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Winter 2002

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King Ebain's decision, at the close of the *Roman de Silence*,¹ to wed its eponymous heroine, whom he has just restored to her rightful position as countess of Cornwall, strikes modern readers as impetuous and poorly conceived. This marriage is particularly disturbing in that it effects a complete reversal of the case which Master Heldris seems to be advancing on Silence's behalf. Marriage to the very sovereign who was responsible for her predicament hardly seems a fitting resolution to a tale that belies its own misogynous rhetoric by presenting Silence and her subterfuge in a very sympathetic light. Although this marriage may indeed be a reward for Silence's loyalty, it also clips her wings, while making the case that as a woman, this is the best she can aspire to. For with the undoing of her public persona, she must now lose the voice she had acquired through her mastery of lyric discourse,² and her music/mode of expression must be relegated to a purely private sphere, as she herself foresaw (vv. 2865-72):

Et s'il avient que li rois muire,
Es cambres t'en poras deduire.
Ta harpe et ta vièle avras
En liu de cho que ne savras
Orfrois ne fresials manoier,
Sire porra mains anoier
Se tu iés un bastonage
Ke tu ales vials el en gage.
And the king should happen to die,
you will be able to practice your art in a chamber.
You will have your harp and viele
to make up for the fact that you don't know how
to embroider a fringe or border
You will be less bored in your captivity
if you at least have something to fall back on.

But these objections impose our own age on Heldris's, and are anachronistic, furthermore, in their focus on Silence as an individual rather than as a feudal lady. While it is doubtful that the marriage can be made palatable to modern readers, short of rewriting the ending entirely, it is possible to make sense out of it by placing it in its own legal context. Indeed, by examining the marriage in light of both canon and inheritance law, which historically were at odds in questions of marriage, incest, and divorce, I propose both to justify the reservation; concerning the marriage expressed by Silence scholars and to understand the marriage as the most logical consequence of Silence's position with regard to inheritance law. At the same time it will be possible to view her as the resourceful victim of circumstance even through the conclusion of the romance.

It is well recognized that in the upper echelons of medieval society, dynastic considerations in marriage took precedence over personal ones and functioned as a set of principles that, though in conflict with ecclesiastical principles, were internally coherent.³ The struggle between feudal

custom and church law, it' which the Church sought to impose its views on adultery, divorce, and incest of the Frankish nobility, continued unabated from the ninth through the thirteen centuries.

⁴ landmark cases of princely divorce and remarriage such as those of Philip I, Louis VII, Raoul de Vermandois, and Philip II,⁵ show us that (1) the outcome of this struggle was always a compromise, and (2) the Church gradually gained the upper hand. In this context, it is striking that Heldris's text, in the late thirteenth century, could portray a world in which dynastic rules completely overshadow clerical ones. For this marriage takes place in a fictional world that accurately reflects the social and political realities of twelve-and thirteenth-century England and France, yet it completely ignores the decrees of canon law.

The most visible obstacle to Ebain and Silence's union is parentage. We first learn in line 691, as Cador lies ill following his battle with the dragon, that Ebain is his uncle. Though Ebain had hitherto addressed him as "am[s]," now he calls him "bials niés twice in rapid succession, and the narrator also refers to him a "neveu." If we take the term literally, Silence and Ebain are related in the third degree, counting, according to canon law procedure, backward from Cador to the ancestor he and Ebain hold in common, and then forward again. Even accepting a more general interpretation of the term, ⁶ the two are likely related in the fourth degree, a closeness that had been forbidden since the time of St. Boniface, papal legate to the Frankish church in the mid-eighth century (Gies and Gies 83-94). The fourth Lateran Council of 1215 actually relaxed the restrictions imposed by St. Boniface and his generation, who had declared as incestuous any relation within the seventh degree of kinship. If related in the fourth degree, Heldris's characters would be closer to a marriageable degree of kinship than at any time in the previous five centuries; yet they are not free to marry without obtaining permission from the Church. According to canon law, their kinship must be a matter of public record at the time of betrothal, and the wedding would be allowed to proceed only following an official decision to overlook their relationship. We witness no such clerical review of parentage, nor do we observe Ebain following the required procedure of *desponsatio* followed by *nuptiae*.

It is these procedural irregularities that prove more troubling than the simple fact of consanguinity. For consanguinity was far more often appealed to as a motive for divorce than invoked as an obstacle to marriage, and when the marriage was otherwise sacrally proper, consanguinity usually did not stand in the way of political purpose (Sheehan).⁷ Rather, the rules were conveniently disregarded time and again to allow marriages among princely houses. Significantly, Heldris's cavalier treatment of this royal wedding stands in striking contrast to the care that he lavished on procedural description in Cador and Eufemie's wedding early in the romance. It is this contrast that most urgently calls attention to the procedural irregularities of Ebain and Silence's union, and justifies the concern that the conclusion of the romance evokes in modern readers.

Central to this concern is the issue of consent. Gratian's *Concordia discordantium canonum* of 1140, conveniently known as his *Decretum*, contains, among the nearly 4,000 texts drawn from Church councils, papal pronouncements, and other sources, one of the High Middle Ages' fundamental constitutive texts on marriage. Gratian focused his definition of marriage on the mutual consent of the two parties, as well as on the consummation of the union. Consent had of course been propounded both by Roman law and by the Church fathers, but for canon law after Gratian, this consent must now be active rather than merely passive. The Council of Winchester in 1175 repeated the *Decretum* when it insisted, in a text ascribed to Pope Nicholas, that

marriages arranged between young children could not be valid until the betrothed had come to discretion and consented in full knowledge: "Where they each do not consent, there is no marriage."⁸

Gratian's interpretation of the doctrine of consent was not without controversy, as shall be seen. In the first place, he did not insist on parental approval. Indeed his rubric to the canon went so far as to state that "a father's oath cannot compel a girl to marry one to whom she had never assented" (Sheehan, "Choice" 8). Public reaction to this formulation of the doctrine of consent must have been sharply negative, for the same Council of Winchester omitted the crucial clause "there is no marriage unless it is done by mutual consent even if father and mother will have desired this and carried it out"⁹ (Sheehan, "Marriage and Family" 412, my emphasis), putting in its place a clause that recognized the union of minors in cases of urgent political necessity, and thus effectively undermining the canon in its strongest form.

The other aspect of Gratian's approach to the legality of marriage that provoked reaction among his contemporaries was his insistence that the exchange of consent need not be public to be valid.¹⁰ Needless to say, this raised considerable difficulty in divorce cases,¹¹ and had the uneasy result of elevating concubinage to the status of a proper marriage. Peter Lombard, in his *Libri IV Sentiarum* (ca. 1152), countered Gratian with the proposal that consent at the time of betrothal was insufficient, lit addition to the *verba de futuro* exchanged at the time of betrothal, the marriage must be finalized by a public exchange of vows-- the *verba de praesenti*-- in a nuptial ceremony blessed by a priest (Gies and Gies 139). We see the Church evolving in this direction, albeit unsystematically, throughout the High Middle Ages. Though private exchanges of vows were only categorically rejected at the Council of Trent (1546-62), a synod held in London in 125 (I shows the English church in full accord with Lombard. Canonical marriage; according to this synod, consisted of three steps: betrothal, announcement of intent via banns, and exchange of consent *de praesenti* between the couple (Sheehan, "Marriage and Family" 425).¹² No union then, according to the bishops gathered in London, could be considered valid unless it had been exposed to full scrutiny as described here (despite the quiet recognition in the same document, that such publicity was not essential).

Early in the romance, Ebain discusses with his advisers his wish to marry Cador to Eufemie. He has already promised a bride to whoever defeated the dragon and a husband to Eufemie if she can cure Cador, so it is plain that the king is comfortable in his customary role as feudal matchmaker. However, a very contemporary note is struck in his deliberations with the council. It is obvious that he has kept abreast of canonical developments when he declares "*Jes voel ensamble marier / Tolt sans respit, sans detrier, Pot cho qu'andoi le vollent faire, / U, se non, nen puis a cief traire*" (I want to marry them without hesitation or delay--that is, if they are willing. If they are not, I cannot accomplish this) 1275-80, my emphasis). He is well aware of the doctrine of consent and indicates his full intention to abide by it. Furthermore, having obtained Eufemie and Cador's consent, Ebain makes a public announcement of the fact, during which he secures their inheritance and financial security. They thus respect the established step of *desponsatio* or engagement, following which they are conducted to the cathedral for the *nuptiae*. Though this ceremony does not follow the stipulation that banns consist of a triple announcement,¹³ for the young couple is married forthwith, the impetuosity of the procedure can be excused as royal prerogative and is most certainly regularized by the archbishop's blessing.

This stands in marked contrast with Ebain's own wedding 5,000 lines later.]'hi wedding is dispatched in six lines, with no mention of canonical procedure. We are not informed that the king asked Silence's consent, nor are we privy to her thought, on the matter, a most curious omission considering how much of Silence's interior space we have hitherto been privileged to share. We are not aware, furthermore, that Cadour and Eufemie were informed of the wedding until after the fact, and certainly not that their permission was asked. At this point in her lift', Silence is at least eighteen years old, and according to some clerical thinkers, old enough to make her own choice.¹⁴ Court records have left for us in sufficient number the voices of clerical authorities who would have supported Silence's autonomy with respect to her parents, and in theory, though this was a more politically contentious issue, with respect to her lord. But the canon on consent is ineffectual in the Face of Silence's peculiar situation. For when one's betrothed is also one's suzerain, one's margin of autonomy is immediately at risk, and the precipitousness of the match justifies all doubt concerning its canonical conformity.

As Heldris glosses over the incestuous nature of the relationship between Ebain and Silence, it is reasonable to conclude that he equally masks Ebain's disregard for canonical procedure. If so, Ebain has not obtained Silence's public consent, and their marriage is irregular in every way. Contrary, then, to Ebain's contention that he is rewarding her loyalty by offering her the greatest match in the kingdom, he is in fact punishing her for her confounding of gender roles and seeking to absorb her estates directly into the royal domain. This is the assumption that is richest in interpretive possibilities, for it is consistent with the hasty, imperious and obtuse personage that Ebain has shown himself to be all along and consistent with Silence's role as the resourceful victim of circumstance.

The opposing hypothesis, that mutual consent was exchanged, but that the author wished to spare his audience a lengthy description at tale's end, is not supported by the rhetorical features of the narrative. Absent at this point are the abridging formulae that Heldris uses elsewhere in the romance (cf. v. 3539: "Qu'alongeroie plus mon conte"), and the reader is left with the impression that Heldris is hurrying to conclude his story before we become aware of his deceit. Silence herself has no real motivation, moreover, for accepting this travesty of a union. She has recovered her rightful inheritance and has proven herself sufficiently resourceful that she does not need a marriage to a sovereign older than her father to secure her position.

By deliberately minimizing the transgressiveness of this canonically irregular union, Heldris shifts our attention away from Church law to focus on primogeniture and highlights all unexpected dimension of Silence's dual-gender identity. As the eldest and only son, Silentius is privileged to inherit the entirety of his father's significant domain. Yet as we know, Cornwall is not in fact his, because he is a she, and Ebain has excluded women from the right to inherit fiefs. This poorly conceived decree is also operative in the case of Silence's mother Eufemie, because the latter, though the rightful heiress, can only govern as countess of Cornwall through her marriage to Cadour, who is conveniently a member of the royal family. Even in male guise, Silentius himself does not appear to have more direct access to his inheritance than his mother did. He must be fostered-or rather sequestered--at birth to conceal his true gender. There, he is schooled in letters and martial sports, and at age twelve, runs away to learn a trade, which he plies on the roads of Western Europe for the next three years. Upon his return home, he is sent to further his education as a retainer at the royal court, but it is only when he is banished to France on a false pretext that he is trained as a knight and acquires a reputation for incomparable skill at

arms. From the status of confused youth, he has slowly risen in the world as Favored musician and storyteller, then as noble retainer, and finally as respected warrior. His journey and his experiences throughout the romance are consistent, not with those of an heir, but with those of a juvenis, or younger son. Silence takes his/her place among a venerable cast of fictional chivalric heroes who, as Georges Duby has established,¹⁵ are for the most part younger scions of the great noble families of their day. The key to their success in life is to seek adventure, acquire a reputation for prowess, and in the end marry an heiress, who is ideally of superior rank. As genealogical records have revealed,¹⁶ the primary anxiety, the primary envy, that motivated young men of this rank was marriage envy. For although knightly activities were a source of wealth and renown, marriage was the only means to property and security and was performed acquired outside the family. The feudal household revolved around the single bed it contained—that occupied by the lord of the manor and his lady, and that place belonged only to the eldest son. Silentius can never assume that rightful position because the full trappings of power—marriage and lordship—are incompatible with her true identity. When in the end she is exposed as a woman and her knightly persona stripped from her along with the garments she is wearing, all that is left to her is the chance to make a favorable match, in this context, it is entirely understandable that she accept a marriage with the king.

Heiress though she may now be, Silence is in a precarious position, as were all great feudal first-born daughters. She will rule Cornwall, but only upon the death of her parents, who appear hale and would appear at this juncture to be in their late thirties. In the meantime she must occupy herself while remaining safe from, rapture by land-hungry barons. She cannot return to the life she has known, at.,[indeed, Nature now steps in to reshape her according to plan, a procedure them. Nature accomplishes in a record three days.¹⁷

According to the feudal code, Silence is offered a miraculous solution to her predicament that is the envy of younger sons and heiresses alike. Eleanor or Aquitaine's example suggests that Silence stands to lose nothing of her hegemony over Cornwall by the marriage. Rather, she secures her position there in the most decisive way imaginable and in the process has become queen. It is a dénouement that, while highly problematic from a canonical point of view, in concordance with the harsher political realities of the day, and it offers the modern reader a mechanism for retaining sympathy and respect for Heldris's heroine

Viewing Silence as a juvenis is to read her character as consistent with a system of mendacious signs, around which this narrative is constructed. From the maiden-knight herself and all of the guises in which she appears, to the letters of embassy that Silentius bears to the French court, to the prophetic guide Silence meets on her quest, to the queen's nunnish lover, nothing in this tale is what seems. As readers, we are privy to the secrets of many of the slippery signs from the beginning, and for those which are revealed to us by Merlin, the joke is not on us, but on the characters in the story.

There is established a complicity between Heldris and ourselves, within which the eldest daughter-younger son paradox assumes a natural place as yet another secret that we share. Its greatest value as a sign is as a key to another puzzle—the marriage of Silence with her liege. It unlocks the door to the corridor of inheritance law, in whose light we may read beneath the surface of a false sign. Like Silence's assumption of her male identity, this marriage is

transgressive and threatening, yet it is wholly interpretable, even acceptable when read through the prism of the dynastic code, to which Silence herself is the key.

NOTES

- ¹ All remarks are based on and passages are quoted from the edition and translation by Sarah Roche-Mahdi. *Silence: A Thirteenth Century French Romance*.
- ² For a discussion of lyric performance as a liberating, gender-inclusive sphere of activity, see my forthcoming "Lyric Discourse and Female Vocality: On the Unsilencing of Silence," *Arthuriana* 12:1 (2002).
- ³ The theory of consensual marriage that forms the core of twelve-century marriage theology was much more successfully promoted in the middle echelons of society rather than among its uppermost or lowest ranks. See Georges Duby, *Medieval Marriage*, and Jacqueline Murray, "Individualism and Consensual Marriage: Some Evidence from Medieval England."
- ⁴ Though Carolingian and Anglo-Saxon societies reveal different attitudes with respect to these issues and, significantly differing degrees of ecclesiastical control, the post-Conquest Church brought England into the European sphere through the tireless activity of its episcopal synods and the efforts of preachers to address the issues raised in those synods. See, in this regard. Frances Gies and Joseph Gies 68-115; Micheal M. Sheehan, "Marriage Theory" 408-60; and Sheehan, "The European Family" 347-60.
- ⁵ See Georges Duby's *Medieval Marriage* and his *Le chevalier, la femme et le prêtre*.
- ⁶ Interpreting Cadour as Ebain's grandson, or more vaguely as his descendent, does not tender the match more suitable. In the first instance, the directness of descent makes the degree, of incest intolerance; in either case, Ebain's advanced age would pose a barrier, albeit not insurmountable. Given the prevalence of celebrated uncle-nephew pairs in chivalric literature, moreover, there is no reason not to take the term of face value.
- ⁷ Marriages were often contracted long before the nuptials took place, and before the twelfth century, clerical review of the contract was not a required feature of the wedding ceremony, nor could it seriously affect a secular institution that strongly favored endogamy. See, also, James A. Brundage 229-55, and Dominique Barthélemy, "Kinship" 124-36.
- ⁸ "Ubi non est consensus utriusque, non est coniugium" (Decretum C.30 q.2 c.1). Significantly, attempts to promote the doctrine of mutual consent prior to Gratian met with much greater resistance; witness the case of the monk Henry of Lausanne, accused of heresy in 1116 for preaching a strong version of consent (see Duby, *Male moyen âge* 31).
- ⁹ "[Nec est coniugium nisi fiat utriusque consensus], etiamsi pater et mater hoc fecerint of voluerint" (Ivo of Chartres, *Panormia*, Liber 6 C122).
- ¹⁰ While homilists contradicted each other on the validity of clandestine marriages throughout the thirteenth and fourteenth century by the strongest statement clarifying Gratian's position was made early in the thirteenth century by Thomas of Chobham (*Summa confessorum*, ca. 1216): "It is clear (...I that a man and a woman can contract marriage by themselves, without a priest or anyone else, in any place, so long as they agree to live together forever" (Sheehan, "Choice" 21).
- ¹¹ While the usual interpretation of this clause dispensed with Church intervention but did not exclude family members, the possibility of contracting marriage entirely in secret complicated the court's task considerably by making proof of marriage in such cases

impossible to furnish. The threat to the permanence of marriage was irrefutably clear, and in reaction to Thomas of Chobham, official thinking shifted in favor of Lombard, whose foresight had sought to prevent this dilemma. See Sheehan, "Marriage and Family" 205-14.

- ¹² Despite the success of Lombard's model, intercourse following desponsatio continued to be recognized as sufficient to finalize the marriage, and could effectively preempt the legal function of" the nuptial ceremony.
- ¹³ This custom became established in England and northern France in the early thirteenth century Sheehan, "Marriage and Family" 458-60)
- ¹⁴ The late seventh-century Penitential of Theodore set a bold precedent rarely appealed to in the High Middle Ages, declaring that "a girl of seventeen has the power of" her own body. [...] After that age a father may not bestow his daughter in marriage against her will" (qtd. in Gies and Gies 54). The issue of parental consent is perhaps resolved by its text, but Theodore can hardly be evoked to explain Ebain's disregard for canon law in the thornier issue of spousal consent.
- ¹⁵ Set The Chivalrous Society, trans. Cynthia Poston (Berkeley: U of California II 1977), 112 22; and Duby, *Male moyen âge* 74-82.
- ¹⁶ See Duby's "The Aristocratic Households of Medieval France" in *Male moyen age* 33-85.
- ¹⁷ Nature smoothes away Silence's battle-hardened contours and weather-burned complexion, restoring (liar the author) her feminine softness with no difficulty, I am not prepared to concede that her psychological adjustment was as smooth or as rapid, but curiously, Heldris draws a curtain over her mind at this juncture, and we are no longer privileged to share her thoughts.

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