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Introduction

> This essay traverses a wide and very diverse territory on a kind of armed pilgrimage. Because the legal maxim was so important a route for the transmission of ideas such as those treated here from the *ius commune* into the general legal culture of the West ... [1]

This quotation perhaps encapsulates the later writing of Paul Hyams: less a concern with institutions than ideas; not *pointiliste*, but the broad-ranging 'think piece' or 'thought experiment' searching for the big picture; an *extended* essay which is tantamount to a short book, although, of course, he also authored those books.

Although Paul's teaching at Cornell University embraced an increasingly expansive range of themes, it has not been difficult to produce a volume of studies in his honour which conform to a coherent theme.[2] Medieval law – jurisprudence in its most wide-ranging sense and practice – has constantly been at the heart of his research.[3] Jurisprudence, in its sense of a philosophy of law, remains, of course, a contested arena: second-wave legal positivism, revised by H. L. A. Hart, and perhaps continued in the 'formalism' of Robert Summers; legal realism ('judge-centred law'); Kelsen's 'pure theory' (calculus) of law; (sociological) critical legal studies; 'modern' 'natural law' theory (law as morality), of such as John Finnis and Lon Fuller; and the whole range of anthropological approaches to law in their successive manifestations, although with the emphasis, with Paul, on the ethnographic approach rather than the didactic theory.[4] In this disputatious court of opinion

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1 Paul Hyams, 'Due Process Versus the Maintenance of Order in European Law: The Contribution of the *ius commune*', in *The Moral World of the Law*, ed. by Peter Coss (Cambridge: CUP, 2000), p. 63.

2 Since a long time has elapsed in the making of this volume, it is necessary to both thank and apologize to those contributors who submitted their papers at an early date. The production of this type of volume is usually prolonged, but gratitude is owed to the great patience of some of the contributors.

3 Compare now Randall Lesaffer, *European Legal History: A Cultural and Political Perspective: The Civil Law Tradition in Context*, trans. by Jan Arriens (Cambridge: CUP, 2009).

4 In this introduction, references are minimal, as the emphasis should properly be on the papers below. H. L. A. Hart, *The Concept of Law* (Oxford: OUP, 1961); Patrick S. Atiyah and Robert S. Summers, *Form and Substance in Anglo-American Law: A Comparative Study in Legal Reasoning, Legal Theory and Legal Institutions* (Oxford: OUP, 1994); Finnis, *Natural Law and Natural Rights* (Oxford: OUP, 1980); in general, J. W. Harris, *Legal Philosophies* (London: Butterworths, 1980) and Suri Ratnapala, *Jurisprudence* (Cambridge: CUP, 2009). Roger Cotterrell is a prominent exponent of critical legal theory, the author of many books on the approach, including *The Sociology of Law: An Introduction* (London: Butterworths, 1984). For a historian's discussion of the issue of whether law is an autonomous system of rules, Peter Coss, 'Introduction', in *The Moral World of the Law*, pp. 1-2. For the anthropological interpretations, see now Fernanda Pirie, *The Anthropology of Law* (Oxford: OUP, 2013). One of the really influential texts in the 1980s was Simon Roberts, *Order and Dispute: An Introduction to Legal Anthropology* (New York: St Martin's Press, 1979): the 'processual argument' for law as process.

– *obiter dicta* without *rationes decidendi* – the late Ronald Dworkin remained until his death one of the giants. The title of this volume is appropriated and adapted from his *Law's Empire*.[5] His writings constantly advocated the importance of principle, not (just) policy, in jurisprudence. In that sense, his thinking was truly concerned with a philosophy of law. There is much in the collected work of Paul Hyams which accords with that penetrating approach to what was law and what it meant to people in the medieval past. To that extent, the adoption of *Law's Dominion* is apposite.[6] There is, of course, a difference: whilst Dworkin projected law as it ought to be, Hyams elucidated it as it was; but the breadth of thought has similarities.

It is, nonetheless, the case that Paul's examinations of the legal past are never constrained by one single line of jurisprudential thought. It does seem to be true that an early influence on his thinking was ethnographic, and so it is significant that back in 1983 Clifford Geertz referred incisively to a forthcoming paper, that is, not yet published, by one Paul Hyams on the English ordeals: 'Event and judgment flow along together here in, to adopt a phrase of Paul Hyams's about English ordeals, an effortless mix that encourages neither extensive investigation into factual detail nor systematic analysis of legal principle'.[7] Hyams now takes into his account newer lines of enquiry such as the economic approach to law and game theory. Never is there mere abstraction in his consideration of the law; law is 'embedded' (like the economy, as Polanyi would have it) in social relationships.[8] The law adjudicates (sometimes, and sometimes only ultimately) in how people respond to their predicaments with others, which brings the currently favoured history (and sociology) of the emotions into the equation.[9] To a large extent, we return to

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5 Dworkin, *Law's Empire* (Cambridge, MA: Belknap Press, 1986); Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977).

6 See the contrasting of Dworkin and Hart in Hyams, 'Due Process Versus the Maintenance of Order', p. 87, n. 83.

7 Geertz, 'Local Knowledge: Fact and Law in Comparative Perspective', in Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books, 1983; repr. London: Fontana, 1993), pp. 179-80.

8 Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (Boston, MA: Beacon Press, 1957).

9 *Emotions and Sociology*, ed. by Jack Barbalet (Oxford: Blackwell, 2002); Barbara H. Rosenwein, 'Worrying About Emotions in History', *American Historical Review*, 107 (2002): 821-45; *Anger's Past: The Social Uses of an Emotion in the Middle Ages*, ed. by Rosenwein (Ithaca, NY: Cornell University Press, 1998), including Hyams, 'What Did Henry III of England Think in Bed and in French About Kingship and Anger?' (pp. 92-126).

the wider questions of 'dispute resolution', self-help, ostracism, vexation, and extra-judicial recourse: the entire human repertoire of actions, reactions and responses.[10]

There are advantages and constraints in this jurisprudential approach to the legal past, unless the pitfalls are consciously avoided. Many legal historians are pragmatic scholars. The deliberate offer of 'thought pieces' can be disruptive and uncomfortable. Such a reaction would be to misread the purpose behind the gift. The provocation is irenic in intention: to stimulate. Sometimes questions are left in the air – purposely.

In this volume, some of those provocative avocations are revisited. All the papers engage with ideas proposed by the honorand, right back to his doctoral thesis of 1968 and the book of the thesis.[11] The decision to order the papers in chronological sequence has, felicitously, drawn together some of these themes.

The papers by his former close colleagues at Cornell, Danuta Shanzer and Thomas Hill, address the problem of ritual and ordeal. Paul addressed this issue in 1981 in the festschrift for Sam Thorne, an issue which he had discussed with Peter Brown.[12] Successively, Rob Bartlett and Robert Palmer were contemplating this highly significant issue in the twelfth century, a complicated discussion informed by (perhaps the prevailing British [structural-]functionalist) anthropology, the politics of Church and State, and the 'Renaissance' of the twelfth century.[13] In fact, Shanzer and Hill look valuably backwards to the earlier manifestations of ordeal and what might have instigated the thought processes behind it.

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10 Karl N. Llewellyn and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence* (Norman: University of Oklahoma Press, 1941); Robert C. Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Cambridge, MA: Harvard University Press, 1991); *Disputes and Settlements: Law and Human Relations in the West*, ed. by John Bossy (Cambridge: CUP, 1983). Hyams, 'Nastiness and Wrong, Rancor and Reconciliation', in *Conflict in Medieval Europe: Changing Perspectives on Society and Culture*, ed. by Warren Brown and Piotr Górecki (Aldershot: Ashgate, 2003), pp. 195-218; Hyams, *Rancor and Reconciliation in Medieval England: Wrong and Its Redress from the Tenth to the Thirteenth Century* (Ithaca, NY: Cornell University Press, 2003); David Garland, *Punishment and Modern Society: A Study in Social Theory* (Oxford: OUP, 1990), esp. ch. 2 (pp. 23-46), 'Punishment and Social Solidarity: The Work of Émile Durkheim'.

11 'The Action of Naifty in the Early Common Law', *Law Quarterly Review*, 90 (1974): 326-50; 'The Proof of Villein Status in the Common Law', *English Historical Review*, 89 (1974): 721-49; *King, Lords and Peasants in Medieval England: The Common Law of Villeinage in Twelfth and Thirteenth Century England* (Oxford: OUP, 1980).

12 'Trial by Ordeal: The Key to Proof in the Early Common Law', in *Of the Laws and Customs of England: Essays in Honor of Samuel E. Thorne*, ed. by Thomas A. Green, M. S. Arnold, Sally A. Scully and Stephen D. White (Chapel Hill, N.C.: University of North Carolina Press, 1981), pp. 90-126.

13 Bartlett, *Trial by Fire and Water: The Medieval Judicial Ordeal* (Oxford: OUP, 1986); Palmer, 'Trial by Ordeal', *Michigan Law Review*, 87 (1989): 1547-1556.

In a complex, but exhilarating, paper, Danuta relates the ordeal back to the purgatory oath (*purgatio canonica*) which evolved in the 380s to *c.*400. The ordeal by oath was intended to establish the 'truth' by confession before God.[14] This declaratory oath is explored through a particular case, the homosexual encounter between the priest Boniface and the monk Spes, which required adjudication by Augustine. The oath on relics, as it developed, looks like a precursor in some ways for the later ordeals. The ordeal by oath, however, potentially involved taking the name of the Lord in vain by swearing or prejudicing one's soul. The later somatic oaths avoided such controversy.

Thomas Hill seeks the rationale in the cold water ordeals. Their origin is distinctly Germanic and pre-Christian, with echoes in the episode of Gundrun in Eddic texts, who was rejected by the water because of her transgressions. In syncretic fashon, the clergy adopted the ritual on the precept that the water will reject a sinner. The revised form was accompanied by a mass, an invocation to God, and successive adjurations. The trial now conformed to a notion of the weight of love, a metaphor of weight whose usage has persisted.[15]

In 1986, Paul, in a paper to the Battle Conference, questioned one interpretation of the purpose of Domesday Book.[16] Fifteen years later, he directed his thoughts to an orthodoxy which had gained traction about the efficacy of the late Old English state, a perspective which had its origins, perhaps, in Peter Sawyer's estimation of the wealth of pre-Domesday England, but which was elevated into a political concept by the revaluation of governance by James Campbell and the late Patrick Wormald.[17] Richard Abels in this volume has similar reservations about the 'maximalist' interpretation of the reach of the Old English state. The effective state is predicated on the one hand on control of the coinage, the vernacular writ, the fyrd, and geld. It is premised on the other hand on the

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14 Paul Hyams gave a seminar paper at the Medieval Seminar, University of Oxford, on 'Truth'.

15 George Lakoff and Mark Johnson, *Metaphors We Live By* (Chicago: University of Chicago Press, 1980); 'To let them see how light I weigh their words': *Arden of Faversham*, scene i, lines 359 [*c.* 1590].

16 "No Register of Title": The Domesday Inquest and Land Adjudication', in *Anglo-Norman Studies IX: Proceedings of the Battle Conference, 1986*, ed. by R. Allen Brown (Woodbridge: Boydell, 1987), pp. 127-41.

17 Campbell, 'The Significance of the Anglo-Norman State in the Administrative History of Western Europe' and 'Observations on English Government from the Tenth to the Twelfth Century', repr. in Campbell, *Essays in Anglo-Saxon History* (London: Hambledon, 1986), pp. 155-72; Campbell, *The Anglo-Saxon State* (London: Hambledon and London, 2000); Wormald, *The Making of English Law: King Alfred to the Twelfth Century* (Oxford: Blackwell, 1999). Sawyer's original proposal in *Transactions of the Royal Historical Society*, fifth series, 15 (1965), is now expanded in his *The Wealth of Anglo-Saxon England: Based on the Ford Lectures Delivered in the University of Oxford in Hilary Term 1993* (Oxford: OUP, 2013).

evidence of royal interventions in diplomas and charters. Whilst the rhetoric of the laws might be a projection of what the king would like to be rather than what is, the narratives of charters, it is maintained, reflect the real vitality of royal authority. Other interpretations have suggested that the narratives in the charters are also rhetorical devices. Abels accordingly examines in close scrutiny one of the more 'infamous' episodes, Wulfbald's recalcitrance as represented in Sawyer 877, in 993. Wulfbald compromised the enforcement of royal and conciliar intervention. State formation seems an ever-pervasive process, but caution is counselled against exaggeration.[18] Stephen D. White illustrates how identification of the new knightly tenants of Domesday Book can be resolved, but only by examining all the ambiguities, and by a meticulous and arduous process of elimination and biographical research. In particular, the identification of the *miles* Wadard from a previously unknown charter from an unpublished cartulary of St Augustine's, Canterbury is important for re-examining the production of that early *bande dessinée*, the Bayeux Tapestry. In establishing that Wadard was not simply a tenant of Bishop Odo of Bayeux, who has long been conjecturally identified as the hanging's 'patron', but a *fidelis*, *miles*, and *frater* of Abbot Scolland and the monks of St Augustine's, White helps to confirm the suggestion that he and his collaborator, Elizabeth Carson Pastan, have made elsewhere that the Embroidery was initiated by and performed at St Augustine's without the intervention of Odo. In the process of establishing Wadard's multiple identities and his association with this abbey as well as with Odo of Bayeux, White follows Paul's lead in showing how the use of charters as 'legal' sources need not preclude reading them as evidence about social, cultural and religious history.

When Hyams participated in the conference to re-examine as well as to memorialize the achievements of Maitland on the centenary of the publication of *The History of English Law* (omitting for the moment the ambiguous contribution of Pollock), he perspicaciously tackled the elements which were opaque for Maitland in the latter's social environment and context.[19] Paul Brand and Eliza Buhrer expand on these issues. Paul Brand illuminates the climate in which the Jewry of England was disparaged, contributing to the lack of any defence against expulsion in 1290. The decision for the Expulsion was almost entirely attributed by Richardson to the decline in the wealth of the King's Jews and Edward I's fiscal requirements.[20] Since then, multiple causation has been invoked. Brand brings to bear on this predicament some startling documents which shed light on the complications

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18 There is an apparent silence about the state before 1300 in Martin Van Creveld, *The Rise and Decline of the State* (Cambridge: CUP, 1999), pp. 1-58

19 'Maitland for the Rest of Us', in *The History of English Law: Centenary Essays on 'Pollock and Maitland'*, ed. by John Hudson (Oxford: OUP for the British Academy, Proceedings of the British Academy 89, 1996), pp. 215-41.

20 H. G. Richardson, *The English Jewry under Angevin Kings* (London: Methuen, 1960).

of transactions involving Jews and religious houses. The alleged falsification of bonds to the alleged detriment of Reading Abbey, of which the King was patron, belonged to a wider climate of increasing distrust and antipathy.

Eliza Buhrer re-examines the rationale behind the categorization, medicalization, and stigmatization of the 'idiot' or 'imbecile'. Whilst she thinks expansively about the persistence of concepts of idiocy through to the nineteenth century, her investigation focuses on the interpretation of the case of Emma de Beston in 1383. Her forensic examination reveals the various interests in the case, the impact of policy over principle, including the the politics of the Crown and borough of King's Lynn as well as the more opaque expectations of kinship and creditors. As Ruth Karras illustrates in this volume (and elsewhere), we have to be cautious in interpreting judicial cases and causes, inquests and examinations.

We arrive now at the ethos (or culture) of courts in three papers by Ruth Karras, the combined forensic examination by Phillipp Schofield and Chris Briggs, and Tom McSweeney. Ruth's discussion actually also relates to the under-privileged groups which, as Paul noted, received too little attention from Maitland, despite the changes occurring in contemporary Cambridge, to which Maitland was not unsympathetic. There is a consensus that ecclesiastical courts were, amongst all *fora*, the most receptive to female plaintiffs, through the very nature of their jurisdiction, particularly matrimonial causes. The question remains, however – and is a constant historical issue – how should we read the narratives of the court record?[21] What was the 'truth' behind the contested depositions and interrogations about breach of promise (causes based on *verba de presenti* and *verba de futuro*)? Are the plaintiffs engaged merely in strategies or is there substance to their complaint? How successful were women in matrimonial causes in the ecclesiastical courts? What sort of 'agency' was allowed to these female litigants in the lower courts of canon law? The courts of the archdeaconry of Paris in the late fifteenth and first decade of the sixteenth century allow a remarkable insight predicated on the interpretation of the decisory oath.

Schofield and Briggs astutely return to one of the renowned 'think papers' which issued from the Hyams mind, perhaps one of the most provocative of his *oeuvre*. What did villagers in the late-thirteenth and early-fourteenth centuries understand by 'law' in the seigniorial courts?[22] Their paper results from large-scale data collection about inter-peasant personal pleas (of debt, detinue, covenant and trespass) in seigniorial courts during the

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21 For a later period, Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford: OUP, 1996).

22 'What Did Edwardian Villagers Understand by Law?', in *Medieval Society and the Manor Court*, ed. by Zvi Razi and Richard M. Smith (Oxford: OUP, 1996), pp. 69-102.

thirteenth and early fourteenth centuries. Concentrating on the rules of pleading, Schofield and Briggs demonstrate that law had secondary rules which imparted formalism in procedure, designed to ensure some degree of impartiality. Acquaintance with procedural forms in other *fora* contributed to some degree of uniformity and consistency. This 'illicit litigation' in courts, including ecclesiastical courts, outside their lord's own court, allowed peasant suitors a wider perspective on legal institutions and ideas. In particular, the manorial peasant office-holders and the upper stratum of influential villagers became well versed in the expectations of the law and legal procedures, but all villagers had some familiarity with courts. In terms of their 'sense' of the law, it might be useful to examine some of the vocabulary and language deployed in other kinds of litigation, not only the relative and intermixed rights in *ius*, but also the understanding of such adjectives and adverbs as *rationabilis* and *rationabiliter*.

Ada Maria Kuskowski conceives again of the issue of the ethos of the law in its wider judicial world, a concern which has consistently been imprinted in Paul's work. It resonates with those several papers by Paul which interrogate the relationship between the two vernaculars, Middle English and French, and the respective influences on legal development.[23] In Ada's case, it involves the textual genre (and inter-textuality) rather than the practice, although, of course, the two cannot be radically separated. Thinking broadly about linguistic registers – both high and vernacular – and legal customs, Kuskowski reveals common cultural elements in the customary laws of 'nations' and city states refracted in the legal treatises and expositions of the thirteenth and fourteenth centuries. A francophone culture influenced legal thought and vocabulary, which resonated across southern Europe – the Romance linguistic arena – and into the Levant under the auspices of the Crusades. With the Angevin Empire, this linguistic legal culture also dominated in the once-Teutonic linguistic extension of England.

The ethos and principles at issue, however, were not totally segregated from policy and wider cosmological perceptions. Thomas McSweeney contends convincingly that, when it came to sentence, there were extra-judicial interventions, mercy for *misericordia*, inspired by spiritual motives, but probably no principle of *mens rea*. Nullification, mitigation, clemency in the reduction of fines of the genuinely poor promoted a sort of gift-exchange, by which the king anticipated benefit for his soul. At one level, this beneficence represented the intersection of law and Christian morality and theology. On another plane, it was a symbolic device for representing the authority of the king, a sovereign power above other mortals, containing some of the 'charisma' of another 'sacred': 'no legitimate authority without an element of "charisma" — charisma being Weber's term for the quality

23 Most recently, 'Thinking English Law in French: The Angevins and the Common Law', in *Feud, Violence and Practice: Essays in Medieval Studies in Honor of Stephen D. White*, ed. by Belle S. Tuten and Tracey L. Billado (Farnham: Ashgate, 2010), pp. 175-96.

of extraordinary power and grace ...'[24] This discretionary power of the king was also not predicated on any concept of 'law', but was capricious, conflicting with the attempts of his justiciars to regularize 'law'; or, perhaps, the king was in this case the fount of law – *quod principi placuit legis habet vigorem*.[25]

The papers by Briggs-Schofield and McSweeney address another concern of Hyams: power over chattels or power over people.[26] The former address the question of restraint on 'illicit litigation' – prosecuting cases outside the lord's court by the peasantry, either in the ecclesiastical court or the court of another lord. One interpretation of such restriction was that the peasant's lord would ultimately suffer depredation because, if the peasant was fined, the lord was the ultimate owner of the peasant's chattels. Briggs and Schofield debate the issue again in their new context. McSweeney is of the opinion that the remission or mitigation of fines by the king was not (always or only) a royal consideration of the incapacity or indigence of the guilty party. Such a conclusion reminds us to be careful of adopting uncritically notions of modern development economists like Sen.[27]

The contributions by Richard Kaeuper and Peter Coss both consider the cultural implications of *ordines* in late-medieval England. Kaeuper concentrates on chivalric culture and how it resonated with the Victorian mind of John Ruskin – and what we can discern about that ethos from the writings of Ruskin. Examining *Unto This Last*, Kaeuper moves from Ruskin's concern about the insinuation of a commercial ethos in the late nineteeenth century and Ruskin's reflections on the chivalric code, back to the cultural rhetoric of two of the *ordines* of the fourteenth century. The formative idea is how the discourse of the *ordines* redeemed pollution. In the case of the clergy in higher orders, the *ordo* was proscribed (theoretically) from sexual pollution. The chivalric *ordo*, however, was engaged in blood pollution. Redemption for the latter *ordo* was achieved through a

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24 Garland, *Punishment and Modern Society*, p. 55.

25 For jury nullification, Thomas A. Green, *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury, 1200-1800* (Chicago: University of Chicago Press, 1985), pp. 62-3. For the later development of royal mercy, Krista Kesselring, *Mercy and Authority in the Tudor State* (Cambridge: CUP, 2003), which emphasizes the projection of royal authority ('special grace', pp. 2-3); Hyams, ''Due Process Versus the Maintenance of Order', p. 66.

26 See the contribution by Paul Brand and Hyams to 'Seigneurial Control of Women's Marriage', *Past & Present*, 99 (1983): 123-48.

27 Cornell Conference on Medieval Poverty, March 28-30, 2008, organized by Hyams in conjunction with PID (Poverty Inequality Development research unit at Cornell). Most recently restated in full in Amartya Sen, *Development as Freedom* (New York: Knopf, 1999); see, however, John Walter and Roger Schofield, 'Famine, Disease and Crisis Mortality in Early Modern Society', in *Famine, Disease, and the Social Order in Early Modern Society*, ed. by Walter and Schofield (Cambridge: CUP, 1989), pp. 14, 32.

discourse of 'meritorious suffering', one which resonated with Ruskin. This conceptualization builds on the prior interpretations of Kaeuper (references in his paper) and also on the culture of the gentry explored by Peter Coss.[28]

In his paper about the condition of the *nativi de sanguine*, Peter Coss compares the cultural depredation of their persistent servile position with the honorific gentry culture which was its contrast and which would inform in due course the civility of the yeoman farmer. There is then a point of contact with Kaeuper's paper in cultural attitudes.[29] The residual 'neifs by blood' have been a long-standing problem in late-medieval social history, as the majority of the peasantry escaped their servile status and evolved into customary, copyhold tenants. A consensus is emerging about their status and is confirmed by this microhistory of these peasants in Warwickshire on the lands of Coventry cathedral priory. The point of contact with Hyams here is *King, Lords and Peasants*, in which the earlier context of decline into unfreedom and the concept of the relativity of unfreedom are both elucidated.[30] An imponderable question here is how the other customary tenants regarded the minority of 'neifs by blood'. Do we have here the separation off of a caste of *dilats* who were considered less worthy and who continued to perform the services associated with unfreedom? It would be interesting if some microhistory would reveal their kinship affinities and social networks.[31] Perhaps such investigation might reveal something about the nature of the late-medieval 'village community'.[32]

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28 Most recently, but not exclusively, *The Foundations of Gentry Life: The Multons of Frampton and Their World, 1270-1370* (Oxford: OUP, 2010).

29 See also, Paul H. Freedman, *Images of the Medieval Peasant* (Stanford: Stanford University Press, 1999), for secular trends and diverse cultural attitudes towards the peasanty as *lumpenproletariat*.

30 *King, Lords and Peasants in Medieval England*; see the citations also in Robert Brenner, 'The Rises and Declines of Serfdom in Medieval and Early Modern Europe', in *Serfdom and Slavery: Studies in Legal Bondage*, ed. by M. L. Bush (London: Longman, 1996), pp. 247-76, at pp. 262-3.

31 *Contested Hierarchies: A Collaborative Ethnography of Caste Among the Newars of the Kathmandu Valley, Nepal*, ed. by David N. Gellner and Declan Quigley (Oxford: OUP, 1999); Ursula Sharma, *Caste* (Buckingham: Open University, 1999); for 'defiled trades', Kathy Stuart, *Defiled Trades and Social Outcasts: Honor and Ritual Pollution in Early Modern Germany* (Cambridge: CUP, 1999). The possibility perhaps exists in the Myntling Register of Spalding Priory: E. D. Jones, 'Going Round in Circles: Some New Evidence for Population in the Later Middle Ages', *Journal of Medieval History*, 15 (1989): 329-345, but see also Mark Bailey, 'Blowing up Bubbles: Some New Demographic Evidence for the Fifteenth Century?', *Journal of Medieval History*, 15 (1989): 347-358; Jones, 'The Spalding Priory Merchet Evidence from the 1250s to the 1470s', *Journal of Medieval History*, 24 (1998): 155-175.

32 C. Dyer, 'The English Medieval Village Community and its Decline', *Journal of British Studies*, 33 (1994): 407-29. The literature on community is too profuse to recite here, but for a concise entry, Tony Blackshaw, *Key Concepts in Community Studies* (London: Sage, 2010).

It remains only to explain how this volume evolved, to inform the reader. Its gestation was about five years ago, when a number of scholars were asked their opinion about the project and invited to contribute. A second tranche of papers derives from stimulating sessions at the International Medieval Congress at Western Michigan University in 2013, quite beautifully arranged by Eliza Buhrer, Tom McSweeney, Ada Maria Kuskowski, and Susanna Throop. We are fortunate that the editorial board has graciously agreed to host the volume as a special issue of *Reading Medieval Studies* and we express our gratitude to them and especially to the current editor, Maria Carolina Escobar-Vargas. A bibliography of Paul's writings is located at the end of this volume, but no doubt it will expand in the succeeding years, not least (one hopes) with a new discussion of manumission. We finally wish him, Elaine, David and Deborah good health and good times ahead.

THE COLLECTIVE