Epistemology of Translation: Erasing Viscountesses and Viscounts from High Medieval Legal Records, Selective 'Anglo-Saxonism', and Teleology

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By applying translation theories and discourse analysis to the study of thirteenth-century English law, it is apparent that some of the terms used in secondary works and printed editions of primary sources are not based on the actual manuscript sources but instead modern biases (intersecting ethnicity and gender). The knock-on effect of this practice is that reference works, such as translation dictionaries, do not provide accurate references regarding these terms. Another crucial effect of the mistranslation of medieval terms is a tendency to assume continuity of the conception and role of certain offices – here, only men as 'sheriffs' – over a thousand years. A punctilious re-examination of primary and secondary sources reveals temporal differences (in England) and geographic similarities (with the European Continent) that have been filtered out through 'Anglo-Saxonism' and further evidence for medieval women with power.

I. Introduction

For many legal historians, accurate terminology is paramount. Reading thousands of judgments based on an exceptio to a single word in the writ or in the count probably influences this phenomenon. This is not ipso facto a problematic practice, but it is rather ironic that legal historians also do not question certain terminology used in studies of medieval law which is an inaccurate 'translation' that anachronistically places later words onto earlier people and events, and more importantly erases the existence of medieval women holding public power. The truth is that when someone was physically in an English royal court (in England or English Ireland) in the thirteenth century, they did not summon, address, call, vouch, or admonish any 'sheriffs'. Brevia (briefs or 'writs') were not dispatched to 'sheriffs' and 'sheriffs' did not summon defendants, tenants, or appellees to court. If a counter or serjeant in the Westminster Bench had referred to a 'sheriff' in their count, everyone in court would have been greatly confused and the writ probably would have failed. This article is a call to recognise the existence of medieval legal terminology which described a particular legal-administrative position in a specific time (viscounts and viscountesses of English counties in England and English Ireland in the thirteenth century). It is not a mandate to republish all existing works that place 'sheriff' onto thirteenth-century viscounts and viscountesses.

There are three main lenses to analyse this term: ethics of translation (II and III), historicity (IV), and personnel (VI). In contrast to standard practice, I have placed the historiography section (V) near the end because encountering the theoretical underpinnings and the medieval evidence first will better prepare the reader to engage with the scholarship. The current use of sheriff, although so familiar to Anglophone scholars as to seem irrefutable, actually misrepresents the medieval evidence. No administrative record in the twelfth or thirteenth centuries applied the term to the official responsible for county administration. Fortunately, English has other words for that office, which are much more suitable since they come from the medieval words actually employed: viscount and viscountess. They also have the benefit of being free from all of the historiographical baggage that, as we shall see, has been attached to the term 'sheriff' since at least the seventeenth century. The terminological change might seem odd to Anglophone scholars at first, but its use will not only free us from the unsavouriness of the alternative, it will also remind us that there were a few medieval women exercising power in a polyglot society.

It is nothing new to medieval legal history to demonstrate that a long-held belief concerning a particular term or phrase was merely a concoction of the modern period.[1] No translation or convention is exempt from examination and legal terms are not transcendental of time and place. Legal theorists have argued against 'objectivity' for over fifty years as have historians and others.[2] Yet certain critiques[3] of historiographical traditions are met with 'thought-stoppers' or 'thought-terminating clichés'.[4] These are terms used in other disciplines to describe speech acts that are meant to prevent and stop critical thinking and deconstruction of recent, invented 'traditions'.[5] Medieval English legal history is a science just as other legal, social, or historical studies, and must be allowed to explore, discover, and deconstruct traditions.

The mistranslation of vicecomites to 'sheriffs' (or occasionally 'shire-reeves') and the near complete erasure of vicecomitisse, are not only inappropriate and incorrect practices but also erase the different functions, roles, and conceptions of the various positions over the centuries. The teleological connection of twenty-first-century British 'High Sheriffs' to late seventh-century West Saxon scírmen might facilitate studies of 'continuity'

1 For example, Sara Butler's work on the 'benefit of the belly', a historiographical construct which was portrayed as the female version of the 'benefit of the clergy' but, as Butler demonstrated, was in fact only a delay of execution at best: Butler, 'Pleading the Belly'. There are also older works, as analysing and critiquing a particular legal term or phrase (even those promoted by Maitland) is an established practice. 'Toby' Milsom addressed the medieval and modern (Maitland's) conceptions of vi et armis contra pacem regis: Milsom, 'Trespass'. Thomas Watkin addressed the historiographical constructs of in consimili casu: Watkin, 'The Significance'. Many thanks to Gwen Seabourne for suggesting these two articles.

2 Legal scholars have noted the 'myth of objectivity' for over fifty years, but it persists: Miller, 'The Myth'; Harris, 'Race and Essentialism'; Cain, 'Feminist Legal Scholarship'; Douzinas, Warrington and McVeigh, Postmodern Jurisprudence.

3 See, for example, the works critiquing 'Anglo-Saxon' and the responses, below, (Fn. 17).

4 A brief sample and history of the usages of the terms: Lifton, Thought Reform, pp. 428-9; O'Neill and Demos, 'Semantics'; Kim, 'Religious Deprogramming'; Wettstein, 'Churches'; Chiras, 'Teaching Critical Thinking Skills'.

5 Hobsbawm, 'Mass-producing Traditions'.

but those are based on a fundamental misunderstanding at least. Perhaps 'sheriff' might work for longitudinal studies of the modern period (c.1550-1900) when it was used in court, but the term is impertinent for an in-depth, synchronous analysis of the 1250s.[6] One might wonder then why this piece is focused on the thirteenth century. The reason is that this period witnessed the rise of surviving, official (court rolls and parliament rolls) and semi-official (year books and records from 1258) records of the business of English royal courts and parliaments in England and English Ireland. Many of these records survive in the vernacular – instead of just Latin – and this allows us to interrogate actual terms and phrases used in the courts without hiding behind the claim that the Latin records obfuscate the putative thirteenth-century usage of 'shire-reeve' or 'sheriff'.

Scholars of thirteenth-century English law ignore or discount the English law in Ireland – except Richardson, Sayles, and Brand.[7] The exportation of English law to Ireland greatly benefits this study because the exportation encouraged codification and the terminology that the English chose to export to Ireland demonstrates the difference between English 'common law' terms and regional terms in England. For example, the English colonists in Ireland did not create any 'wapentakes' there. Including legal records from English Ireland elucidates the high medieval conceptions of English law.

II. Venuti's 'Ethics of Translation'

Lawrence Venuti argued, over twenty years ago, that the 'marginality' (invisibility) of the translator and translation methodologies in translation works is a profound problem.[8] While most scholars will highlight difficult translations – usually by including a transcription of the original text in brackets or in a footnote – many (mis)translate cultural terms that may seem banal, uncontroversial, or unimportant without comment. Law and legal science rely on language and translation. Legislation is written, complaints are filled out and submitted to court, parties plead cases verbally, justices and judges censor speech acts by parties and give instructions to juries, and juries pronounce verdicts. None of this is new to practicing lawyers, but for scholars of thirteenth-century English law, linguistics, translation theory, and critical studies appear to be desperately needed. Venuti wrote that:

> *Translation patterns that come to be fairly established fix stereotypes for foreign cultures, excluding values, debates, and conflicts that don't appear to serve domestic agendas. In creating stereotypes, translation may attach esteem or stigma to specific ethnic, racial, and national groupings, signifying respect for cultural difference or hatred based on ethnocentrism, racism, or patriotism… Yet since translations are usually designed for specific cultural*

6 This cognitive dissonance led Mabel Mills to publish on 'adventus vicecomitum' and Richard Cassidy to follow her example: Mills, '"Adventus Vicecomitum", 1258-72'; eadem, '"Adventus Vicecomitum", 1272-1307'; Cassidy, 'Adventus Vicecomitum'.

7 For example, Richardson and Sayles, 'Irish Parliaments'; Brand, Making, ch. 2, 12, 13, 19, 20.

8 Venuti, Scandals, pp. 1-7.

> *constituencies, they set going a process of identity formation that is double-edged. As translation constructs a domestic representation for a foreign text and culture, it simultaneously constructs a domestic subject, a position of intelligibility that is also an ideological position, informed by the codes and canons, interests and agendas of certain domestic social groups.*[9]
>
> *Bad translation shapes toward the foreign culture a domestic attitude that is ethnocentric: 'generally under the guise of transmissibility, [it] carries out a systematic negation of the strangeness of the foreign work' (Berman, 1992: 5). Good translation aims to limit this ethnocentric negation: it stages 'an opening, a dialogue, a cross-breeding, a decentering' and thereby forces the domestic language and culture to register the foreignness of the foreign text.*[10]

The issue in this article is temporal and not geographical (replace 'foreign' with 'medieval'[11]), but Venuti's substantive points still very much apply here. The value of Venuti's work is the consideration of the act of translating: the cultural commentary that is inherent in any translation, the effects and affects on readers, the pedagogical ramifications of translation (with and without an original transcription), the need to conceptualise translation as an open process and to question the motives behind 'traditional' practices/orthodoxy, and the relevance of ethnic studies, race studies, and critical theory to the practice of translating medieval legal records.

James Milroy, who coined the term 'English Linguistic Purity', noted that language is not a physical object that can be 'cleaned'. Yet scholars of medieval England and medieval 'English' regularly attempt to 'purify' medieval England, English people, and English languages (unconsciously or not does not change the effects – intent does not concern us here).[12] Milroy warned readers that 'genetic purism' (removing any words believed to be from another language) is driven by nationalism which extends to 'racial purism and [the] stigmatization of minorities'.[13] Many medievalists transform cultural terms from thirteenth-century England into modern iterations. Viscounts become 'sheriffs', viscountesses are dismissed or ignored, counts become 'earls', counties become 'shires',[14] briefs become 'writs', and seigniors become 'lords'. All of these examples are already English words translated from the medieval records (e.g. vescunte to viscount). Many medieval concepts are strained out through the 'purification' of the translations. Latin is regularly used as a fosse to shield critiques.[15] The claim is that terms such as 'sheriff' were used by the courts but the clerks could not report that because the plea rolls were written in La-

9 Venuti (Fn. 8), pp. 67-8.

10 The '[it]' is Venuti's emendation of Berman: Venuti (Fn. 8), p. 81.

11 One could be tempted to cite L. P. Hartley here.

12 Examples of this are in section V, below.

13 Milroy, 'Some Effects', p. 327.

14 For example, Paul Hyams referred to 'shire eyres': Hyams, 'Thinking English Law'. Some scholars believe the county and shire are interchangeable synonyms, but that is imprecise at best.

15 Latin can, however, sometimes belie the actual terminology used in some medieval courts. See Heirbaut, 'Dangers'.

tin. Below we discover that that was not the situation. Milroy specifically discussed the attempt to remove 'French', Latin, and Greek words from modern English and its connection to 'Anglo-Saxonism'.[16] He noted that the invented, 'pure' English language was not just 'Old English' but also words from the Scandinavian languages (Old Norse and Old Danish) and some 'Germanic' fabrications.

Milroy noted the undeniable racism in the language of nineteenth-century writers who wished to promote 'Anglo-Saxonism'.[17] Works such as Reginald Horsman's trace the origins of 'Anglo-Saxonism' to the English Reformation (1534) and then detail how the phenomenon evolved in England over the following centuries and was then exported to British colonies.[18] The nineteenth-century antiquarians and politicians who promoted the 'purity' of modern 'English' (language) also ventured to 'purify' medieval English people. Twelfth- and thirteenth-century English people (Anglice/Anglici) became 'Anglo-Normans' or sometimes simply 'Normans'.[19] This 'normanization' (Gillingham's term) surprisingly continues in scholarship today.[20] The practice of codifying peoples based on what languages they speak, DNA, and surname origin are examples of nationalism, racism, and primordialism.[21] Scholars need to be mindful of the proximity of medieval studies to current nationalism and racism,[22] not just regarding their discourse in print or online, but also the very real problem of repeating racist interpretations and tropes in the classroom.[23] Mary Rambaran-Olm has been highlighting these problems for years.

16 Milroy (Fn. 13), pp. 327-9.

17 'Anglo-Saxonism' is the established term for the unhistorical or anachronistic application of terms and concepts to people and places where those terms and concepts were not used. Part of 'Anglo-Saxonism' is English Linguistic Purity. But the term itself is problematic because 'Anglo-Saxon' supports racist points of view. The term 'Anglo-Saxon' is used by scholars and non-scholars alike as a euphemism for 'white' people. Scholars of colour (such as Stuart Hall and Mary Rambaran-Olm) who wish to study England before 1066 are told that they are not 'Anglo-Saxons' and therefore cannot study Early English history. 'Anglo-Saxons' never existed – there was only a few charters with a concocted neologism to combine the Angles and Saxons of Britain into one people for expansionist, political purposes. There is a great deal of scholarly work on this topic, but some key works are: [especially] Rambaran-Olm, 'Anglo-Saxon Studies'; eadem, 'Misnaming the Medieval'; eadem, 'History Bites'; eadem, 'Wrinkle in Medieval Time'. See also, Reynolds, 'What Do We Mean'; Kim, 'Question of Race'; Ellard, Anglo-Saxon(ist) Pasts; Wilton, 'What Do We Mean'.

18 Horsman, Race and Manifest Destiny. See also, Boyce, 'The Persistence'.

19 Gillingham, 'English'; idem, 'Second Tidal Wave'; idem, 'Normanizing the English Invaders'.

20 For example, O'Keeffe and Virtuani, 'Reconstructing Kilmainham'.

21 Eller and Coughlan, 'Poverty of Primordialism'; Smith, Nationalism and Modernism, pp. 145-69. For examples of this in the UK today, see Wardle and Obermuller, 'Windrush Generation'.

22 Dockray-Miller, Public Medievalists; Elliott, 'Internet Medievalism'; Blake, 'Getting Medieval'. This problem is not limited to medieval studies, the Western academe has old connections to racism and colonialism and some academics oppose studying or mentioning this (and even more so oppose substantive decolonisation): Gopal, 'Decolonisation'.

23 For studies on the problem of racism in British pedagogy, see Ginther, 'Dysconscious Racism'; Esson, 'Why and the White'. This problem is not new. The official website of Oriel College, University of Oxford, admits that William Stubbs and his friend and successor, Edward Freeman, both vehemently supported the teleology of 'Anglo-Saxons' to Victorians and it stresses Freeman's racism was connected to this: https://www.oriel.ox.ac.uk/william-stubbs-1866-1844; https://www.oriel.ox.ac.uk/edward-augustus-freeman-1884-1892. Oriel College still has a statue of Cecil Rhodes over its front door: Gopal (Fn. 22), pp. 874-5.

Milroy also notes another type of 'purity': sanitary.[24] Sanitary purity calls for the removal of 'corruptions' or 'mistakes' in usage and 'cleansing' extant records. Many medieval legal scholars practice this when they produce a critical edition of a medieval plea roll or law tract. Spelling is 'standardised', punctuation is added, capitals are added to proper nouns and removed from the middle of words, and some information (e.g. process marks) is omitted. It is important to differentiate noting the effects of these practices from assigning conscious intent on the part of the scholars conducting the practice. Many medieval scholars, not just legal historians, conform to Roy Hunnisett's suggestions[25] to the point that the suggestions have become hegemonic. Noting the variations in spelling could demonstrate regional pronunciation differences, indicate whether the clerk was polyglot, or differentiate two clerks in one manuscript. By 'sanitising' a medieval manuscript, we all miss out on that analysis.[26]

Beyond the 'purifying' of twentieth – and twenty-first-century English, there is also the formalist bracketing of what can and cannot be medieval 'English'. I am using 'formalist' here in the literary and not legal sense, referring to the removal of the human aspects of the term 'English'. Linguistically a formalist would describe 'English' as a 'Germanic' language and thirteenth-century English as 'Middle English'. The problem here is that many thirteenth-century English people – especially, for this study, the justices, counters/serjeants, attorneys, and court clerks – spoke what formalists label 'Law French' or 'Anglo-Norman'.[27] Thirteenth-century people did not call the vernaculars of England 'Anglo-Norman' (or 'Law French', 'Norman-French', or even 'French') and 'Middle English'. There are scattered references (romanze, gallica, englois), but in the historiography only a certain viewpoint is acknowledged: the 'Middle English' speaker.[28] Modern scholars seem antithetical to calling medieval English people 'English' if the latter were polyglot or simply had a non-Germanic surname.

Another point that is regularly glossed over in the historiography is the application in Anglophone scholarship of certain terms to all lands outside of England/Britain – or at least to all other European lands – and a different set of terms reserved exclusively for medieval England/Britain. This is 'English Linguistic Purity' and colonialism.[29] Specifi-

24 Milroy (Fn. 13), pp. 324-6.

25 Hunnisett, Editing Records.

26 James Holt demonstrated this by highlighting spelling in the vernacular copy of 'Magna Carta' from 1215 (Willaume instead of Guillaume, Wales instead of Galles, and Estievene/Stefne instead of Etienne): Holt, 'Vernacular-French Text', p. 351.

27 'Formalist' is describing the practice of formalism and not describing the entirety of these scholars' work. The scholars are mentioned in some detail in the next section. Examples of this usage by medieval legal historians are discussed in section V, below.

28 Legge, 'Anglo-Norman'; Garnett, 'Franci et Angli'; Short, 'Tam Angli quam Franci'. See also section V, below. Cf. Philippe de Rémi (c.1274) called 'Anglo-French' Englois [English!]: de Remies, The Romance, p. 91, l. 2624.

29 Colonisation is not limited to the seizure of land and material resources, but also includes verbal attacks on cultures and it deploys othering discourses. A range of scholars have noted the relabelling of peoples, not just the names for themselves but also the titles of people within those cultures, was a central part of colonisation. See for example, Said, Orientalism; Wolf, Europe; Gopal (Fn. 22), pp. 895-7. If one wants to

cally highlighting the gendered nature of the phenomenon, when scholars refer to a man in – not necessarily from – thirteenth-century England, he was a 'sheriff' or 'earl', but when a man – sometimes the same man – was in France, Flanders, Holland, Lombardy, or Aragon, he suddenly became a 'viscount' or 'count'. Some dictionaries (next section) claim that this man was a 'vicomte' or 'comte' without any consideration of time or place. For David Crouch, the 'Beaumont Twins' were Waleran, count of Meulan, and Robert, 'earl' of Leicester, and that Waleran was created 'earl' of Worcester.[30] Crouch's work is focused on the aspects of twelfth-century noble men that crossed boundaries, but then forces site-specific terminology unhistorically onto these medieval men. An older trend, which has largely been discontinued, was to refer to Continental men as 'earls' and 'sheriffs'.[31] This practice may explicate the dictionaries' definitions and translations. The people that are affected represent English men. One reason for the title of 'selective Anglo-Saxonism', is the odd use of accurate, tangential terminology. The noun is a 'sheriff', but the 'sheriff' received viscontiel writs and had viscontiel jurisdiction and viscontiel debts. Another noun is 'earl'. An area or event under the influence or power of an 'earl' was comital. 'Lords' held seigniorial control over their tenants in their seignories. Yet scholars have no issue writing about mort d'ancestor, novel disseisin, and mesne processes. More importantly, English women are largely excluded from substantive-law discussions – despite the existence of medieval women attorneys, receivers,[32] and viscountesses – and countesses (comitisse) are rendered as 'countesses' in the historiography without any recognition of the gender imbalance in this translation practice. English men are selectively 'Anglo-Saxonised' but English women are not.

III. Etymology and Dictionaries

Before getting into the specifics of the thirteenth century, we should analyse the name itself. Viscontesse came from the Latin vicecomitissa, just as viscounte came from vicecomes. We can deconstruct the formation of the terms and why that is important to this study. Vice meaning a stand-in, deputy, or place holder – hence related terms such as vicar, viceroy, vice-chancellor. Comitissa was the feminine version of comes (count) that developed from the trend of daughters inheriting noble titles, and comes itself was a development from the older meaning of simply an aide, assistant, friend, or councillor. In some places in France, vicecomites did hold the place of counts and others were the deputies of counts,[33] but vicecomitas was not a monolith. In England after 1066 and Eng-

argue that relabelling historical people is somehow not colonialism because the people are dead, then it is at least a colonial mindset that insists on relabelling other peoples.

30 Crouch, Beaumont Twins; idem, 'Between Three Realms'. As the second work shows, Crouch sometimes calls Waleran 'count of Meulan and Worcester'.

31 The exception being John Baker's continued use: Baker, Introduction, p. 36, n. 113 ['earl of Anjou and Poitou'].

32 Some examples of these women are in Hewer, Beyond Exclusion, pp. 97-8.

33 Débax, 'Vice-comtes'. Viscountesses are mentioned briefly to note that they were created from hereditary viscountships and the earliest references to viscountesses are 865 in Toulouse and 926 in Narbonne.

lish Ireland after 1171, the lands were divided into counties (comitatus) and the counties were administered by viscounts (vicecomites) and a few viscountesses (vicecomitisse). There was no thirteenth-century 'Suffolkshire', 'Cornwallshire', 'Tipperaryshire', or 'Connachtshire'. While some counties occasionally had a form of 'shire' in their name, none was considered legally a 'shire'.[34] In 1208-9 eyre justices (errantes iusticiarii) were sent to several counties. Although the record is in Latin, it appears that we can see which counties included 'shire' in their name and which did not. The list includes: Euerwicsyre (Co. Yorkshire), Northumberlandsyre (Co. Northumberlandshire), Cumberland (Co. Cumberland), Westmeriland (Co. Westmorland), Laicestre (Co. Leicester), Lincolnesyre (Co. Lincolnshire), Cantebrigesyre (Co. Cambridgeshire), Huntindunesyre (Co. Huntingdonshire), Northfolke (Co. Norfolk), Suthfolke (Co. Suffolk), Notinghamsyre (Co. Nottinghamshire), Derebi (Co. Derby), Warewic (Co. Warwick), Slopesyre (Co. Salopshire [Shropshire]), Stafford (Co. Stafford).[35] What is important is that royal orders and official royal court records clearly state 'county' and 'counties'.[36]

Sanford Schane mentioned one method for dealing with legal ambiguity was consulting a dictionary.[37] This method might work for unscientific and quotidian situations, but for an ontology of vicecomitas, it will not work. The reason why a dictionary will not work is that the methodology of making dictionaries is not fit for our purpose. A 'modern' dictionary is focused on 'modern' usage, which is the main problem. The Oxford English Dictionary defines 'sheriff' as:

> *In England before the Norman Conquest, the scírgeréfa (also called scírman) was a high officer, the representative of the royal authority in a shire, who presided in the shire-moot, and was responsible for the administration of the royal demesne and the execution of the law. After the Conquest, the office of sheriff was continued, that title being retained in English documents, while in Latin and French the usual term was vice-comes, viscounte, which had been applied to similar functions in Normandy.*[38]

This demonstrates that the definition is not accurate as it equates scírman with scírgeréfa, connects both to vicecomes, then rationalises this erratum with English Linguistic Purity ('in English' versus 'in Latin and French'). The differences between shiremen, shire-reeves, and viscounts/viscountesses are detailed below. The entry for 'viscount' is less precise. The OED states: 'One acting as the deputy or representative of a count or earl in the administration of a district; in English use spec. a sheriff or high sheriff… 3. In Con-

34 See, for example, from 42 Henry III: 'Stephano de Seggraue quondam iusticiario etc. tam in banco quam in itinere per diuersos comitatus etc.' From 55 Henry III: 'ad communia placita in comitatu Kancie'. From 6 Edward I: 'rotulos de assisis captis in diuersis comitatibus anno regni regis'. From Ancient Correspondence, temp. Edward I: 'Willem Bagot e Willem de Beyuille e autres en le cunte de Leycestre': Sayles (ed), Select Cases, pp. cliv-clv, clxviii.

35 Bateson, 'London Municipal Collection, part II', p. 710.

36 See (Fn. 34).

37 Schane, Language.

38 'sheriff, n.', oed.com.

tinental usage: The son or younger brother of a count.'[39] The first definition confirms my argument that viscount is an English word and refers to the administrators of counties in medieval England and English Ireland. The problem is that the majority were royal appointments and not liberty/franchise appointments of English counts, bishops, and seigniors. 'Viscountess' is only considered to be the wife of a 'viscount' (the modern conception of a noble: e.g. 'Viscount Gormanston').[40] No mention is made of the medieval usages of the term or women outside of England/the UK.

A bilingual/translation dictionary (of medieval Latin) provides possible translations of terms but does not go into the context of the translations. For 'medieval' Latin this is extremely important as the period covers almost (or in some sub-fields more than) a thousand years. The Dictionary of Medieval Latin from British Sources is usually the preferred translation dictionary for scholars of thirteenth-century English law. The DMLBS translates vicecomes as:

> *1 vicomte (as continental title) … 2 (in post-Conquest England and Wales) chief financial and executive officer of the Crown in a shire, sheriff… c (transf., applied in retrospective use w. ref. to pre-Conquest office) sheriff (scírgeréfa). d reeve, alderman… 3 (in other jurisdictions) sheriff a (Sc., also as law officer)… 4 private sheriff… 5 (as title pertaining to the fourth order of the English peerage, ranking between earl and baron) viscount.*[41]

The first definition of vicecomes is highly problematic because it applies the modern French translation of the Latin to the entire European Continent. Vicecomes was used in many areas besides France/Francia and should not be translated as 'vicomte' for Flemish, Aragonese, Lombardic, etc. vicecomites.[42] This is the opposite side of the English Linguistic Purity coin: failure to recognise differences outside of England (another aspect of colonialism). This phenomenon is definitely not limited to vicecomites, but that is the focus here. The second and third translations present an odd barrier between England and Scotland because Wales is subsumed under England, and the second translation ignores temporal differences (the Franci invasions in the 1060s and English conquest in Wales in the 1280s).[43] If we were to rely on dictionaries as 'objective' references – as some scholars do[44] – we would fall prey to the teleological trap of shrieval continuity.

The DMLBS does have an entry for vicecomitissa. It is: 1 wife of vicecomes a (of vicomte) b (of sheriff). 2 female sheriff (holding the office when hereditary, usu. as being widow of sheriff).[45] The first definition does not even allow the women a title. They are only wives. In the second entry there is at least a small recognition of the existence of me-

39 'viscount, n.', oed.com.

40 'viscountess, n.', oed.com.

41 'uicecomes', brepolis.net/dmlbs.

42 For more, see section VI, below.

43 Wales was not under English royal control until 1282-3, and since 'sheriff' is used for royal (and not liberty/franchise) vicecomites, this definition is not correct: Lieberman, Medieval March, p. 1.

44 Schane (Fn. 37), p. 18.

45 'uicecomitissa', bepolis.net/dmlbs.

dieval viscountesses who held public power, although they are, in contradiction of the usual trend regarding medieval women, 'Anglo-Saxonised' as 'sheriffs'. The medieval viscountesses (as county administrators) in England appear to have inherited the position from an ancestor (father or brother) and not to have held a viscounty in dower as a widow. There is still the problematic inclusion of the adjective 'female' to separate the women who were 'sheriffs' from the men who were 'sheriffs'. This practice indicates that 'sheriff' cannot be labelled as a gender-neutral alternative to the binary created by 'viscountess' and 'viscount'.

Finally, there are translation dictionaries for medieval English court vernacular, unhistorically called 'Anglo-Norman'. The AND translates visconte as 'sheriff' without any contextualisation, clarification, or parameters.[46] Thirteenth-century English sources mention vicomtes and vicomtesses from France,[47] so this 'translation' clearly does not function as is. Adjacent terms in the AND are equally problematic: 'viscontal' is rendered as 'viscontial, to be carried out, executed by the sheriff',[48] and 'viconté' is rendered as '1 shire, sheriffdom; 2 office of sheriff; 3 right to appoint a sheriff'.[49] There is no justification provided for this English-linguistic-purity distortion. The quotes used to justify these 'translations' imply that 'sheriff' is not what the medieval author meant. Compare two 'translations':

> *right to appoint a sheriff: (1295) les cyteyns tienent le visconté de Lounres du Rey pour cccc. li. Payaunt par an al Escheker*

The AND would translate this sentence as: 'the citizens have the right to appoint a sheriff'. But clearly this sentence is stating: 'the citizens hold the viscounty of London from the roy ('king') for £400 paid per year to the exchequer'. 'The right to appoint a sheriff' implies that said 'sheriff' would still answer to the royal exchequer for issues whereas 'holding the viscounty' implies that the citizens of London did not have to answer for individual issues from London. De-domesticating (or de-modernising) the translation of medieval texts will aid readers in understanding and conceptualising medieval English culture and law. The AND has no entry for viscontesse or vicomtess.

IV. Legal Terminology

The study of thirteenth-century English law, in legal theory and practice, reveres linguistic meticulousness regarding certain words and phrases. The medieval court system was excessively preoccupied with linguistic 'accuracy'.[50] If narrators/counters, justices, ser-

46 'visconte', anglo-norman.net.

47 Calendar Chancery Warrants, pp. 1 (vicomte de Lomagne), 292-3 (vicomtesse de Marsan), 296 (vicomtesse de Béarn), 338 (vicomte de Tartas), 367 (vicomtesse de Marsan), 386-7 (vicomte de Lomagne et Auvillar), 389 (vicomtesse de Béarn et Marsan), 548 (vicomte de Luuaign), 561 (vicomte de Benauges et Castillon). Some of these are from the early fourteenth century.

48 'viscontal', anglo-norman.net.

49 'visconté', anglo-norman.net.

50 Cases were quashed for the place name being off by one letter in a time when spelling was not concre-

jeants, and bailiffs in court had referred to and addressed 'shire-reeves' (or 'schirreue' or even 'sheriff'), then there should be references to this practice and instances when a narrator/counter was admonished by the justices for not using the 'correct' term. This section will focus on the usage of versions of le viscounte in thirteenth-century vernacular legal records (la viscontesse is only recorded in royal letters). The focus on the English court vernacular is because some scholars might try to use Latin as an excuse that 'sheriff' was secretly pleaded in court but changed in the Latin records – it has been argued that 'Middle English' was the main or sole language of England by the end of the thirteenth century.[51] The final section will delve into the roles and functions of thirteenth-century English viscountships versus other times and regions.

Before the period of study begins, there is a single reference in an official royal (financial) record that William Morris framed as a smoking gun.[52] In the pipe roll for 14 Henry II (1167-8) there is a man named 'Alfwinus schirreue' listed among the people of Gudmundcestria (Godmanchester, Co. Huntingdon).[53] Alfwinus was not 'the shire reeve' of Gudmundcestria or counties Cambridge and Huntingdon. The viscount of 'Cambridgeshire and Huntingdonshire' (two counties formed a single viscounty) at that time was Phylip de Dauintre.[54] We can see that contemporary clerks could write 'shirreue' in Latin but did not call viscounts shirreues (or 'shire-reeves') because the viscounts and viscountesses were not shire-reeves.

Near the end of the reign of John of England (1199-1216), a list of the laws of London was recorded mostly in the court vernacular. It survives in British Library, Add. MS 14252 which was transcribed and analysed by Mary Bateson in 1902.[55] This account shows that the claims by several notable scholars that 'sheriff' was never replaced by 'viscount' are not true,[56] but that many legal terms from before 1066 did survive into the thirteenth century. The laws of London uses a form of viscount ten times[57] and includes pre-1066 words such as 'socne' (soke), 'husteng' (husting), 'aldremans' (aldermen), 'Gildhalle' (guildhall), and perhaps very relevant for this study 'soccirieue' (soke-reeve).[58] Husting is a linguistic adoption from Old Danish or Old Norse hús-þing (house assembly). The word 'geréfa' had become 'rieue' (reeve), which was used in two fashions: as a label for certain administrators – but definitely not administrators of counties – and as a sur-

te: e.g. John fitz Ralph brought an assize of novel disseisin for one messuage and some land in Coylagh, Co. Waterford, Ireland and the defendants replied that the lands were in 'Coulagh'. John could not deny the mistake and the defendants were given a sine die: An Chartlann Náisiúnta, KB 2/4, fol. 198r. See also, Sutherland, Assize, p. 142, n. 3.

51 Below, section V.

52 Morris, Medieval English Sheriff, p. 113.

53 Great Roll, 1167-1168, p. 104.

54 Great Roll (Fn. 53), p. 99.

55 Bateson, 'London Municipal Collection'; eadem (Fn. 35).

56 Section V, below.

57 'uescunte' five times and 'ueskunte' five times.

58 Bateson (Fn. 55), pp. 492-5.

name.[59] English clerks in the thirteenth century were able to write 'syre' (shire) and 'reeve' in English court vernacular but did not call viscounts 'syre reeves' because they were not 'shire-reeves'.

In 1215 John of England was forced to put his seal on a charter at Roueninkmede (Runnymede) and shortly afterwards a copy of this charter was made in the court vernacular. In the vernacular copy of the charter 'visconte' was used seven times. At the same (June 1215), John sent a vernacular writ to the viscount of County Hampshire (visconte de Suthanteshire … en cel conté), William Briwerre.[60] During the 'Period of Baronial Reform' or 'the Second Barons' War' (1258-66), many political opinions regarding English law and its enforcement were written down. These writings show that English magnates, burgesses, and legal professionals in the mid-thirteenth century did not conceive of 'Englishness' in the same manner or fashion as nineteenth-to-twenty-first-century historians. Firstly, greatly surprising to modern scholars, Simon de Montfort was the leader of the 'anti-alien' (xenophobic) faction that rebelled against Henry III of England and his Continental friends and relatives – despite Simon being born in France.[61] There were petitions by 'the barons' (which historiographically were labelled the 'Petition of the Barons') that were debated and 'published' and then influenced the Provisions of Westminster. The vernacular copies of the petitions and the Provisions referred to 'vescuntes'[62] and not 'scyra reeves' while maintaining their call for English reforms and for English people (almost all men) to be appointed to curial positions and allowed to council Henry III. They considered 'vescuntes' to be the English term.

There is a damaged surviving record from an 'Irish' (English Ireland) parliament from c.Easter 1278. It was transcribed by Richardson and Sayles twice and the second instance included more of the damaged text.[63] Legislation was drafted specifically regulating 'viscuntes' in English Ireland. It is unclear whether all or part of this legislation was ever enacted, but that is not relevant as this was a legislative parliament (and not simply a meeting or parley: parlement) and the 'prudes homes' who devised the legislation had the approval of Edward I.

Paul Brand theorised that the manuscripts forming Casus Placitorum were lecture notes taken by law students during the 1250s and 1260s.[64] These manuscripts show the some of the oldest training of legal professionals and use the term 'viscounte' and 'visc-

59 For example, Maurice fitz Adam le Reve was a plaintiff and David le Reve was a juror in the Dublin Bench in 1290: British Library, Add. Ch. 13598, fol. 10r. Richard le Reve vs. William le Reve in a plea of land at Barnet manorial court (1340): Poos and Bonfield (eds), Select Cases in Manorial Courts, no. 20. These were surnames as the court records used prepositus for provosts of manors.

60 Holt (Fn. 26).

61 Michael Prestwich called de Montfort a 'foreigner' several times: Plantagenet England, p. 96. Cf. Lucy Hennings presented a nuanced and considered approach: Hennings, 'Simon de Montfort'. Many thanks to Colin Veach for informing me about this book chapter.

62 Brand (Fn. 7), pp. 359-67.

63 Richardson and Sayles (Fn. 7), pp. 142-4; iidem, Irish Parliament in the Middle Ages, pp. 290-3.

64 Brand (Fn. 7), p. 63.

unte' but never 'shirreve' in the training of future narratores and justices.[65] Beginning c.1268 and lasting until 1290, a series of law reports were made concerning the pleading in the 'Common Bench' (or Westminster Bench). Brand, who edited the reports, uses these law reports as accurate speech in regard to the form of pleading in court (in abstract), but doubts that most of these reports can be taken as verbatim quotes of any named individuals.[66] These Westminster Bench law reports use 'vesconte',[67] 'vicomte',[68] 'viconte',[69] 'visconte',[70] and many instances of the Latin vicecomes. During the reign of Edward I, lists of the counts (opening accusation by the plaintiff) were compiled and recorded into what analysts consider three textual/manuscript series. These lists were originally unlabelled or called Narrationes (counts) and many copies survived.[71] In these manuscripts we find 'viconte',[72] 'vicontes',[73] 'vicount',[74] 'vicounte',[75] 'vicountes',[76] 'viscont',[77] 'visconte',[78] 'viscount',[79] 'viscounte',[80] and 'viscontz'.[81] Another manuscript tradition described by Brand is the Brevia Placitata, a treatise made out of student notes from law lectures that shows changes made to teaching after the creation of the Statute of Gloucester (1278).[82] In the Brevia Placitata, there are 'vesconte',[83] 'vescunte',[84] 'viscont',[85] 'visconte',[86] 'viscounte',[87] and 'viscunte'.[88] The training of thirteenth-century court clerks, attorneys, counters, and serjeants included several variations of viscount and no references to 'shire-reeves'.

65 Dunham (ed), Casus Placitorum, pp. 1, 35.

66 Brand, Earliest English Law Reports, i, cxix-cxx.

67 Brand (Fn. 66), ii, 196v

68 Brand (Fn. 66), i, 74v, 132v, 135v (bis), 144v (bis)

69 Brand (Fn. 66), i, 132v; vol 2, 197v

70 Brand (Fn. 66), ii, 329v (ter), 355v (bis)

71 Shanks and Milsom (eds), Novae Narrationes.

72 Shanks and Milsom (Fn. 71), nos B 240 (in one MS: Rawl. C.245), C 317, C 321, C 329, C 328 (in one MS: Gg.vi.7).

73 Shanks and Milsom (Fn. 71), no. CX 23.

74 Shanks and Milsom (Fn. 71), nos C 336, CX 3.

75 Shanks and Milsom (Fn. 71), nos B 229, B 239, B 240, C 321 (in one MS: Pemb.), CX 1 (bis), CX 2 (bis).

76 Shanks and Milsom (Fn. 71), no. CX 2.

77 Shanks and Milsom (Fn. 71), no. C 317.

78 Shanks and Milsom (Fn. 71), no. C 336.

79 Shanks and Milsom (Fn. 71), nos C 38, C 57, C 320, C 336.

80 Shanks and Milsom (Fn. 71), nos C 308, C 320.

81 Shanks and Milsom (Fn. 71), no. CX 23.

82 Brand, Making (Fn. 7), p. 62.

83 Turner and Plucknett (eds), Brevia Placitata, p. 219 (bis).

84 Turner and Plucknett (Fn. 83), p. 96.

85 Turner and Plucknett (Fn. 83), pp. 173, 208.

86 Turner and Plucknett (Fn. 83), pp. 26, 65, 120 (quinquies), 161 (ter), 173, 185, 223.

87 Turner and Plucknett (Fn. 83), pp. 142, 204.

88 Turner and Plucknett (Fn. 83), pp. 41, 131.

In 1294 Geoffrey de Geneville and Maud de Lacy, his wife, petitioned Edward I to prevent royal ministers in Ireland (the treasurer and the barons of the exchequer) from violating the formers' franchise of their liberty of Trim. In the petition, Geoffrey and Maud said that the treasurer and barons had sent the 'brief au viscounte de Divelin' qe le viscounte ne lessast por la dite fraunchise' (brief/'writ' to the viscount of Dublin that the viscount must not fail [to execute the order] because of the said franchise).[89] This order violated the wording of the original grant of Meath, which had been confirmed several times by inquisitions.[90] Geoffrey and Maud also mentioned that the viscount of Dublin had tried to interfere in the jurisdiction of the viscount of Limerick. Geoffrey had been chief justice or 'justiciar' (capitalis justiciarius) of Ireland in 1273-6 and so was well aware of the terminology of English law.

Just as there is a large lacuna concerning viscountesses as royal administrators in the dictionaries, there is a similar one in the vernacular legal records. While there are notable references in Latin records to vicecomitisse, the vernacular term 'viscontesse' comes from royal letters and petitions.[91] The lack of references to viscountesses in the formulaic registers of writs and law reports does not erase the existence of twelfth – and thirteenth-century viscountesses who exercised power in a misogynistic society. The fortunate instances that do survive tell us how viscountesses were probably addressed in official duties and functions (la viscontesse).

Vernacular Legal Records	Use of Viscount	Written as	Use of Sheriff
Laws of London (c.1212)	10	uescunte, ueskunte	0
Vern. 'Magna Carta' (1215)	7	visconte	0
Vern. Providencia Baronum	2	viesconte, visconte	0
Draft Version of the Provisions of Westminster	9	vescunte, vescuntes	0
Casus Placitorum (c.1250x69)	2	viscounte, viscunte	0
Irish parliament (1278)	6	viscuntes, vescontes, vescuntes	0
Brevia Pacitata (1278x9)	22	vesconte	0
'Law Reports'	14	vesconte, vicomte, viconte, visconte	0
De Geneville/de Lacy petition (1294)	11	viscounte, viscountes	0

Table 1. Usage of a Version of 'Viscount' in Thirteenth-Century Royal Legal Records

89 Sayles (ed), Affairs of Ireland, no. 51

90 For example, from 1289, Edward I and his council at Sarum declared that the liberty of Trim was exempt from royal writs and justices until Geoffrey de Geneville (no mention of Maud de Lacy at that point) defaulted in administering justice: Sweetman (ed), Calendar of Documents, no. 525.

91 For example, NAUK, SC 8/292/14578.

V. Historiography

Usually, a scholar would place the historiographical section near the beginning, but here it is helpful to see the actual medieval usage before learning of the genealogy of 'sheriffing' medieval English viscountships. Where to begin the analysis of the historiography is somewhat hazardous. If we start with seventeenth-century histories of the twelfth and thirteenth centuries, this section would turn into an entire article on its own. But leaving out the older material might give the impression that 'sheriffing' began in the mid-nineteenth century.

Pollock and Maitland's work, The History of English Law, is held in astoundingly high esteem by many historians of medieval English law – despite its age (2nd ed. 1898). It is unfortunate for Maitland that his argument for mistranslation has been accepted almost without critique for so long. Maitland – who wrote the quote below – was not shy to spell out in detail his estimation for English Linguistic Purity:

> *If for a moment we turn from the substance to the language of the law, we may see how slowly what we are apt to think the most natural consequences of the Conquest manifest themselves. One indelible mark it has stamped for ever on the whole body of our law. It would be hardly too much to say that at the present day almost all our words that have a definite legal import are in a certain sense French words… On many a theme an English man of letters may, by way of exploit, write a paragraph or a page and use no word that is not in every sense a genuinely English word; but an English or American lawyer who attempted this puritanical feat would find himself doomed to silence. It is true, and it is worthy of remark, that within the sphere of public law we have some old terms which have come down to us from unconquered England. Earl was not displaced by count, sheriff was not displaced by viscount; our king, our queen, our lords, our knights of the shire are English; our aldermen are English if our mayors are French…*[92]

This quote is full of problematic speech acts. Many legal history scholars – from the nineteenth century until today – use language which excludes women and non-binary people.[93] Angela Harris and Patricia Cain highlighted this problem thirty years ago,[94] but it persists.[95] Maitland implied that people 'of letters' (scholars) were only men despite the existence of women scholars in his own time, including Mary Bateson who he knew and

92 Pollock and Maitland, History of English Law, i, 87-8.

93 The UK government, the UK Office of the Parliamentary Counsel, the UK Government Legal Department, and the Law Society recommend using gender-neutral pronouns: <https://civilservice.blog.gov.uk/2020/01/10/breaking-down-gender-stereotypes-in-legal-writing/>; <https://www.lawsociety.org.uk/topics/hr-and-people-management/using-pronouns-in-the-workplace>; <https://www.interlawdiversityforum.org/guide-to-gender-neutral-drafting>.

94 Harris (Fn. 2); Cain (Fn. 2).

95 Gwen Seabourne noted this and Maitland's distaste for discussing women's legal history: Seabourne, Women, pp. 1-6.

perhaps even respected despite her gender.[96] Maitland also felt that women at Cambridge asking to be awarded degrees was a 'distraction': 'there are these women – drat them'.[97] Elsewhere, Maitland published his three essays on the Domesday Book when he retreated slightly from his stance on Linguistic Purity. Specifically, he noted that when discussing England in 1086: '[i]f we render vicecomes [as] sheriff we are making our sheriff too little of a vicomte. When comes is before us we have to choose between giving Britanny an earl, giving Chester a count, or offending some of our comites by invidious distinctions.'[98] Just as Milroy described, Maitland's process defined 'English' words as not 'French', Latin, or Greek but did include Scandinavian words without justification. This was not a geographically or culturally based argument as many of the words that Maitland thought were 'French' were developed and used exclusively by the English in England and English Ireland.[99] It is important to explicitly state the facts about Maitland since he is still cited and heavily admired by scholars today.

William Morris produced a monograph on the 'medieval English sheriff' in 1927.[100] In it, 244 out of 285 pages are dedicated to 1066-1300 when the term 'sheriff' was not used legally. Morris admits this and even notes that 'vescunte [is] a name which in the legal language of later times [post-1066] becomes viscount'.[101] Morris confirms that 'viscount' is the legal term (for a man). He argues that 'the Norman office' of vicomte did not replace scírgeréfa despite the changes made after 1066 that made the position 'like the vicomte'. He also notes that the term 'scírgeréfa' was an invention of Knútr (1016-35) and that the position of sheriff is not as 'ancient' as some scholars (especially Stubbs) believe.[102]

George Woodbine, who had edited numerous medieval law tracts, released an article on the language of English law for the uninitiated.[103] He was a linguistic formalist and despite mentioning some medieval terminology, referred repeatedly and forcefully to the thirteenth-century English court vernacular as 'French'. He noted that the historiography of the question of the language of the majority of English people, c.1066-1300, had been framed in Marxist conceptions: the argument was that 'French' was 'the regular spoken tongue of the upper classes.' Woodbine may be one of the first legal scholars to suggest that medieval English people were not monoglot. Similarly, he did not attempt to separate out English people into two different groups ('English' and 'Anglo-Norman' or the more problematic 'Anglo-Saxon' and 'Norman'). He did, however, postulate that by the

96 Nicholas Vincent notes that Bateson was a protégée of Maitland: Vincent, 'Magna Carta', p. 653.

97 Letters of Maitland quoted in Seabourne (Fn. 95), p. 3.

98 Maitland, Domesday Book, p. 31.

99 For example, 'mayor' and 'count' are not French words.

100 Morris (Fn. 52).

101 Morris (Fn. 52), pp. 41-2.

102 Morris (Fn. 52), pp. 18-19.

103 Woodbine, 'Language'.

time of Edward I, the 'cradle tongue' was 'English' and that 'French' was acquired only from teachers or special instruction.[104]

Robert Palmer published an extensive study on English county courts (barely mentioning English Ireland) for the period of 1150-1350.[105] He mentioned 'viscontiel' 217 times (excluding headings, glossary, and index), but he never referred to one viscount relating to these viscontiel writs, debts, or duties. All viscontiel writs, debts, and duties supposedly were related to 'sheriffs'. Many of the records that he cites are translated and his translations give the reader the impression that all of these writs were in fact to 'sheriffs', but he does provide a transcription of a vernacular record in one footnote that reads: 'Viscuntes pleident en Cuntez' (viscounts shall hear pleas [whole cases, not just the arguments/pleading] in county courts).[106] He wrote an entire chapter on 'viscontiel writs' and one on 'the sheriff and his staff' but makes no mention that he is changing viscount to 'sheriff' or that women held viscountships. Like Maitland and Morris, Palmer used male pronouns exclusively for indefinite people despite the existence of twelfth – and thirteenth-century viscountesses.

Paul Brand wrote a book chapter on the linguistics of thirteenth-century English law.[107] In it he maintains the formalist brackets but uses 'English' and 'Anglo-Norman' instead of 'English and French' or 'Anglo-Saxon and French'. Brand silently translates vicecomes and viscounte as 'sheriff'. He does take issue with Michael Clanchy's assumption that the majority of dialogue in court was in 'English' and provides evidence to the contrary.[108] Brand, while analysing and discussing linguistics, does not mention or cite any linguistic theories or theorists. He did somewhat break from the tradition of formalism when he noted that the Westminster Bench used 'gallica', but he 'translated' gallica to 'French'.[109]

Louise Wilkinson's contribution was revolutionary for the study of thirteenth-century vicecomites as she produced a piece of work that focused on 'women sheriffs' (vicecomitisse).[110] One of the main arguments for the scholarly use of 'sheriff' instead of viscount is that thirteenth-century vicecomites were believed to have been appointees and not hereditary positions or even held by nobles. Wilkinson elucidated the existence of vicecomitisse, one of whom was a tentatively hereditary vicecomitissa (Ela de Longespée, countess of Salisbury[111]) and the other obtained the viscountship through being a hereditary castellan (Nichola de la Haye[112]). Although men dominated the viscountships

104 Woodbine (Fn. 103), p. 399.

105 Palmer, County Courts.

106 Palmer (Fn. 105), p. 235, n. 29.

107 Brand, 'Languages'.

108 Brand (Fn. 107), p. 64.

109 Brand (Fn. 107), p. 63, n. 3.

110 Wilkinson, 'Women as Sheriffs'.

111 Wilkinson later noted that Henry III of England ensured that Ela's heirs could not claim the viscountship as hereditary even if it had been hereditary earlier: Wilkinson (Fn. 110), pp. 122-3. Cf. Maitland relegated Ela's entire existence to a footnote: Pollock and Maitland, (Fn. 92), i, 509, n. 287.

112 She inherited custody and constableship of Lincoln castle and then her husband purchased custody of the castle and viscountship of Lincoln: Wilkinson (Fn. 110), pp. 112-13.

of thirteenth-century England and English Ireland, to refer to a 'he' for an abstract viscountship is erasing history. These two women were very exceptional but were not the only or first viscountesses in medieval England. The other viscountesses are discussed in the next section.

VI. Personnel of Viscountships

Thirteenth-century English royal viscounts administered royal county courts, not shire moots (scírgemót), and answered to the exchequer for their counties' rents, revenues, etc. By erasing this practice – by referring to all counties as 'shires'[113] and all viscounts as 'sheriffs' – students and scholars are missing the connection between the names and the contemporary conceptions of geography, politics, culture, and law, and are missing the opportunity to study many details that have been 'filtered' out through this 'English Linguistic Purity'. More importantly, some have argued that the vicecomites in England (and by extension, English Ireland) were functionally different from those on the European Continent and so refer to the former as 'sheriffs' to highlight these differences.[114] This is presumably the source of the dictionary mis-definitions. Looking only at the vicecomites of northern France and the Low Counties,[115] we can see that there was no universal definition of the role in those regions and this can, therefore, be extended to others (e.g. Italian peninsula or Iberian peninsula). We should also note the profound lack of discussion of viscountesses/vicecomitisse in all of these discussions.

In Flanders, the vicecomites were exclusively in the southwest on the Picard border. The seigniors of Crecques were briefly vicecomites to the bishops of Thérrouanne.[116] We should probably leave vicecomites in Latin for this situation as the seigniors of Crecques functioned as vidames for the bishops. The title of vicecomes fades from the family but they retained the rights and duties to collect half of the fines, imprison people accused of theft or capital offenses, execute court sentences, maintain order, and receive the right of wreck. The small counties that were nominally under Flemish seigniory – Saint-Pol, Guînes, and Boulogne – all had their own viscounts. Saint-Pol had a viscount named Raimbaud listed as the first among the barons of Saint-Pol in the twelfth century,

113 This practice is not as ubiquitous as 'sheriffing' but it is still deployed. It is not accurate because despite the fact that some counties had 'shire' in their name, they were not legally 'shires' and most counties did not have 'shire' in their name. Even the counties with 'shire' in their name only had that enclitic occasionally – Euerwicsyre (1208-9) versus comitatus Eboraci (1218-19): above, p. 56; Stenton (ed), Rolls of the Justices, p. 420, no. 1143.

114 Hagger, 'Norman Vicomte', p. 81.

115 The structure of society in Normandy obviously influenced England after 1066, but the Low Countries also heavily influenced England. William I's wife was Matilda de Flanders. Henry I's second wife was Adeliza de Louvain. Stephen of England's wife was Matilda, countess of Boulogne. Stephen and Matilda's children became counts and countesses of Boulogne. Medieval culture was not entirely top-down but one cannot deny that the number of ordinary Englishwomen named Agnes, Julia, Maud, etc. that appeared in the twelfth and thirteenth centuries were the result of Continental immigration and influence.

116 Warlop leaves vicecomes in Latin and Nieus translates it to vicomte: Warlop, Flemish Nobility, i, 187, 190; Nieus, 'Vicomtes'.

but although his son inherited the title, the powers, and responsibilities appear to have been absorbed by the seneschal of Saint-Pol.[117] The viscounts in Guînes (were called the 'viscounts of Markene') functioned as feudal seigniors under the counts, but they did not rule a 'viscounty' of Markene. They eventually became one of the peers of Flanders and ceased using the title of viscount.[118] In Boulogne, the viscount appears to have been an appointed administrator and the twelfth-century holders did not even have surnames or loconyms. There are also references to multiple viscounts at one time in Boulogne.[119] To the southeast, in Vermandois and Cambrai, there were no viscounts, and in Champagne the viscounts were hereditary financial bailiffs over towns and markets.

In Ponthieu and Normandy, the counties were subdivided into viscounties (vicomtés or vicecomitatus) and had a viscount for each one, or sometimes, like in England, a viscount administered the entire county. The viscounts of Normandy came from the aristocracy but were still agents/administrators of the duke.[120] Their functions were economic (collect monies), judicial, and peace keeping. The positions were hereditary but also could be confiscated. The viscounts of Ponthieu were not hereditary. Some were locals but were not magnates or nobles. Their functions were judicial and financial: dealt with thefts, controlled duels, made arrests and seizures of debts, settled land disputes, and policed markets.[121] Perhaps the reason many scholars have theorised that English viscounts were not 'viscounts' but instead 'sheriffs' is that the Norman viscounts/vicomtes were believed to hold different functions. Mark Hagger uncovered that many of Charles Haskins's conclusions were based on misreadings of single references (viscounts were not military leaders, did not hold castles ipso facto, etc.).[122] In Normandy, seigneurs (seigniors) had viscounts, even though the former were not counts, and some even had multiple viscounts.[123] In England and English Ireland, there were also seigniorial viscounts.

Assuming (incorrectly) that the English scírgeréfan of the shires were simply rebranded as vicecomites only in Latin writing in 1066x70[124] but were still called 'scírgeréfan' by kings and their courts and that this practice continued uninterrupted until today, there is still a great deal of change and interaction to be studied in the official, legal name change. Blithely stating that vicecomites of the thirteenth century were the same as pre-1066 shire-reeves erases events and facts.[125] We have already learned that vicecomites were officially called viscountes, vicontes, vescuntes, and veskuntes in English courts. More importantly, many of the scholars who employ this practice know that the role and function

117 Nieus (Fn. 116), pp. 297-8.

118 Nieus (Fn. 116), pp. 299-300.

119 Nieus (Fn. 116), pp. 300-1.

120 Hagger (Fn. 114), p. 66; Nieus (Fn. 116), p. 295.

121 Nieus (Fn. 116), p. 297.

122 Hagger (Fn. 114), pp. 67, 69, 70, 80.

123 Hagger (Fn. 114), pp. 66-7.

124 Many scholars note that some of the pre-1066 scírgeréfan did remain in place in 1066 but were replaced within a few years. This study is not concerned with that transition.

125 For example, see Maitland's quote above, p. 63.

of English vicecomites changed significantly in the thirteenth century. Before we get into the specifics of the thirteenth century, it is helpful to briefly discuss England before 1066.

Scholars of Early England have noted that scírgeréfa was not used until the eleventh century and that terms used in England before 1066 were not static.[126] Before mentioning more on scírgeréfan, it is important to note that hundred moots were far more important in Early England than shire moots.[127] The hundred moots were organised by prepositi (portreeves) or motgeréfan (moot reeves), and they were not the kings' reeves. Hudson notes that the word scírgemót (shire moot) does not appear until Edgar (959-75).[128] The hundred moots met every four weeks while, if there was a shire moot, it only assembled twice per year. The few shire moots were supervised by ealdormen and bishops, and the levelling of accusations and seizing the accused was done by thegns.[129] Men who are now labelled 'shire-reeve' (rarely) or 'sheriff' (more often) in secondary literature were in fact called 'scirman' (shire man), king's reeve, reeve, thegn, or a number of other terms. Morris noted that Mercia did not even have 'shires' (a West Saxon concept) until 1000x16.[130]

During Knútr's time, the term scírgeréfa is officially used, and during Edward the Confessor's time, two scírgeréfan held two 'shires' (Toli had Norfolk and Suffolk, and Godric had Berkshire and Buckinghamshire).[131] This contrasts with the post-1066 practice of large viscountships: Hugh de Buckland held eight counties in 1110, and Aubrey de Vere and Richard Basset jointly held eleven counties in the 1120s.[132] The shire moots belonged to the ealdormen or later earls (a rendering of 'jarl' from Old Danish or Old Norse), and Edward sent letters to the bishop, the earl, and the thegns of a shire, and not to the shire-reeve.[133] A great deal of the information known about scírgeréfan in England before 1066 is from the Domesday Book. Just as modern scholars have rebranded viscounts as 'sheriffs', the Domesday Book clerks rebranded scírgeréfan as 'vicecomites'. Repeating this same anachronism is not helpful. Prior to 1066 the only Latin term applied to scírgeréfan was iudex comitatus.[134]

For the royal viscountships of the thirteenth century, there are some rough parameters to list. The viscounts and viscountesses were (ipso facto) royal officials who performed executive and some judicial duties and were responsible for financial payments and receipts from their viscountships. Similar to the pre-1066 ealdorman, the holders of viscountships were charged with supervising county courts but without a bishop co-super-

126 Morris (Fn. 52), pp. 1-39; Wormald, 'Frederic William Maitland', p. 1; Hudson, Oxford History, pp. 37-40. Hudson even notes that people he calls 'sheriff' were not labelled as such in the sources: ibid. p. 49, n. 42.

127 Hudson (Fn. 126), pp. 50-5; Karn, Kings, Lords, pp. 1-10.

128 Hudson (Fn. 126), p. 48.

129 Hudson (Fn. 126), pp. 49, 204.

130 Morris (Fn. 52), p. 8, n. 61. See also, Hudson (Fn. 126), p. 38; Karn (Fn. 127), pp. 5-7.

131 Morris (Fn. 52), pp. 18-19, 24.

132 Hudson (Fn. 126), p. 265. See also, Table 2 below.

133 Morris (Fn. 52), pp. 25.

134 Morris (Fn. 52), p. 23.

vising. Morris, in his study on sheriffs, noted that priests and deacons were not allowed to be geréfan (reeves) before 1066 and Pope Alexander III ordered that no one in sacred orders could be a viscount or secular provost.[135] Numerous bishops, however, were viscounts in the thirteenth century.[136] William, bishop of Worcester, held Shropshire and Stafford for a half-year (Feb-Michaelmas 1224).[137] Walter Mauclerc, bishop of Carlisle, was viscount of Cumberland in 1223-33, and Robert, bishop of Carlisle, was viscount of Cumberland in 1270-2.[138] Peter des Roches, bishop of Winchester, was viscount of Hampshire, in 1232-4.[139] Walter, archbishop of York, held Nottingham and Derby in 1271-4.[140]

Besides the royal viscountships established in England after 1066x70, there were also English liberties and seigniories with seigniorial viscounts.[141] William le Gros, count of Aumale and York, had personal viscounts in Co. York during the reigns of Henry I and Henry II. The rapes (subdivisions) of Sussex had viscounts under their respective seigniors. The counts of Gloucester had viscounts in Glamorgan, and the bishops of Durham had one in their liberty.[142] The liberty of Leinster had four viscounts even after it was split into five parcenaries for the heirs of the five daughters of Isabella de Clare and William Marshal.[143] The liberty of Meath had a viscount under the seneschal.[144] The viscounts were listed in charters and inquisitions, along with liberty justices, as acceptable and legal aspects of the liberties.

Similar to some areas (but not all) on the European Continent, viscountships could be hereditary. Urse d'Abetot received the viscountship of Worcester in c.1069 and it was considered a hereditary grant for over 250 years. Urse had built Worcester Castle and it passed along with the position.[145] His son was viscount, c.1110-c.1115. After Roger fitz Urse was banished, the viscountship passed to Walter de Beauchamp, husband of Urse's daughter. The des Beauchamps held onto the viscountship (with a few breaks) for several centuries.[146] In addition to Worcester, William de Beauchamp held the viscounty of

135 Morris (Fn. 52), pp. 13, 14, 22, n. 39, 113; Stubbs (ed), Chronicle, i, 85.

136 For earlier, John Sabapathy noted Hilary, bishop of Chichester, was viscount of Sussex in 1154-5: Sabapathy, Officers, p. 84, n. 6. Geoffrey, archbishop of York, paid to be viscount of York in 1194: Lists of Sheriffs, p. 161.

137 Lists of Sheriffs, p. 117.

138 Lists of Sheriffs, p. 26.

139 Lists of Sheriffs, p. 54.

140 Lists of Sheriffs, p. 102.

141 A lack of records concerning seigniorial viscountships in the twelfth and thirteenth centuries should not lead us to assume that there were no seignorial viscountesses.

142 Morris (Fn. 52), pp. 108-9.

143 Otway-Ruthven, 'Medieval County', p. 188. For background on the partition, see Orpen, Ireland, pp. 319-35.

144 Sweetman (Fn. 90), no. 525; Mills and McEnery (eds), Calendar of the Gormanston, pp. 5-6, 13, 169, 176-7.

145 Morris (Fn. 52), pp. 43, n. 20, 46-7, n. 47, 51, n. 63, 76; Lists of Sheriffs, p. 157.

146 Morris (Fn. 52), pp. 79, 85, 108, 112, 180-1. The family held onto the viscountship well past the end of this study.

Bedford and Buckingham in 1235-7.[147] The viscountship of Cornwall had been attached to the countship of Cornwall in its earlier conceptions and had remained that way when it was given to Richard, brother of Henry III, in 1225.[148] Robert de Vieuxpont received the viscountship of Westmorland in fee in 1203.[149] He held it until he died, then Hubert de Burgh held it on behalf of Robert's underage son John, who inherited it in 1234. After John, it passed to his son Robert and then to Robert's two surviving daughters as coheirs, Isabella de Clifford and Idonea de Leybourne.

It appears that the hereditary viscountships led to the understudied phenomenon of viscountesses. Besides the two viscountesses examined by Wilkinson, there were at least four more definitive viscountesses and two possible ones. Beginning with the earliest, Juliana fille Richard Winton accounted for £43 5s. 1d. of the old farm of counties Buckingham and Bedford in 1129-30.[150] In 1129-30, everyone else on the list was a current or former viscount so Juliana probably was a former viscountess of Buckingham and Bedford.[151] Accounting for the farm of a county was the duty and role of a viscount/viscountess. If she had been delivering the account for someone else, the record would have stated such. There was an unnamed viscountess in c.1157 who was financially in charge of Co. Devon.[152] We do not know if she held any military or judicial duties. The count of Devon, Richard de Redvers, rendered her account (compotus) to the exchequer and she, the viscountess, was acquitted (liberauit). This accounting on her behalf was a common oc-

147 Lists of Sheriffs, p. 1.

148 Immediately before Richard, both positions had been held by Henry fitz Count, count of Cornwall and John of England's cousin, but Henry had been disseised by the regency: Morris (Fn. 52), pp. 45, 123, 177, 181.

149 Morris (Fn. 52), pp. 179-80; Lists of Sheriffs, p. 150. He later held the viscounty of Nottingham and Derby in 1204-8: Lists of Sheriffs, p. 102.

150 Hunter (ed), Magnum Rotulum, p. 100; Green (ed), Great Roll, p. 80.

151 Curtis Walker assumed that Juliana had to be accounting for her father but provided no proof: Walker, 'Sheriffs', pp. 67-8.

152 She is not named in the Pipe Roll (only 'vicecomitissa liberauit per breve Regis'). An Adeliza/Adelicia is named as hereditary viscountess (vicecomitissa) in the Monasticon Anglicanum, where it is said that she was the sister of Richard fitz Baldwin. Richard had been viscount of Devon and castellan of Exeter Castle, and Baldwin had been given the barony of Okehampton. The problem is that the Monasticon Anglicanum and the Annales Plymptoniensis claim that Adeliza died in 1142, fifteen years before the entry in the Pipe Roll. The viscountess from 1157 was most likely another woman entirely. Adeliza's heir was Maud d'Aranches, her granddaughter, who was married to William de Curci (d.1162), so Maud was unlikely to have had control of the viscountship while married, and there is no record of William claiming the viscountship. There may be an earlier reference (1154) to an Adeliza in the register of the priory of Plympton (Bodleian Library, MS Tanner 342 fol. 177v, quoted in the DMLBS) which states that 'precipio quod permittas ecclesiam et canonicos de Plimpton tenere elemosinas omnes quas Atheliza vicecomitissa filia Baldwini eis dedit': order that the church and canons of Plympton have all of the alms that Viscountess Adeliza fille Baldwin gave to them. This grant is interesting because Plympton was the de Redvers's honour and the latter were rivals with the barons of Okehampton for control of Devon and the viscountship. It seems unlikely that the viscountess in 1157 was Count Richard de Redvers's wife, Denise, or stepmother, Lucy. Richard's grandmother, Adeliz/Alice de Redvers, was still alive but she was called not usually given any title in her surviving charters and she was at least 80: Hunter (ed), Great Roll, 1155-8, pp. 157-8; Cokayne, Complete Peerage, iii, 100-1; Dugdale, Monasticon, v, 377-8; Bearman, Charters, pp. 3, 8-9, 11, 59-63; 'uicecomitissa', brepolis.net/dmlbs; Fizzard, Plympton Priory, pp. 62, n. 27, 83, 89, n. 165.

currence and had no bearing on the power afforded to her as the viscountess. Emma, viscountess of Rouen, accounted for the farm of Southampton and a manor in Co. Surrey in 1158-61.[153] Anselm, her predecessor in Rouen, had also held the same farms in England. While her viscountship (vicomté) was in English roy's lands in Normandy, her title was recognised in England where she held similar administrative duties on a slightly smaller scale. She was only named as 'the viscountess of Rouen' in the Pipe Rolls, but she was identified by scholars of twelfth-century France.[154] Her children were known as Geoffroi fils vicomtesse (Geoffrey fitz Viscountess) and Hugo fils vicomtesse (Hugh fitz Viscountess) demonstrating her social status. Two additional thirteenth-century viscountesses escaped Wilkinson's study. After Robert de Vieuxpont died, his two daughters, Isabella and Idonea, inherited his lands and titles, including the viscountship of Westmorland. After both women's husbands died, the sisters held the viscountship as almost co-viscountesses.[155] Isabella de Clifford, the elder, claimed the title of 'viscountess' and the right to appoint the sub-viscount who would perform their duties, and Idonea de Leybourne, the younger, agreed on the condition that she would approve the appointments. It seems that their ancestors had also appointed sub-viscounts.[156] The agreement was witnessed in the exchequer. After Isabella died, Idonea remained as the secondary co-viscountess (and was referred to as 'viscountess' in records) and her nephew, Robert de Clifford, inherited the elder position from his mother.[157] They held the position for several years, well into the fourteenth century. Finally, also in the fourteenth century (1301), Margaret de Clare, countess of Cornwall, received the viscountship of Rutland (but not Cornwall) on the death of her husband.[158] She held it for two years.

The counties and viscountships established in English Ireland were entirely new inventions and had no previous position from which to claim a heritage. One viscountship was hereditary at its creation in English Ireland. In 1215, Thomas fitz Anthony was granted the county of Waterford, the castles of Waterford and Dungarvan, the royal demesnes in Waterford except the city, county of Desmond, the city of Cork, and the royal demesnes for 250 marks per year.[159] The splitting of Co. Desmond into two new coun-

153 Great Roll, 1158-1159, pp. 50, 56; Great Roll, 1159-1160, pp. 22, 33; Great Roll, 1160-1161, p. 54; Great Roll, 1161-1162, p. 39.

154 Six, 'Vicomtesse Emma'. Six names older scholars who had also examined or mentioned Viscountess Emma.

155 Nicolson and Burn, History and Antiquities, pp. 272-3; Duckett, 'Sheriffs', pp. 302-3.

156 Duckett (Fn. 155), pp. 289-92. Duckett also calls them 'pro-vicecomites' and lists most viscounts of Westmorland as actually being sub – or pro-viscounts under the de Vieuxponts. His list does not list Idonea serving along with her sister but does have her serving as co-viscountess with her nephew, Robert de Clifford, and states that Idonea was married to John de Crumwelle while being a viscountess! This would make her situation profoundly different from the other viscountesses who appear to have been widows while serving. His Latin transcripts show that appointments under Roger de Clifford were considered sub-viscounts (under Roger) by the exchequer.

157 Nicolson and Burn (Fn. 155), p. 273; Duckett (Fn. 155), pp. 302-4; List of Sheriffs, p. 150.

158 List of Sheriffs, p. 112. Her husband, Edmund de Almain, was viscount of Cornwall (by right of being count of Cornwall) and of Rutland.

159 Otway-Ruthven, 'Anglo-Irish', p. 2.

ties (Cork and Kerry) did not end the fitz Anthony viscountship. Many of the hereditary viscountships in England were interrupted by the disturbances of 1204, 1215-17, 1223-4, 1236, and 1258-66, but de Beauchamp (Worcester) and de Vieuxpont/de Clifford (Westmorland) were able to keep their viscountships in the long term. The Geraldines of Desmond, who had inherited the hereditary viscountship of Desmond, lost it between 1284 and 1292 and were granted the hereditary 'beadleries' or chief sergeanties of counties Waterford, Cork, and Kerry in exchange.[160]

One common conception of thirteenth-century 'sheriffs' to differentiate them from Continental viscountships, is the idea that they were all short-term appointments of local or curial men.[161] Just as in Normandy, many English nobles (men and women) held royal viscountships in England, and many of those held multiple viscountships at once (see Table 2, below). The nobles that held several viscountships – some of the English viscountships were already combined counties instead of subdivisions of a single county – probably did not personally conduct peace keeping, the hundred courts, and possibly even the county court. English Ireland had sinecure viscounts. Otto de Grandison was viscount of Tipperary but was not physically present in Ireland. His bailiff appears to have served as his locum tenens.[162] Thomas de Clare, seignior of Thomond, was viscount of Limerick in 1274-6, but did not fulfil this position personally. His son, Richard de Clare, was viscount of Cork in the early fourteenth century (1309, 1312-16).[163] There are also a few references to 'viscountesses' who were the wives of viscounts implying that those viscountships were considered hereditary and noble.[164]

Name	Title	Viscountship	Years
William Marshal	count of Pembroke	Gloucester	1193, 1198-1207
William de Warenne	count of Surrey	Northumberland Surrey	1212-14 1217-26
Ranulf de Blondeville	count of Chester and Lincoln	Lancashire Shrop & Staff	1216-22 1216, 1217-23

160 Otway-Ruthven (Fn. 159), pp. 2-3, 22-3.

161 David Carpenter produced a lengthy analysis of the shift from politically connected curiales to local knights and minor tenants-in-chief but also mentioned that William Marshal held Gloucester (1204), the count of Chester held three counties (1223-4), and that the viscountship of Worcester was a hereditary position. He interestingly said that William Marshal and William de Longespée were curiales: Carpenter, 'Decline', pp. 7, n. 4, 8, 11, 17, n. 5. Sabapathy thought that 'shrievalties' (viscountships) were not hereditary but theorised that successive members of a family could hold them, and he made no mention of the many noble viscounts/viscountesses or of the recognised hereditary nature of Westmorland (in exchequer records): Sabapathy (Fn. 136), pp. 83-5.

162 Hartland, 'Household Knights', pp. 165-6.

163 Hartland, 'English Lords', pp. 339-40.

164 Maitland noted that Berta Vicecomitissa was the wife of Ranulf Glanvill, viscount of York: Pollock and Maitland (Fn. 92), i, 509, n. 287. The mother of Walter de Gloucester (he and his father were viscounts of Gloucester), Adeliza, was called 'Adeliza vicecomitissa' in 1129 when supposedly Miles de Gloucester, her grandson, was viscount of Gloucester: Hart (ed.), Historia et Cartularium, pp. 81, 125.

William de Longespée	count of Salisbury, jus uxore	Camb & Hunt Devon Lincoln Shrop & Staff Somerset Wiltshire	1212-16 1217-21 1223 1223 1217 1199-1203, 1204-7, 1213-26
Nichola de la Haye	baroness of Brattleby, castellan of Lincoln	Lincoln	1216-17
Richard, brother of Henry III	count of Cornwall (1225)	Berkshire Cornwall	1217-20 1225-72
Ela de Longespée	countess of Salisbury	Wiltshire	1227-8, 1231-7
William de Ferrers	count of Derby	Lancashire	1223-8
John de Lacy	count of Lincoln	Cheshire	1237
Humphrey de Bohun	count of Essex	Kent	1239-41
William de Forz	count of Aumale	Cumberland	1255-60
John de Plessetis	count of Warwick	War & Leic	1261
Lord Edward	primogenitus regis	Bed & Bucks Hereford Wiltshire	1266-70 1269-70 1272
Edmund Crouchback	count of Leicester, Lancaster, Derby, and Champagne	Lancashire	1267-84
Thomas de Clare	seignior of Thomond	Limerick	1274-6
Edmund de Almain	count of Cornwall	Cornwall Rutland	1278-1300 1288-1300
Thomas de Lancaster	count of Lancaster, Leicester, Derby, Lincoln, and Salisbury	Lancashire	1298-1320
Margaret de Clare	countess of Cornwall	Rutland	1301-3

Table 2. Nobles Who Held Viscountships[165]

VII. Conclusions

This legal-linguistic examination will hopefully encourage new avenues of research. Louise Wilkinson noted that Nichola de la Haye was referred to, twice, in masculine terms while she was performing bellicose duties ('castellum viriliter custodiebat': she defended the castle manfully in 1191 and 'viriliter se defendit': she manfully defended herself

[165] Lists of Sheriffs, p. 49; Lists of Sheriffs, p. 97; Lists of Sheriffs, p. 135; Lists of Sheriffs, p. 72; Lists of Sheriffs, p. 117; Lists of Sheriffs, p. 12; Lists of Sheriffs, p. 34; Christmas 1223-February 1223/4: Lists of Sheriffs, p. 117; Lists of Sheriffs, p. 117; Lists of Sheriffs, p. 122; Lists of Sheriffs, p. 152; Wilkinson (Fn. 110), pp. 112-19; Lists of Sheriffs, p. 6; Morris (Fn. 52), p. 181; Wilkinson (Fn. 110), pp. 119-24; Lists of Sheriffs, p. 72; Lists of Sheriffs, p. 17a; Lists of Sheriffs, p. 67; Lists of Sheriffs, p. 26; Half-year, did not account: Lists of Sheriffs, p. 144; Lists of Sheriffs, p. 1; Lists of Sheriffs, p. 59; Lists of Sheriffs, p. 152; Lists of Sheriffs, p. 72; Hartland (Fn. 163), p. 339; Morris (Fn. 52), p. 181; Lists of Sheriffs, p. 21; Lists of Sheriffs, p.112; 28 Lists of Sheriffs, p. 72; Lists of Sheriffs, p. 112.

[inside Lincoln Castle] in 1217).[166] Were the other medieval viscountesses masculinised? This masculinisation of Nichola was to highlight that her actions were not stereotypically 'feminine' or 'womanly' for early thirteenth-century English society. In a time before homosexuality, bisexuality, and transmen were recognised or accepted, the ramifications of Nichola being described in these terms may seem minor to some readers now, but that does not mean we should ignore the possibility that this gendering language had wider connotations than bravely performing feudal castle duty. When analysing the framing and depictions of medieval viscountesses, intersectionality will be pertinent as the viscountesses appear to have all been nobles. The expectations of the duties to be performed personally by a countess acting as a viscountess should be compared to those expected of a count acting as viscount,[167] and additionally the viscountesses should be compared to the other noble women who performed similar functions. Maud de Lacy was made custodian of Windsor Castle in 1249 and successfully sued to recover the custody in 1253.[168] Isabella de Mortimer received custody of castles in the March of Wales in 1272 and 1280.[169] If some of these women acted through bailiffs or seneschals, that should be compared to the noble men who did the same.

Viscounts in thirteenth-century English courts could be appointed administrators (curiales or locals), bishops, or a rather powerful count or countess. The viscountesses were probably all of upper status, if not nobility, and do not appear to have been clerical or bureaucratic appointments. They were not alone as many noble men inherited viscountships or received them as political rewards. The position (viscountship/vicecomitas) was not a monolith. Several – at least six (if not eight or more) overall and four in the thirteenth century – were women. In vernacular court and legal records, the men were called viconte, vescunte, viscounte, etc., and in royal letters the women were called viscontesse. None were called 'sheriff', 'shire-reeve', or 'woman sheriff' in royal courts. Legally they were not sheriffs. When the idea of English courts and English law was brought to Ireland by English people, they did not bring certain popular terms from the historiography. Many scholars look back to the thirteenth-century courts through the eyes of Blackstone, Wordsworth, or Stubbs, but eighteenth – and nineteenth-century antiquarians had no issue with ethics of translation, colonialism, or erasing historical women with power. For them, 'he' did include everyone that mattered, and there was no problem with labelling French, Italian, or Spanish vicecomites as 'sheriffs' and comites as 'earls'. The tenth-century scírmen and eleventh-century scírgeréfan were remarkably different from the viscounts and viscountesses. Ealdormen might control multiple shires, but shire-reeves did not. The name scírman indicates that this position was probably impossible for women to hold, but the nature and survival of records from Early England obscure any investigation of possible 'shirewomen'. Like the vicomtes and vicomtesses of Normandy, the Eng-

166 Wilkinson (Fn. 110), pp. 114, 117.

167 Louise Wilkinson provides a good example of this when discussing Ela and William de Longespée: Wilkinson (Fn. 110), p. 123.

168 Black and Isaacson (eds), Calendar Patent Rolls, 1247-58, p. 52; Stamp (ed.), Close Rolls, 1251-3, p. 444.

169 Cavell, 'Intelligence and Intrigue', pp. 4, 11; eadem, 'Aristocratic Widows', pp. 72–75

lish viscounts and viscountesses did not hold castles ipso facto, but a few exceptions existed. For legal studies of thirteenth-century English law precision is usually paramount. A scholar might object to 'loose' phraseology such as 'report to the exchequer' instead of 'answer' in regard to escheated chattels. The question is why then do scholars choose to use imprecise language concerning certain persons in court. I do not believe 'tradition' is a scientific answer.

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