold

[59] S. Lander, 'Church courts and the Reformation in the Diocese of Chichester, 1500–1558', in *Continuity and Change: Personnel and Administration of the Church in England, 1500–1642*, ed. R. O'Day and F. Heal (Leicester, 1976), pp. 215–37.

[60] Lander, 'Church courts and the Reformation', p. 223.

[61] 'Interrogatus quomodo commisit cum predicta vacca dicit quod stetit super truncum cum baculo in manu trium pedum longitudinis. Et dicit quod alloquebatur eum ita dicendo "thou lewde felow what dost thou" et dictus whit tacuit et abijt in quandam croftam patris sui' (W.S.R.O., Ep. I/10/2, fol. 53v).

[62] *Middle English Dictionary*, ed. R. E. Lewis and others (Michigan, 2001), s.v. 'leued'.

that multiple readings of the word would also work here.[63] In Lynfield's recollection of events, his utterance towards Frogbrook was a performative act intended to challenge his behaviour and reframe him as sexually deviant.

The notion of unnatural intercourse as an existential threat to the spiritual and physical integrity of the community was gaining increasing traction in English political and theological discourse in the wake of multiple plague epidemics in the mid fourteenth century onwards, although this idea was not new: as the thirteenth-century theologian Thomas Chobham wrote, bestiality was a 'public and flagrant crime' (*crimine publico et manifesto*).[64] In 1375, in response to a relatively minor outbreak of plague, Thomas Brinton, bishop of Rochester, composed a sermon placing the blame for catastrophe at the feet of those who engaged in sexual sin:

> Today the corruption of lechery and the imagining of evil are greater than in the days of Noah, for a thousand ways of sinning which were unknown then have been discovered now, and the sin of the Sodomites prevails beyond measure, and today the cruelty of lords is greater than in the time of David. And therefore, let us not blame the flails of God on the planets or the elements but rather on our sins, saying, as in Genesis, 'We deserve to suffer these things, because we have sinned' (Genesis 42:21).[65]

The following year, a petition in the House of Commons condemning the presence of Lombard bankers in England claimed that 'recently they have brought into the land a most horrible vice which should not be named, whereupon the realm cannot fail to be destroyed in a short time, if ready correction is not swiftly ordained thereon'.[66] Though the petitioners and Brinton spoke only in general terms of unnatural or sodomitic vice, bestiality was conventionally regarded as a subset of this broader category of sin, as we saw earlier in the writings of Thomas Aquinas and John de Burgh.

We do not have enough evidence in the records of *ex officio c. Frogbrook* and *ex officio c. Noryngton* to draw a causal relationship between these elite discourses and popular opinion regarding bestiality. Nevertheless, Edward Lynfield's charge of lewdness against Thomas Frogbrook hints at an (at least professed) interest in the detection of and punishment for unnatural vice on moral grounds, rather than for the purpose of seeking redress for personal harms, which echoes the anxieties of polemicists such as Brinton. While it would be untenable to claim that elite anti-sodomy discourse prompted legal action against bestiality in England, as indicated by the overall paucity of cases, I argue it is possible that the diffusion of these ideas throughout late medieval society contributed to the discursive construction of human-animal intercourse in courtroom narratives.

The credibility of the case against Frogbrook was further developed through the introduction of Peter a Wever as a corroborating witness. Lynfield stated that he had encountered Peter shortly after seeing Frogbrook; having told Peter of what he had witnessed, he recalled that Peter said that he had seen Frogbrook 'in a certain hedge of

[63] Carissa Harris notes that in the sixteenth-century middle Scots 'flyting' genre of poetry, male poets deployed accusations of (heterosexual) lustfulness to attack the masculinity of their opponents. This tradition regarded sex with women as physically and morally polluting to men (C. Harris, *Obscene Pedagogies: Transgressive Talk and Sexual Education in Late Medieval Britain* (Ithaca, N.Y., 2018), pp. 67–102).

[64] T. Chobham, *Summa confessorum*, ed. F. Broomfield (Louvain, 1968), pp. 400–3.

[65] 'Igitur cum maior sit hodie luxurie corrupcio et malicie cogitacio quam in diebus Noe, quia mille modi peccandi qui tunc non erant hodie sunt inuenti, et peccatum Sodomiticum nimis regnat, et maior est hodie crudelitas dominorum quam in tempore Dauid, flagella Dei non imputemus planetis vel elementis sed pocius peccatis nostris, dicentes illud Genesis, Merito hec patimur quia peccauimus' (T. Brinton, *The Sermons of Thomas Brinton*, ed. M. A. Devlin (2 vols., London, 1954), ii. 323; translation from R. Horrox, *The Black Death* (Manchester, 1994), p. 146).

[66] 'Ont ore tard menez deins la terre un trope horrible vice qe ne fait pas a nomer. Par quei le roialme ne poet failler d'estre en brief destruyte, si redde corrigement ne soit sur icell hastivement ordeignez' (*Parliament Rolls of Medieval England*, ed. and trans. C. Given-Wilson and others (Woodbridge, 2005), 50 Ed. III, item 58).

his father's, near *le stile*' (*in quadam clausura patris sui propter le stile*). In his own testimony, Peter confirmed that he had not seen the act of bestiality itself, but that he had indeed encountered Lynfield at the time he had claimed, and that he had earlier seen Frogbrook near '*le stile*'.[67] According to canonical judicial procedure, a minimum of two eyewitnesses were required for a defendant's guilt to be proven.[68] In this instance, only Edward Lynfield had claimed to have actually witnessed the act of copulation; Peter's testimony strengthened a problematic case by corroborating Frogbrook's presence at the scene of the crime.

After meeting Peter, Edward Lynfield rode to his father's house and related his encounter with Frogbrook to John Lynfield 'in the forecourt of his own house' (*in aula domus suo propria*). Later that day, he had also told Henry Sopar 'in his father's house' (*in domo patria*). Both John Lynfield and Henry Sopar corroborated Edward's account of these facts. From here, as all the witnesses recalled, the *fama* of Frogbrook's deed began to spread, initiated by Edward's telling of the story to many people. John Lynfield and Henry Sopar also confirmed the existence of this *fama* in the community and acknowledged that Edward Lynfield had been the source of it. Curiously, Peter a Wever claimed that he was ignorant of the *fama*, implying that after his first encounter with Edward, he had not heard of any other rumours of Frogbrook's actions. The corroboration of the *fama* through the other witnesses also served a specific legal function: the concept of *publica fama* in canon law denoted that a defendant's actions were common knowledge within his or her local community and that the truth of the person's specific guilt for the alleged offence was generally believed to be true by the wider community.[69] Proof of *publica fama* was a necessary requirement for an office case to be brought before the courts. Hence, establishing Frogbrook's *fama* within the parish built the credibility of the case. Likewise, Frogbrook's initiation of a new suit against Pynfold after the conclusion of the office case represents an attempt to restore his sexual reputation, which had come under attack because of the *fama* and the resulting trial. As Bernard Capp, Shannon McSheffrey, Derek Neal and Bronach Kane argue, contrary to prior historians' claims of a late medieval and early modern gendered 'double standard', men were just as concerned with maintaining their sexual reputation and seeking legal redress through the ecclesiastical courts and other means to restore it if lost as were women.[70]

Having examined the constituent elements of the case, we must now turn to the bigger picture: what can the trial of Thomas Frogbrook tell us about popular attitudes to bestiality and the implementation of ecclesiastical justice in late medieval England? In this instance, the very exceptionality of the case offers both a solution to the seemingly intractable problem of making a historical assessment based on such a small sample size and a means to unpick the contradiction between legal theory and practice. Personal enmity, rather than inquisitorial zeal, provided the driving force behind *ex officio c. Frogbrook*. Pynfold, its instigator, appropriated the canonical offence of unnatural vice and the mechanisms of judicial procedure to pursue his private vengeance against Frogbrook, a

[67] W.S.R.O., Ep. I/10/2, fol. 54r.

[68] Helmholz, *Canon Law and Ecclesiastical Jurisdiction*, p. 610.

[69] H. A. Kelly, 'Inquisition, public fame and confession: general rules and English practice', in *The Culture of Inquisition in Medieval England*, ed. M. C. Flannery and K. L. Walter (Cambridge, 2013), pp. 8–29, at p. 9.

[70] B. Capp, 'The double standard revisited: plebian women and male sexual reputation in early modern England', *Past & Present*, clxii (1999), 70–100; S. McSheffrey, *Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia, 2006), pp. 164–89; D. G. Neal, *The Masculine Self in Late Medieval England* (Chicago, 2008), pp. 70–3; and Kane, 'Defamation, gender and hierarchy'. Richard Helmholz has made a related argument that litigants initiated defamation suits primarily to restore lost honour, rather than for primarily financial motives (R. H. Helmholz, 'Canonical defamation in medieval England', *American Journal of Legal History*, xv (1971), 255–68).

fact that was obvious to the officials of Chichester consistory court. I posit that this offers an explanation for the overwhelming lack of evidence for bestiality trials: in the absence of individual motivations such as Pynfold's, the institutions of the ecclesiastical courts and its mechanisms for identifying *ex officio* offences, as well as the lay communities upon which the courts relied for the reporting of such offences, were largely indifferent to bestiality in spite of the clear letter of the law following the Third Lateran Council and the Council of Westminster.

This judicial indifference is especially cogent within the context of the 'social church' thesis advanced by medievalists such as John Arnold and Ian Forrest, which holds that the institutions of the late medieval church operated with the consent of the laity and that its practices evolved through active lay participation rather than being imposed wholesale on a passive and reluctant populace.[71] In relation to canon law, this meant that the ecclesiastical courts were not the blunt instruments of social control that earlier generations of historians had taken them to be, but rather responded to the needs of local communities and prioritized social cohesion over the arbitrary enforcement of canonical legislation. Furthermore, as we have observed in the figure of Emery Pynfold, lay people were able to exert their own agency through the canon law system, appropriating the mechanisms of ecclesiastical justice to serve their own needs.[72] The notion of the 'social church' indicates that the courts could ignore the mandate to detect and prosecute bestiality if this did not serve the interests of the communities in which they were located.

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A tantalizingly unanswerable question remains: why was there such widespread indifference on the ground to a sexual act that was so harshly condemned in theology, literature and law? No clear answer emerges to this out of the available sources, but I offer several speculations. One possibility is that while many people probably shared Edward Lynfield's opinion of bestiality as being 'lewde' or distasteful, it nevertheless did not in their eyes constitute an offence sufficiently disruptive to the social order to merit reporting to the ecclesiastical authorities. Similarly, Courtney Thomas's notion of bestiality as a 'horror crime' in early modern England is in all likelihood also applicable to the late medieval context. Thomas argues that a 'horror crime' was

> something which all segments of society could agree was a gross violation of the natural order and deserving of harsh punishment regardless of the actual frequency with which it was committed. As such, what matters was not so much the extent to which people were actually charged with the crime but the fact that it was harshly legislated against and condemned in the first place.[73]

Consequently, late medieval popular attitudes may have held that the existence of rigid scriptural and canonical proscription against human-animal intercourse in themselves constituted a sufficient statement of opposition to bestiality, which did not actually require enforcement to be symbolically valid.

[71] J. Arnold, *Belief and Unbelief in Medieval Europe* (London, 2005); I. Forrest, 'The transformation of visitation in thirteenth-century England', *Past & Present*, ccxxi (2013), 3–38; I. Forrest, 'Trust and doubt: the late medieval bishop and local knowledge', *Studies in Church History*, lii (2016), 164–85; and I. Forrest, *Trustworthy Men: How Inequality and Faith Made the Medieval Church* (Princeton, 2018).

[72] Parker and Poos, 'Consistory court', p. 655; A. J. Finch, 'Sexuality morality and canon law: the evidence of the Rochester consistory court', *Journal of Medieval History*, xx (1994), 261–75; McSheffrey, *Marriage, Sex, and Civic Culture*, pp. 190–4; and Johnson, 'Preconstruction of witness testimony'.

[73] Thomas, 'Bestiality in early modern England', pp. 151–2.

A second, much more contentious, explanation is that human-animal intercourse may have been ubiquitous to the point of normalization in late medieval rural England. Modern sexology has advanced bold claims about the prevalence of bestiality in contemporary societies. For instance, Alfred Kinsey, using an anonymized survey of 12,000 U.S. adults in the 1940s, found that 8 per cent of men and 3.6 per cent of women reported having had some form of sexual contact with an animal at least once; for men who had grown up on farms, the proportion was estimated to be as high as 50 per cent.[74] While Kinsey's figures seem high to the point of implausibility, and in any case cannot be unproblematically applied to pre-industrial English society, historical studies of patterns of prosecutions for bestiality in rural Sweden from the seventeenth to the early twentieth century by Jonas Liliequist and Jens Rydström suggest that institutions did not lack for cases at the times when legislation was more consistently enforced.[75] However, there is ultimately no evidence to support the notion of tacit acceptance of human-animal intercourse in late medieval England; indifference did not necessarily entail acceptability, but may have merely reflected a difference of opinion between legal theory and popular attitudes over what forms of immorality constituted the proper business of the law.

Acknowledging the reality of late medieval indifference towards bestiality brings a new perspective to historiographical understandings of the phenomenon of moral reform in this period. Historians such as Marjorie McIntosh, Shannon McSheffrey, Jeremy Goldberg and Martin Ingram have emphasized the growth of new moralizing ideologies in England driven primarily by secular institutions and communities from the mid fourteenth century onwards, most readily apparent in towns and cities but present also in rural areas.[76] This programme was characterized by a hardening of social attitudes, including new policies limiting women's economic opportunities outside the domestic sphere, greater restrictions on sex work, and increasingly severe judicial punishments for adultery and fornication. However, this programme of reform focused exclusively on heterosexual intercourse. There was no significant rise in the legal persecution of either homosexual or bestial intercourse in England, which contrasts with a markedly different pattern in many continental European societies undergoing similar ideological shifts during the same period.[77] Further comparative research to explore the causes for this divergence in litigation of unnatural acts, following the model established by Charles

[74] A. C. Kinsey, W. B. Pomeroy and C. E. Martin, *Sexual Behavior in the Human Male* (Philadelphia, 1949), pp. 669–74; and A. C. Kinsey and others, *Sexual Behavior in the Human Female* (Philadelphia, 1953), pp. 505–6. More recent scholarship has severely criticized the reliability of the methodology of Kinsey and the handful of other sociologists who have attempted to compile statistics on the prevalence of bestiality (Bourke, *Loving Animals*, pp. 11–30).

[75] Liliequist, 'Peasants against nature', p. 397; and J. Rydström, *Sinners and Citizens: Bestiality and Homosexuality in Sweden, 1880–1950* (Chicago, 2003), pp. 55–78, 189–210.

[76] M. K. MacIntosh, *Controlling Misbehaviour in England, 1370–1600* (Cambridge, 1998), pp. 54–107; McSheffrey, *Marriage, Sex, and Civic Culture*, pp. 150–63; J. Goldberg, 'Cherrylips, the Creed play, and conflict: York in the age of Richard III', *Czech and Slovak Journal of the Humanities*, mmxvi (2017), 29–42; and Ingram, *Carnal Knowledge*, pp. 78–118.

[77] See e.g., M. Boone, 'State power and illicit sexuality: the persecution of sodomy in late medieval Bruges', *Journal of Medieval History*, xxii (1996), 135–53; M. Rocke, *Forbidden Friendships: Homosexuality and Male Culture in Renaissance Florence* (New York, 1996); and H. Puff, *Sodomy in Reformation Germany and Switzerland, 1400–1600* (Chicago, 2003), pp. 17–30. However, the picture cannot be generalized across the continent. Prisca Lehmann notes that bestiality was among a number of sexual offences that never appeared in the *châtellenie* records, which she consulted for her study of late medieval Savoyard secular courts (P. Lehmann, *Le Répression des délits sexuels dans les états savoyards: Châtellenies des diocèses d'Aroste, Sion et Turin, fin XIIIe–XVe siècle* (Lausanne, 2006), pp. 166–7).

Donahue and Ruth Karras in their work on the church courts in England, France and the Low Countries, is urgently needed.[78]

The trial of Thomas Frogbrook illustrates the overwhelming failure of the medieval church in England to translate theological and legal condemnations of bestiality and other forms of unnatural vice in theory into actual practice. Emery Pynfold's use of the accusation of bestiality as a pretext for exacting vengeance against his enemy indicates that the laity were not necessarily ignorant of what canon law had to say about unnatural vice; Pynfold evidently recognized the criminal status of human-animal intercourse despite no precedent of prosecutions in the diocese of Chichester and perceived the legal and reputational ramifications for Frogbrook in pursuing the case. Rather, lay communities did not perceive a general need to enforce canonical proscriptions on bestiality. The institutions of ecclesiastical justice, driven by the priorities of the populations they served rather than adherence to the letter of the law, were unable and unwilling to overrule them on this matter. Future work on the construction of unnatural sexual intercourse in theological and legal discourse in the late middle ages needs to pay closer attention to these gaps between theory and practice, and between elite and popular conceptions of sexuality.

Likewise, Sara McDougall notes that cases of bestiality, along with homosexual intercourse, masturbation, and sodomitical sex between men and women, appeared only rarely in the legal records of Troyes (S. McDougall, 'The prosecution of sex in late medieval Troyes', in *Sexuality in the Middle Ages and the Early Modern Times: New Approaches to a Fundamental Cultural-Historical and Literary-Anthropological Theme*, ed. A. Classen (Berlin, 2008), pp. 691–714, at p. 698).

[78] C. Donahue Jr., *Law, Marriage, and Society in the Later Middle Ages: Arguments About Marriage in Five Courts* (Cambridge, 2007); and R. M. Karras, 'The regulation of sexuality in the late middle ages: England and France', *Speculum*, lxxxvi (2011), 1010–39.

