TRIALS IN ARTHURIAN ROMANCE

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By

GAIL AMY WATTS, B.A.

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AUTHOR: Gail Amy Watts, B.A. (Queen's University)

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Gail A. Watts.

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INTRODUCTION

The judicial procedures present in Arthurian romances are sometimes of major dramatic importance and, at other times, merely incidental in a hero's knightly career. They merit attention in that they provide vivid illustrations of a facet of medieval life.

Fourteen Arthurian works are considered in this study. These are separated in time by as much as one hundred and fifty years, the earliest being composed in the mid-twelfth century and the latest in the last decades of the thirteenth century. Their relative date of composition is not of paramount importance in this study, as legal procedures and concepts of justice evolve gradually in any only period of history.

The trials, twenty in all, are grouped according to the type of dispute, the first type being those in which the ties of lordship and vassalage play a part. Following are those in which the accuser and accused have no ties. Thirdly, examples of civil disputes will be discussed, and, lastly, trials concerning crimes against God.

There will follow a more general view of the laws of the period. The place of God in the romances will be traced and an idea gained of the spirit of the law. Finally, the role of judicial processes in the romances will be discussed.

Comparison of the trials with what is known of the legal system of these centuries will show that the authors most probably utilized personal knowledge of contemporary law in their writings. This conclusion leads to an acceptance of the trials as illustrations of a legal system, both barbaric and subtle, and presumes an agreement on the part of the medieval readership with the moral viewpoint expressed.

Other studies have been made in this field, in particular, Iseut's trial in Beroul's Tristran has been much commented on. F. C. Riedel, in his Crime and Punishment in the Old French Romances,[1] has dealt with eight of the same works, together with many other non-Arthurian romances. His study, although not specifically an analysis of the trials, has been an invaluable aid in my research.

Reference to treatises, legal authorities and to Riedel and other scholarly works will be made in conjunction with and following examination of the trials themselves. As approximately the same accusatory procedure was in use in Norman England as in France in the period under discussion, both English and French treatises and authorities will be used.

Although this study is primarily concerned with Arthurian romances, I have felt justified in giving some consideration to the trials in two well-known early works,

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[1] New York: AMS Press, 1966. Hereinafter referred to as Riedel.

with which the authors of the Arthurian romances may have been acquainted. In the famous epic, La Chanson de Roland,[1] written at the end of the eleventh century or the beginning of the twelfth century (Roland, p.vi), the trial occurs late in the story, but the events leading up to it begin much earlier and provide much of the drama.

Roland suggests that Guenelun be sent to see Marsile, the Saracen king. Guenelun clearly sees this as a treasonable act and does not expect to return alive:

> "Sire," dist Guenes, "ço ad tut fait Rollant,
> Ne l'amerai a trestut mun vivant,
> Ne Oliver, por ço qu'il est si cumpainz,
> Li duze per, por qu'il l'aiment tant;
> Desfi les ci, sire, vostre veiant."
> Co dist li reis: "Trop avez maltalant,
> Or irez vos certes, quant jo.l cumant."
> "Jo i puis aler, mais n'i avrai guarant; Aoi.
> Nul out Basilies, ne sis freres Basant." (ll.322-330)

He arranges with Marsile that, as the army leaves Spain, the Saracens attack the rear guard of which Roland is sure to be a part. The rear guard is attacked and, when almost all the Franks are killed, Roland at last blows his horn to summon aid. Guenelun assures all that Roland is merely hunting, but the army finally turns back. When it is discovered that the rear guard has all perished, Charlemagne has Guenelun seized as a traitor:

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[1] ed. F. Whitehead, 2nd ed. (1946; rpt. Oxford: Blackwell; 1968). Hereinafter referred to as Roland.

Li reis fait prendre le cunte Guenelun,
Si.l cumandat as cous de sa maisun,
Tut li plus maistre en apelet, Besgun:
"Ben le me guarde si cume tel felon!
De ma maisnee ad faite traïsun." (ll.1816-20)

After Charlemagne's vengeance against the Saracens, Guenelun is returned in chains to Aix and the King calls for his trial; all the barons gather:

Asemblez sunt ad Ais a la capele.
Halz est li jurz, mult par est grande la feste,
Dient alquanz, del baron seint Silvestre.
Des ore cumencet le plait e les noveles
De Guenelun ki traïsun ad faite.
Li emperere devant sei l'ad fait traire. Aoi.
(ll.3744-49)

The King formally accuses Guenelun:

"Seignors barons," dist Carlemagnes li reis,
"De Guenelun car me jugez le dreit!
Il fut en l'ost tresque en Espaigne od mei,
Si me tolit.xx.milie de mes Franceis
E mun nevold que ja mais ne verreiz,
E Oliver, li proz e li curteis;
Les .xii. pers ad traït por aveir." (ll.3750-56)

Guenelun denies having been a traitor, but admits that he wished for Roland's death:

Dist Guenelon: "Fel seie, se jo.l ceil!
Rollanz me forfist en or e en aveir,
Pur que jo quis sa mort e sun destreit;
Mais traïsun nule nen i otrei." (ll.3757-60)

He tells of Roland's action against him, and states that he did deliver the "desfi" to Roland, Oliver and their companions:

"Por amor Deu, car m'entendez, barons!
Seignors, jo fui en l'ost avoec l'empereür,
Serveie le par feid e par amur.
Rollant sis nies me coillit en haür,
Si me jugat a mort e a dulur.

Message fui al rei Marsiliun,
Par mun saveir vinc jo a guarisun;
Jo desfiai Rollant le poigneor
E Oliver e tuiz lur cumpaignun,
Carles l'oïd e si nobilie baron;
Vengét m'en sui, mais n'i ad traïsun." (ll. 3768-78)

While the court deliberates, Guenelun secures the aid of thirty kinsmen, in particular, Pinabel, who offers to be his champion, if need be. The judgment, delivered with all present, is that Guenelun should go free and that the matter be dropped. The main desire of the court is to avoid bloodshed:

Dist l'un a l'altre: "Bien fait a remaneir.
Laisum le plait e si preium le rei
Que Guenelun cleimt quite ceste feiz,
Puis si li servet par amur e par feid.
Morz est Rollant, ja mais ne.l revereiz,
N'ert recuvrét por or ne por aveir:
Mult sereit fols ki or se cumbatreit." (ll. 3798-3804)

Only one man, Tierri, a distant relative, is willing to fight for the King over the matter. He gives his reason for dissenting; that, even if Roland had wronged Guenelun, he was acting in the King's service, and should have been protected by that fact. Therefore, Guenelun is guilty of treason and felony and should be hanged. He is willing to back his judgment with his sword against any of Guenelun's kinsmen:

"Que que Rollant a Guenelun forsfesist,
Vostre servise l'en doüst bien guarir,
Guenes est fels d'iço qu'il le traït,
Vers vos s'en est parjurez e malmis.
Pur ço le juz jo a pendre e a murir,
E sun cors metre...
Si cume fel ki felonie fist.
Se or ad parent ki m'en voeille desmentir,

A ceste espee que jo ai ceinte ici
Mun jugement voel sempres guarantir." (11.3827-36)

Pinabel comes before the King and assembled barons, offers to fight Tierri to prove his judgment false. He offers his right glove:

E dist al rei: "Sire, vostre est li plaiz:
Car cumandez que tel noise n'i ait!
Ci vei Tierri ki jugement ad fait,
Jo si li fals, od lui m'en cumbatrai."
Met li el poign de cerf le destre guant. (11.3841-5)

The King asks for 'pleges' and thirty of Guenelun's kinsmen come forward. They are to be guarded until the battle has been decided:

Dist li empereres: "Bons pleges en demant."
.xxx. parenz li plevissent leial.
Ço dist li reis: "E jo.l vos rec [re] rrai."
Fait cels guarder tresque li dreiz en serat. Aoi.
(11.3846-9)

Tierri also presents his right glove to Charlemagne; they are summoned by the judgment of the others:

Quant veit Tierri qu'or en ert la bataille,
Sun destre guant en ad presentét Carle.
Li emperere l'i recreit par hostage,
Puis fait porter .iiii. bancs en la place;
La vunt sedeir cil ki.s deivent cumbatre.
Ben sunt malez par jugement des altres,
Si.l purparlat Oger de Denemarche;
E puis demandent lur chevals e lur armes. (11.3850-7)

The combatants confess, are absolved and given the benediction; they hear mass and take communion, make offerings to the minster, go before the King and are clothed ceremonially (113858-69).

During the combat, when both are fighting on foot, Pinabel tries to get Tierri to announce himself beaten, saying that he, Pinabel, will be Tierri's "man", but Tierri replies

that that would be dishonourable, and that God will decide (ll.3896-8). Tierri tries to get Pinabel to give himself up, saying that justice will be done towards Guenelun but that he will try to reconcile Pinabel with the King; but Pinabel replies that that, too, would be dishonourable (ll.3906-9). Tierri, though badly wounded, kills Pinabel; the King asks his counts and dukes what to do with the "pleges". It is decided that they should all die and they are hanged:

> "Que me loëz de cels qu'ai retenuz?
> Pur Guenelun erent a plait venuz,
> Pur Pinabel en ostage renduz."
> Respundent Franc: "Ja mar en vivrat uns."
> Li reis cumandet un soen veier, Basbrun:
> "Va, si.s pent tuz a l'arbre de mal fust!" (ll.3948-53)

Guenelun is also to die and he is torn apart by four horses (ll.3960-72).

This trial gives a very vivid picture of court procedure; the King accuses, Guenelun offers his defense, the assembled barons deliver their judgment, for Guenelun. Tierri issues a new accusation, and offers to prove it in combat; Pinabel accepts this challenge. Charlemagne demands hostages (pleges) and thirty kinsmen volunteer. None is requested of the accuser, Tierri. When Pinabel is killed, the hostages lose their lives and Guenelun is executed in a manner that must emphasize the dreadful fate of traitors. His crime: felony and treason against his lord:

> Guenes est mort cume fel recreant,
> Hom ki traïst altre, nen est dreiz qu'il s'en vant!
> (ll.3973-4)

Le Roman de Thèbes[1], a mid-twelfth century work (Thèbes, I, xxvi), contains a very similar trial, dealing with the same crime and defense but the procedure ends abruptly when the accuser withdraws his charge.

Daire le Roux's son has been captured by Polinicés' forces and is sent with a message to his father. He will be released by Polinicés if his father yields his tower in the assault of Thèbes. Daire sends him back with precious gifts but says to his son that he cannot betray his lord, Ethioclés (11.7383-4). He will try to reason with the king and, if the occasion arises, will try to save his son.

Shortly after, he gives advice to the King concerning uncertain allies and the King treats him very badly. Daire replies that he has spoken honourably and reminds the King that one could claim that they have all broken faith with the King's brother:

> "car jurasmes lui sanz engan
> que il avroit l'ennor son an,
> et pour nos giter de parjure
> li devez rendre sa droiture." (11.7607-10)

The King, in his anger at this reply, seems to be releasing Daire from his "vassalage":

> "D'une rien te doing plain congié:
> congié te doing de moi mal fere;
> ja de riens ne t'en quier retrere.
> Faux, enrievres, de pute foi,
> fai quanque puez et je l'otroi." (11.7624-28)

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[1] ed. Guy Raynaud de Lage, Les Classiques Français du Moyen Age, 2 vols. (Paris, 1966). Hereinafter referred to as Thèbes.

After further angry words, Daire flees from the King's rage. He considers himself free now to aid his son and delivers his tower into the hands of Polinicés.

When Daire is brought in as a prisoner, the King says that he will have him burned as a traitor. Daire gives his defense, that the King, in his treatment of him, had given Daire leave to act against him if he would:

> "Congié me donnastes por voir
> de vos mal faire a mon pooir;
> jel cuidai faire, mes ne poi;
> engingnié l'é si com miex soi." (11.7779-82)

The King wishes to have him burned immediately, but is advised by Othon to have him judged first. He calls all his barons together and asks them to decide how Daire is to be executed:

> "Seignor, fet il, dites me droit
> de cest mien traïtor revoit,
> savoir quel justice en feré:
> ferai le pendre ou je l'ardré?
> A vous le veull fere jugier,
> en quel guise m'en doi vengier." (11.7801-06)

Again Othon counsels them, saying this time that they ought to wait till the following day for the trial rather than kill him in the heat of anger:

> "Ne soumes ore pas en leu
> tant com l'ire est atot le feu." (11.7837-8)

Creon adds his advice:

> "Mout haz, fet il, enrievreté
> et forfait en grant pouesté.
> Diex maudie enrievre seingnor,
> car ja bien ne tendra honnor." (11.7871-4)

The King will not allow it and the trial continues. Alis

speaks first, saying that, if he is judged a traitor, he has no right to life or limb but, if he is defended against this charge, then he will not lose life or limb but:

> "en merci soit vers son seignor
> de son avoir et de s'annor." (11.7909-10)

Othon offers to defend him and states that the King's striking of Daire did release Daire to do as he would. Therefore, Daire forfeits neither life nor limb and is not guilty of treason (11.7915-24). Creon argues, on the other hand, that Daire is guilty by his silence; he did not announce his intentions:

> "Se li rois son baron leidist,
> Daires se tut et si sousfri,
> ne le roi a raison mist,
> ne de ce droit ne li requist,
> ne il le roi ne desfïa,
> ne li rois droit ne li vea." (11.7929-34)

He does not consider a little anger sufficient reason for desiring one's Lord's disinheritance and claims that there ought to have been a lapse of forty days before hostile action:

> "Droit deüst querre, osfrir et prendre,
> a quarante jourz puis atendre;
> droit deüst querre et droit osfrir,
> a quarante jourz puis sousfrir." (11.7941-44)

The argument continues until Jocaste intervenes. She advises her son that no good can come of Daire's execution; his friends will want to avenge him; besides, they are in the midst of a war. Antigone arrives with Daire's daughter, of whom Ethiocles is enamoured, and Jocaste adds this reason

for pardoning Daire. This decides him, as his mother and sister assure him that the daughter will marry him now. He sends a message to his barons:

> As jugeors uns mes en vet
> qui leur dit com li rois a fet. (ll.8091-2)

Creon disapproves of the fact that the King has arrived at a decision, not by having listened to the counsel of wise men, but by having been swayed by women (ll.8097-8110). The others disagree:

> Othes repont: "Si vet d'amie,
> d'amors et de chevalerie;
> se le tenez a vilannie,
> nous le tenons a cortoisie." (ll.8111-14)

The King and Daire are reconciled and Polinicés secretly releases the hostage.

This trial differs from that of Guenelun. The King accuses, but calls his barons only to decide the manner of the traitor's death. Daire, like Guenelun, does not deny his action, but denies that he acted traitorously. There is no suggestion of settling this matter by combat. The King overrules his barons on the matter of postponing the trial and ignores their arguments. The traitor goes free for another reason and no one challenges Ethïoclés' judgment. Daire's crime: treason, in that he actively worked for his lord's disinheritance. Despite Ethïoclés' disregard for the advice of his barons, their arguments are of great interest. Creon's point of law concerning the forty days' grace before hostilities are allowed is especially interesting as this forty day

period is mentioned in many romances.

Raynaud de Lage, in his note to line 7942 of this text (Thèbes, II, 155), offers the following explanation:

> Il ne s'agit pas d'un cas de «Quarantaine le roi» (cf. supra p. xxvii) , mais d'un délai de "souffrance" que les juristes pemsent pouvoir assimiler a celui qui était laissé au nouveau vassal pour faire hommage à son seigneur: il avait quarante jours pour cela, et vraisemblement le même délai devait courir en cas de rupture.

This will be discussed further in Chapter I.

We have seen illustrated two procedures involving treason. An examination of accusatory procedure in the French feudal courts as outlined by A. Esmein[1] shows that these trials follow the pattern of the times:

> The action belonged to the injured party alone, or, if he was dead, to his kindred... The procedure was public, oral, and formal... The accuser made his complaint orally without omitting any necessary words or making mistake ("faute"), which would have permitted his adversary to have the complaint declared null. The accused was obliged to answer on the spot...The defense could only consist of a denial exactly meeting the complaint in each particular, refuting it word for word, "de verbo ad verbum"; and this requirement was preserved for a long time.... (Esmein, pp. 55-57)

Proof by combat was common:

> The judicial duel, the appeal to the divine judgment, aided by the oaths of both adversaries and decided by battle, ...

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[1] A. Esmein, A History of Continental Criminal Procedure with Special Reference to France, trans. J. Simpson (Boston: Little, Brown and Co., 1913). Hereinafter referred to as Esmein.

> is the customary mode of proof, at least in cases of crime. In all serious crimes, for which the punishment was loss of life or mutilation, the accuser could proceed by "appeal"; that is, he could spontaneously and immediately challenge the accused to the judicial duel; ..... (Esmein, p. 59)

The re-accusing of Guenelun will be mentioned later, as will Ethiocles' overruling of his judges. The crime, penalty, use of champions and sureties will be discussed in later chapters as other examples of these are gathered. We shall see that the trials follow the basic pattern outlined above and that variations and additional details owe less to the author's imagination than to the complexities of the legal systems of the period.

CHAPTER I

FEUDAL TIES

First to be examined are four episodes in which oaths of fealty play a part. Through them, we can gain an idea of the importance of feudal ties within the judicial system. The first Arthurian Romance to be considered contains a trial by combat in which the accused has killed his lord and the accuser is the son of this lord.

Floriant et Florete[1] is set in Sicily and is considered by A. Micha to have been composed between 1250 and 1275[2]. King Elyadus was murdered by his seneschal, Maragot, who hoped to gain the widow's love. She fled from him, giving birth to her son en route. The son, Floriant, was whisked off and raised by Morgan and her fairy sisters. Years later, while Floriant is at Arthur's court, Morgan informs him by letter of his identity and of his mother's plight. (Maragot, having usurped the crown of Sicily, is still pursuing the widow and is now besieging her). King Arthur and his men go to relieve her; Floriant to avenge his father's murder.

When King Maragot learns of the force's coming, he

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[1] ed. Harry F. Williams, University of Michigan Publications, Language and Literature, vol. 23 (New York, 1947). Hereinafter referred to as Floriant.

[2] Alexandre Micha, "Miscellaneous French Romances in Verse", Arthurian Literature in the Middle Ages, a Collaborative History (Oxford, 1959), p. 383. Hereinafter referred to as Micha, Arth. Lit.

enlists the aid of the Emperor of Constantinople, by telling him that Arthur wishes to take Sicily. He does homage to the Emperor and promises a yearly payment. (ll. 2966-71)

After much fighting, the Emperor is alarmed at his daughter's romantic attachment to Floriant and the two sovereigns agree to talk. Arthur informs him of the real purpose of the war and of Elyadus' son's intention to do combat with Maragot:

> "D'autre part je su venuz ça
> En Suzille par de deça
> Que c'est par raison et par droit,
> Maragoz tenir ne la doit.
> Si vous dirai par quel raison
> Que il ocist en traïson
> Elyadus le riche roi.
> Ses filz est ci venus od moi;
> S'il nel dist, il li provera
> Et par armes li mosterra." (ll. 5117-26)

Floriant comes forward, formally accuses Maragot of treason and declares that he will defeat him, or be hanged himself:

> "Sire, fet il, entendez ça:
> Maragoz que vous veez la
> Mon pere en traïson ocist,
> Dont trop grant desloiauté fist.
> Si l'en apel de traïson,
> Se oient bien tuit cist baron.
> Empereres, fetes m'en droit,
> Se je nel vous rent or endroit
> Recreant, si soie penduz." (ll. 5157-65)

Maragot immediately accepts the challenge and tenders his gage:

> Lors est Maragoz sailliz suz.
> "Sire, fet il, vez ci mon gage,
> Par devant trestot cest barnage
> Me desfent de ce qu'il me met
> Et m'en ferai et pur et net." (ll. 5166-70)

The Emperor accepts his gage but swears that, if Maragot is found guilty, he will have no worse enemy than the Emperor (ll.5172-80).

After Floriant also tenders his gage, King Arthur suggests that he and the Emperor allow this private combat to decide their war; that is, that Floriant and Maragot act as their champions:

> "Nous somes, fet il, conduitour
> De ces .II. os; si est bien droit
> Chascun tiegne sa gent adroit.
> Faisons nos champions combatre
> Et cil qui porra l'autre abatre,
> Vaincre n'ocirre ne conquerre,
> Se li demort en pais la terre,
> Nus ne l'en demant nule rien." (ll.5186-93)

The Emperor agrees and announces that the battle will take place the following day.

On the day of the battle, the Emperor sends six kings to assure fair play in the combat. Arthur sees this and sends six kings also (ll.5298-5312). In the ensuing combat, the two men agree to sit and rest awhile and then begin again! In the end, Floriant defeats Maragot, having cut off his ear in the process. Floriant raises his sword as if to kill him, but Maragot begs for mercy and confesses to his love and his crime:

> Lors li dist: "Ne m'ocïez mie!
> Je vous dirai la felonnie,
> Voirs est que mon seignor ocis,
> Et por la grant biauté le fis
> Que ma dame sa fame avoit,
> Quar mes cuers si sozpris estoit
> De li par poi je ne mouroie.
> D'amors la requis toute voie,
> Mes bien dist ja ne m'ameroit

Ne son seignor ne fausseroit.
Je me pensai je l'ocirroie
Et ensi avoir la porroie,
Pour itant mon seignor mordris
Dont trop grant desloiauté fis." (ll. 5463-76)

Floriant claims the twelve kings as witnesses and they all agree that he is the victor:

A tant Floriant apela
Les .XII. rois et dist leur a:
"Seignor, avez vous entendu
Que Maragoz a conneü?"
"Oïl, font il, par verité,
Bien avez le champ aquité." (ll. 5477-82)

The Emperor angrily calls Maragot a traitor and a thief and swears that he will pay and will never murder again (ll. 5495-5502).

After the love interests are dealt with, the Emperor suggests to King Arthur that the twelve kings decide Maragot's fate (ll. 5631-4). The twelve kings are instructed in their duty:

"Seignor, font il, vous jugerez
Maragoz, mes bien vous gardez
Qu'il soit jugiés selonc son fait;
Vostre jugement en iert fait." (ll. 5637-40)

In a place apart, the kings discuss the case (ll. 5642-5777). One says that they have no right to put a king to death. The next declares that, since Maragot is a confessed murderer of his lord, his royalty does not count and he should be beheaded. The third king to speak claims mitigating circumstances in the fact that Maragot was under the influence of love and that he should simply be exiled. The fourth king states that, regardless of love, Maragot killed his lord

who had shown him great honour by making him seneschal. Therefore, he should be burned. The fifth king returns to the idea that kings ought not to be put to death and adds that Maragot should be put in prison. The sixth king reminds them that Maragot has been defeated in combat and has confessed his treason and declares that he should be drowned, with a stone around his neck. The seventh king does not see any dilemma and says that he should be hanged without further ado.

The eighth and last king to speak carries the day and all agree with the judgment. He enumerates the events leading from Maragot's crime: he has disinherited the lady, besieged her, brought the Emperor into a war and has caused the death of ten thousand noble knights. Maragot should be dragged by horses till dismembered, then the pièces should be gathered and hanged as an example to others (ll. 5749-76). The judgment is delivered to King Arthur, in the Emperor's presence:

> Li rois Loth dist le jugement.
> "Rois Artus, fet il, or entent
> Et vous, emperere, biaus sire,
> Le jugement nous venons dire:
> Faites Maragoz traïner
> A chevaus et tant pormener
> Qu'il n'i ait menbre que s'i tiegne.
> Et d'une chose vous souveigne:
> Faites les pieces recoillir
> Que nule n'en i puist faillir
> Et puis les faites pendre en haut.
> Biaus sire rois, se Dex me saut,
> Itez est nostre jugemens,
> Or en faites vostre talens." (ll. 5785-98)

The sentence is carried out and the traitor, although a king, is punished dreadfully, as was Guenelun in Roland.

The accusation follows the pattern outlined by Esmein but the defense is brief and does not include a denial of treason. The judges change: Arthur and the Emperor decide that there should be a combat and even agree to allow this combat to decide the war; but, afterwards, as Maragot still lives, twelve kings are appointed judges. The punishment, though greatly debated, is death for treason against one's lord.

In La Mort le Roi Artu,[1] composed near 1230 (Mort Artu, p. viii), the accuser renounces allegiance to the King in order to obtain justice against the Queen. Guinevere is handed a poisoned apple, with which she unwittingly kills a knight. The knight is buried and on his tombstone is marked the manner of his death. When the knight's brother, Mador, returns to court, he first asks the King to give him justice:

> "Rois Artus, se tu es si droituriers
> come rois doit estre, tien moi a droit
> en ta cort....." (par. 67, ll.50-51)

He then renounces his allegiance to the King:

> "Or vos rent ge vostre homage et vostre
> terre, car il ne me plest ore pas que ge
> des ore mes tiengne terre de vos." (par.67, ll.58-61)

He charges that the Queen killed his brother "en traîson"

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[1] ed. Jean Frappier (Genève: Librairie Droz, 1954). Hereinafter referred to as Mort Artu.

and says that he is ready to prove his charge in combat:

> "Sire, or vos requier ge comme a roi que vos me faciez droit de la reïne qui en traïson a ocis mon frere; et se ele le velt noier et mesconnoistre, que ele traïson n'ait fete et desloiauté, je seroie prez del prouver contre le meilleur chevalier que ele i vodra metre." (par. 67, ll.63-68)

The King grieves because he must do right by this knight and yet the law indicates that the Queen should die (par. 67, ll.74-6).

The Queen is sent for and Arthur informs her of the charge against her and Mador repeats his accusation. The King advises her that, if she pleads not guilty, she may claim a reprieve of forty days in which to find a champion. As the Queen can expect no other aid from him in his role as judge, she claims the forty days:

> "Sire, fet ele, le respit de quarante jorz pren ge; et dedenz celui terme, se Dieu plest, trouverai ge aucun preudome qui por moi enterra en champ; et se au quarantiesme jor ne l'ai trouvé, fetes de moi ce qui vos plera." (par. 68, ll.24-28)

Mador questions the justice of this delay but the King assures him of its legality and tells Mador that, if he does not return on the appointed day, he cannot ever re-accuse the Queen:

> "Je vos di bien, fet li rois, se vos alors n'estes apareilliez de ce que vos avez offert, ja après n'en seriez escoutez." (par. 68, ll.34-36)

As the deadline approaches, Arthur asks Gawain to defend the Queen, but Gawain replies that he is willing if

the King can convince him that he will be in the right:

> Et il respont: "Sire, je sui touz prez de fere vostre volenté, mes que vos me creantez comme rois que vos me conseilliez loiaument, si comme l'en doit fere loial chevalier. Car nos savons bien que la reïne ocist le chevalier dont ele est apelee; si le vi et meint autre." (par. 79, ll.12-18)

As the King cannot convince him and, as the other knights feel the same way, the Queen is without a champion.

On the fortieth day, Mador restates his offer of battle. The King declares that they will wait until vespers; if the Queen has not produced a champion by then, she will be declared guilty:

> "Or remanez ceanz jusques a eure de vespres; et se dedenz celui terme ne vient avant qui por lui empraigne ceste bataille, vos estes quites de l'apel et ele est encolpee." (par. 81, ll.20-23)

Lancelot arrives, announces that he is prepared to defend the Queen against the charge of treason. Mador states that he is ready:

> "Sire chevaliers, ge sui prez de prouver qu'ele desloiaument et en traïson a ocis mon frere." (par. 83, ll.2-3)

Lancelot gives his defense, that she did not intend treason or disloyalty:

> "Et ge sui prez, fet Lancelos, del deffendre qu'ele n'i pensa onques desloiauté ne traïson." (par. 83, ll.4-5)

Both tender their gages and the Queen swears that she is innocent:

> "Sire, fet ele, Dex en soit au droit si veraiement comme ge n'i pensai desloiauté ne traïson." (par. 84, ll. 12-13)

In the battle Lancelot defeats Mador and asks him to withdraw the charge. He offers to intercede for Mador in obtaining the Queen's pardon and the King's acquittal:

> "et ge ferai tant por toi que madame la reïne te pardonra ce meffait que tu li as mis sus et li rois te clamera tout quite." (par. 84, ll. 53-6)

Mador accepts gratefully.

We have seen again the formal accusation, defense and trial by combat, but this time a lady is involved, and she the wife of the accuser's lord. Mador must renounce his allegiance to King Arthur before accusing the Queen of treason. She, as a woman, is allowed a champion. As in Thèbes, forty days is the period of delay mentioned, this time for a champion to be found. The difficulty is that Guinevere is guilty in fact, if not in intention. There is a time limit on the day itself: this time Guinevere's champion must appear by vespers. Lancelot manages to remain on the side of truth in his oath of defense, which is very carefully worded. Implied at the end of the trial is the fact that some dire fate was in store for the worsted accuser, had not Lancelot offered to intercede. Arthur is hindered from acting in his wife's defense by the fact that he agreed to act as judge before hearing Mador's charge.

Chrétien's Yvain[1], composed between 1177 and 1181[2], has the hero acting as champion for ladies, always on the side of God and Right; Yvain makes no careful oaths, but relies upon God. The second trial will be discussed in Chapter 3. In the first trial, Lunete is accused of treason against her lady.

Earlier in the story, Yvain kills a knight bound to defend a spring, and falls in love with the widow, Laudine. Lunete protects Yvain and aids him in his wooing of her lady. He marries Laudine and becomes, in turn, the defender of the spring. But Gawain persuades Yvain to pursue knightly adventures once again. Laudine reluctantly allows him to leave, but warns him that she will no longer love him if he fails to return in a year's time. Yvain lets the year slip by, and, when a messenger from Laudine denounces him, he goes mad with shame and despair. Later, cured of his madness, and, having acquired a lion as friend and protector, he finds Lunete imprisoned in a chapel.

Lunete tells him that she has been accused of treason and that, unless she finds someone to defend her, she will be burned or hanged on the morrow:

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[1] Chrétien de Troyes, Le Chevalier au Lion (Yvain), ed. Mario Roques, CFMA 89 (Paris, 1960). Hereinafter referred to as Yvain.

[2] Jean Frappier, "Chrétien de Troyes", Arth Lit, p. 159. Hereinafter referred to as Frappier, Arth Lit.

"Et ne por quant si vos dirai
le voir, que ja n'en mantirai.
Por ce ceanz sui an prison
qu'an m'apele de traïson,
ne je ne truis qui m'an desfande
que l'en demain ne m'arde ou pande." (ll.3595-3600)

Lunete tells how she was accused by the seneschal, in the presence of all, of having acted treasonably towards her lady in furthering Yvain's cause:

"An plainne cort et veant toz
m'amist que por vos l'oi traïe." (ll.3668-9)

She, having no one to counsel her, offered to defend herself by one champion against three:

"Sire, por Deu, com esfreee
tot maintenant, sanz consoil prendre,
dis je m'an feroie desfandre
d'un chevalier ancontre trois." (ll.3674-7)

Her offer of defense was accepted and she was granted thirty days in which to find a champion:

"si me covint d'un chevalier
encontre trois gage a baillier
et par respit de trente jorz." (ll.3683-5)

Yvain promises to serve as her champion and goes off on another adventure. He tells others that he must be back to Lunete by noon:

"que por rien je ne lesseroie
que demain a midi ne soie
au plus grant afeire por voir
que je onques poïsse avoir." (ll.3989-92)

He arrives to aid Lunete at the very last moment. She is already before the fire and has already confessed her sins. Lunete restates her denial to Yvain:

"Venuz estes por moi desfandre,
et Dex le pooir vos an doint,
ensi con je de tort n'ai point
del blasme don je sui retee." (ll.4402-5)

and Yvain declares to her accuser that he believes her and that God is, therefore, on his side:

"Mes je te consoil que tu faces
la dameisele clamer quite
que tu as a grant tort sordite,
qu'ele le dit, et je l'en croi,
si m'an a plevie sa foi
et dit, sor le peril de s'ame
c'onques traïson vers sa dame
ne fist, ne dist, ne ne pansa.
Bien croi quan qu'ele dit m'en a;
si la desfandrai, se je puis,
que son droit en m'aïe truis.
Et qui le voir dire an voldroit
Dex se retint de vers le droit,
et Dex et droiz a un s'an tienent;
et quant il de vers moi s'an vienent
dons ai ge meillor conpaingnie
que tu n'as, et meillor aïe." (ll.4426-42)

The seneschal and the other two combatants restate their belief in the matter:

Cil responent: "Que que tu dïes,
se tu ton lïon ne chaslïes
et se nel fez an pes ester,
donc n'as tu ci que demorer;
mes reva t'an, si feras san
que par tot cest païs set an
comant ele traï sa dame;
s'est droiz que an feu et an flame
l'en soit randue la merite." (ll.4453-61)

In the combat Yvain, with the help of his lion, is victorious and the accusers, still alive, are burned at the stake, 'as is customary':

Et cil furent ars an la ré
qui por li ardoir fu esprise;
que ce est reisons de justice
que cil qui autrui juge a tort
doit de celui meïsmes mort
morir que il li a jugiee. (ll.4564-9)

Again we see the same pattern of judiciary procedure, although judges are not mentioned. There is an implication that Lunete made her unwise offer of defense, of one champion against three men, because she had no counsel. The ties between damsel and lady seem just as binding as those between man and lord, as Lunete seems to have been bound to act always in her lady's best interests. She is charged with treason because she failed to do so. Her defense is akin to Guinevere's in the poisoning trial in that her intentions were not treacherous.

Lunete, if guilty, was to be burned and, this time, the worsted accusers suffer the fate planned for Lunete.

In Marie de France's Lanval[1], composed in the latter part of the twelfth century, before 1189 (Lanval, p.x), the hero is charged not with treason but with felony and misdeed against his lord. Lanval has spurned the Queen's advances by boasting of his fairy lover, saying that even her meanest serving maiden is lovelier than the Queen. The Queen complains to the King, Arthur, accusing Lanval of making the advances but repeating his boast accurately. The King swears

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[1]Marie de France, Lanval, Lais, ed. A. Ewert (Oxford, 1944) pp. 58-74. Hereinafter referred to as Lanval.

that he will have Lanval burned or hanged if he cannot defend himself in court (ll.326-328).

Arthur sends three barons to bring Lanval to court and there accuses him formally of his misdeed, of having shamed him and vilified the Queen and charges him with his foolish boast:

> "Vassal, vus me avez mut mesfait!
> Trop començastes vilein plait
> De mei hunir e aviler
> E la reïne lendengier.
> Vanté vus estes de folie:
> Trop par est noble vostre amie,
> Quant plus est bele sa meschine
> E plus vaillanz que la reïne." (ll.363-370)

Lanval gives his formal defense; he denies wooing the Queen but declares that his boast is true. He is willing to do whatever the court decides:

> Lanval defent la deshonur
> E la hunte de sun seignur
> De mot en mot, si cum il dist,
> Que la reïne ne requist;
> Mes de ceo dunt il ot parlé
> Reconut il la verité,
> De l'amur dunt il se vanta;
> Dolent en est, perdue l'a.
> De ceo lur dit qu'il en ferat
> Quanque la curt esgarderat. (ll.371-380)

The court (i.e., household) decides that there should be a trial at the 'enlarged court' but that Lanval must find sureties who will guarantee his appearance there:

> Comunement i sunt alé
> E unt jugé e esgardé
> Que Lanval deit aveir un jur;
> Mes plegges truisse a sun seignur
> Qu'il atendra sun jugement
> E revendra en sun present:

Si serat la curt esforcie [e],
Kar n'i ot dunc fors la maisne [e]. (11.387-394)

Gawain and his friends agree to stand bail for Lanval and the King warns them that they are liable for all their lands and holdings (11.402-404).

On the day of the judgment, the barons are assembled and the King demands a verdict from them 'according to the charge and the reply':

Li reis demande le recort
Sulunc le cleim e les respuns:
Ore est trestut sur les baruns. (11.424-426)

The Count of Cornwall acts as spokesman, names the accuser and the defendant and repeats the charge:

"De felunie le retta
E d'un mesfait l'acheisuna,
D'un amur dunt il se vanta,
E ma dame s'en curuça." (11.439-442)

He declares that there should be no trial, as the King's charge is unsupported:

"Nuls ne l'apele fors le rei:" (1.443)

but that one should behave honourably towards one's lord. An oath will bind him:

"Un serement l'engagera,
E li reis le nus pardura." (11.449-450)

But he must produce a witness to prove his boast:

"E s'il peot aver sun guarant
E s'amie venist avant
E ceo fust veir k'il en defst,
Dunt la reïne se marist,
De ceo avra il bien merci,
Quant pur vilté nel dist de li." (11.451-456)

If he cannot do this, he is to be banished:

> "E s'il ne peot garant aveir,
> Ceo li devum faire saveir:
> Tut sun servise pert del rei,
> E sil deit cungeer de sei." (ll.457-460)

Lanval says that he cannot; he is in despair. The fairy had warned him that, if their love became known, he would lose her forever. The King presses the barons for a final verdict but they are interrupted twice by the arrival of beautiful damsels announcing their lady's arrival. Finally the fairy mistress comes. She very formally states that she has loved the King's vassal, identifies him, confirms his denial and says that, if her presence can acquit him, he ought then to be freed:

> "Reis, j'ai amé un tuen vassal:
> Veez le ci! ceo est Lanval!
> Acheisuné fu en ta curt
> Ne vùil mie que a mal li turt -
> De ceo qu'il dist; ceo sachez tu
> Que la reïne ad tort eü:
> Unques nul jur ne la requist.
> De la vantance kë il fist,
> Si par me peot estre aquitez,
> Par voz barons seit delivrez!" (ll.615-624)

Thus, she, as witness, clears him of the two charges. All is done according to the law and the King is as obliged as any man to accept the verdict.

In this trial, there have been two courts, the "maisne[e]" and the "curt esforcie[e]". The household court merely decides that there should be a trial. The enlarged court, with the Count of Cornwall as spokesman,

carefully separates the charges: wooing the Queen is a felony, and boasting deceitfully to denigrate her beauty is a misdeed. They dismiss the first charge and rule that Lanval must prove his boast or be banished. There is no suggestion of proof by combat; he must prove it true, in the modern sense. The fairy and her attendants supply the evidence and clear Lanval of the charge. The household court decides that Lanval must have sureties to guarantee his presence at the second session, and these men stand to lose all they hold from the King. King Arthur swore that he would have Lanval burned or hanged, if guilty, but, in this trial, he seems to have little control over the proceedings and cannot even force a quick verdict at the end.

In each of the four trials, the pattern of the accusatory procedure is presented: the accuser makes formal appeal, and the defendant makes his equally formal denial. There is a court, which judges whether or not there should be 'proof' and which pronounces the rules governing the proof. In Lanval, two courts are convened. The household court decides that the matter should be brought before the enlarged court. It is confirmed by Esmein that the right to administer justice was originally "exercised by the lord himself, assisted, when a vassal was concerned, by the peers of the latter." (Esmein, p. 49)

Lanval's peers act as judges as do the peers of Guenelun and Daire. In these trials the lord himself is

the accuser. Lunete's judges are not identified. King Arthur and the Emperor of Constantinople assume this role in Floriant but later appoint judges to decide Maragot's fate. In one instance, that of Guinevere's trial, the King acts as judge. As his knights discuss the case too, it might be assumed that Arthur acts as spokesman, as does the Count of Cornwall in Lanval's trial. The King as judge advises Guinevere of the aid available to her and, in Yvain, Lunete states that she made her unwise offer of defense because she had no counsel. It seems that women, at least, could be advised concerning the law. In Thèbes, Ethiocles overrules his judges in withdrawing his accusation, but, in the other situations, the lords are bound by the decisions of their vassals. In every trial but one, the proof allowed or stipulated by the judges is the judicial duel.

The procedure in Lanval is given in great detail and differs in the manner of proof. Even though King Arthur is the accuser, the judges dismiss one accusation, because it is unsupported. Pollock and Maitland[1] mention this in their chapter on pleading and proof: "No one is entitled to an answer if he offers nothing but his bare assertion, his nude parole." (II,606). Indeed, the king makes no offer of proof.

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[1]Sir Frederick Pollock and Frederick William Maitland, The History of English Law before the Time of Edward I, 2nd ed., 2 vols (1898; reissued Cambridge: University Press, 1968). Hereinafter referred to, when in parentheses as P. and M., and, in the body of the text as Pollock and Maitland.

Lanval does not deny the second charge but declares that his boast is true. He is asked to prove this by producing his 'garant', in this case his fairy lover. This is called the 'proof of exception' (P. and M., II, 616). Perhaps because Lanval is not charged with treason and as the penalty is not to be death, but banishment, the judicial duel is not used.

In Lanval, there is a delay, though not specified, between hearings. The King demands and receives 'plegges', men who will personally guarantee Lanval's appearance at the enlarged ccurt. The sureties stand to lose all they hold of the King if the accused fails to appear. The use of sureties was common in feudal times, but not in cases where the penalty was death or loss of limb (Esmein, p. 68-9). Lunete is imprisoned pending proof for treason, yet Guinevere is allowed her freedom, with no mention of sureties. Perhaps this is due to their different stations in life. Guenelun's sureties seem not only to be guaranteeing his appearance but also his innocence, as the judges decide they should be hanged when Pinabel is defeated. The twelve kings in Floriant act as sureties on the field, to ensure fair play. That the two rulers in this episode agree to allow the combat to decide the

war is not surprising. It is only in their parley that the Emperor learns the true cause of Arthur's involvement.

There are delays allowed for ladies to obtain champions: Lunete's champion must appear by noon on the thirtieth day (or, on the fortieth day according to some manuscripts); Guinevere's by vespers forty days' later. Guinevere's accuser, Mador, is also bound to appear at this time. There is a day's delay given to the combatants in Roland and in Floriant. Esmein underlines the obvious necessity for delays and sureties: "If wager of battle had been given, even where the most serious crimes were in issue, both parties might be set at liberty on sufficient bail, for it was very essential that the adversaries should prepare themselves for the combat." (Esmein, p. 71). The delay in Lanval's case is presumably to allow for the gathering of the enlarged court. In Daire's trial a delay of one day is counseled, but not agreed to, so that the judgment will not appear to have been made in anger.

That ladies are allowed champions is not surprising. Rather than undergo other forms of proof, they too could submit, through another, to trial by combat. H. C. Lea, in Superstition and Force,[1] shows this to be a common occurrence: "There were three classes - women, ecclesiastics and those

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[1] 2nd ed. (New York: Haskell House, 1971). Hereinafter referred to as Lea.

suffering under physical incapacity - with whom personal appearance in the lists would appear to be impossible. When interested in cases involving the judicial duel, they were, therefore, allowed the privilege of substituting a champion, who took their place and did battle for the justice of their cause." (Lea, p. 119). A possible explanation for Guenelun's use of a champion will be discussed in conjunction with another trial. Beaumanoir,[1] writing between 1280 and 1283 (Riedel, p. 7), states that, where champions are used, both accuser and accused are to be imprisoned pending the outcome (Beaumanoir, par. 1, 841). Guinevere's exalted rank may excuse her from this ignominy.

In trials by combat the accused and accuser seem to be treated equally. Mador is bound by the same rules as is Guinevere, and it is implied that punishment is due the defeated Mador. Floriant declares that he will succeed in proving his charge or be hanged, but this is not mentioned by the judges. In Lunete's trial, the three defeated accusers suffer the fate planned for Lunete and are burned at the stake. According to Lea, this was the rule rather than the exception: "The application of the Lex talionis to the man who brought a false charge, thus adjudging to him the penalty which was incurred by the defendant if convicted, was widely current during the Middle Ages." (Lea, p. 130). This rule is cited

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[1]Philippe de Beaumanoir, Coutumes de Beauvaisis, ed. Amédée Salmon, vol. 2 (Paris: Alphonse Picard et fils, 1900). Hereinafter referred to as Beaumanoir.

by Esmein as one of the risks incurred by the accuser (Esmein, p. 71).

Treason is the charge in all but one instance, as it is in Roland and in Thèbes. Lanval is charged with felony and misdeed; the charge of felony, in that he wooed his lord's wife, is dismissed. As all trials involve feudal ties, an examination of the obligations of vassal to lord, and lord to his man, would aid in understanding the nature of the crimes. First of all, one pledges himself or herself to lord or lady, by oath. The seriousness of this oath binding one to serve another is well illustrated in the romance Meraugis de Portlesguez.[1]

Meraugis' enemy, Belchis, is holding captive Lidoine, the hero's 'amie'. Meraugis, in disguise as the 'white knight' in the stronghold of his enemy, performs with great valour in battle against Gawain. Belchis, in his gratitude, insists on becoming the white knight's man and has all his men do likewise. He wishes to make the white knight commander of his forces and the oaths will assure every man's obedience in battle:

> "Ceste honor n'ai mie en despit
> D'estre hom a si bon chevalier.
> Por ce que j'en cuit encherier
> Vueil je hui ses hom devenir.
> Et puis je ferai ci venir
> Toz ceus qui ceenz sont a moi,

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[1] Raoul de Houdenc, Meraugis de Portlesguez, ed. Mathias Friedwagner (Halle, 1897; vol. I of Raoul de Houdenc, Sämtliche Werke, 2 vols., Halle, 1897-1909).

Et chascuns li jurra en foi,
Einsi com vos avez juré,
Qu'a lui en droite fëauté
Se tendront; car je met sor lui
Ma guerre et ne vueil que nului
Desdie chose qu'il comant." (11.5538-49)

When Meraugis claims Lidoine and reveals his identity, Belchis swears he will kill him. But Meraugis accuses him of treason:

"Donc t'apeau je de traïson!" (1.5736)

Meliant de Liz reminds Belchis of his oath:

"Belchis, vos estes soz;
Contre lui a mout poi des voz
Ceenz se traïtor ne sont." (11.5747-49)

and none of Belchis' men will fight, for fear of being forsworn:

"Sire, c'est voirs! Nos serïon
Parjure se nos alïon
Contre lui; rendez lui s'amie." (11.5761-63)

Secondly, treason seems to be connected with the perjuring of this oath. There is an outright murder of one's lord by Maragot. Guenelun and Daire conspire with their lord's enemies, Guenelun's action causing the death of many. Lunete is accused of treason in that she acted against her lady, leading Laudine into an unfortunate marriage. Mador requests justice, then renounces his allegiance before charging his lord's wife with treason, perhaps to avoid perjuring his oath, or perhaps because he considers the tie already broken in the killing of his brother. In Lanval, it is shown that it behooves a vassal not to woo one's lord's wife, nor to insult him, by belittling her beauty.

If this very important oath of allegiance is revoked, and the ties broken, then there is no treason. Guenelun asserts that he broke the ties with Roland and his friends, and the court seems to agree with him. It is only with the new accusation, stressing his action against the King, that he is forced into 'proof'. Daire le Roux considers himself freed of his oath because his lord struck him and gave him leave to act against him. Some of the judges agree but one, Creon, insists that one must announce the breaking of this tie and that there must be a period of forty days' grace before hostile action.

Medieval law would seem to side with Creon in this regard. Beaumanoir states that one must announce clearly and to all concerned that one wishes to begin hostilities against someone, this to avoid the charge of treason: "car en cel cas est il mestiers de prouver la desfiance pour sui oster de la traïson." (Beaumanoir, par. 1675). He further explains an 'establissement' of 'li bons rois Phelippes', that one must allow a delay of forty days in cases of hostilities being announced, so that each family may take cognizance of the fact and plan their actions accordingly (Beaumanoir, par. 1702). Riedel refers to this as the 'quarantaine-le-roi' (Riedel, p. 17). But Raynaud de Lage has made mention of another delay, that accompanying formal defiance of one's lord (see p. 14) and Miss P. B.

Grout points out that some manuscripts of Thèbes do not specify the length of this delay, which is not a truce, but time allowed for the lord to do justice. She concludes that there is no justification for assuming that Creon, in specifying forty days, is speaking of the 'quarantaine-le-roy'.[1] In a list of obligations of a man towards his lord, drawn from the 'Leges Henrici', compiled shortly before 1118, Pollock and Maitland state that: "If the lord takes away his man's land or deserts him in mortal peril, he forfeits his lordship; but the man must be long suffering, he must bear with his lord's maltreatment of him for thirty days in war, for a year and a day in peace" (I, 300).

Pollock and Maitland trace the feudal element in the idea of treason in the twelfth century: "To betray one's lord was already in Alfred's day the worst of crimes; ...Petty treason perpetrated against a lord was but slowly marked off from high treason perpetrated against the king; and, in much later days, our law still saw, or spoke as if it saw, the essence of high treason in a breach of the bond of 'ligeance'." (II, 503-4). Riedel discusses the lord's obligation: "The overlord in his turn was subject to forfeiture if he failed to observe the terms of the feudal agreement." (Riedel, p. 21).

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[1] "The Trial of Daire and the Dating of the Roman de Thèbes," French Studies, XIX (1965), 392-5.

Guinevere and Maragot are also charged with 'disloyalty', which clearly indicates a breach of promise. The charge of felony is brought against Daire, Maragot and Lanval, and Guenelun is referred to as 'fels'. Turning again to Pollock and Maitland, we find, in the first years of the thirteenth century, that felony is a crime: "which can be prosecuted by an appeal, that is to say, by an accusation in which the accuser must as a general rule offer battle...The felon forfeits life or member." (II, 466).

The punishment for treason in the trials examined thus far is death: this is decided by the judge or judges. Lunete was to be burned at the stake; Guinevere was to die for the poisoning, but the means is not mentioned. Hanging or burning are the most often mentioned, but in Floriant, drowning is suggested as a possibility and Maragot is first pulled apart by horses and then the pieces are gathered together and hanged. Guenelun is also pulled apart by horses. Lanval's punishment for his lesser crime, the 'mesfait', was to have been banishment. Penalties for these crimes will be discussed in full as further examples are gathered from the texts.

CHAPTER II

COMMON LAW

The second set of trials to be examined concern men and women charged with treason but, in these instances, there are no ties between accuser and defendant. Analysis of these trials should lead to certain conclusions with regard to the law common to all as seen through the romances. The romance Yder,[1] composed in the early thirteenth century (Micha, Arth.Lit., p. 375), gives a clear example of a wider idea of treason. Yder, fighting for King Arthur's enemy, shows great prowess, and even Gawain meets his match in him. Kay, having already been bested by Yder, strikes him in the back with a spear (11,2320-32). Kay flees and Yder's squire takes away the supposed corpse. Gawain laments the fact that he has been unhorsed, as he wishes to pursue the 'traitor' who has brought them all dishonour:

> "Deus," dist Gaugains, "q'or n'ai cheval,
> Tant siwisse le trahitor,
> Qui nos ad fet la deshonor
> Et le damage et la pesance;
> Com jo prëisse grant vengance." (11,2345-49)

Later, before Arthur's court discovers that Yder still lives, Gawain discusses Kay's trial. He mentions Kay's felony and treason and states that there should be

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1 'Der altfranzösische Yderroman, ed. Heinrich Gelzer, G R L 31 (Dresden, 1913). Hereinafter referred to as Yder.

'pleges' for himself and for Kay. Justice should be done, and Kay, if guilty, should be hanged. He adds that this is the custom in many parts:

> "Jo pens de la grant folonie
> Dont Keis est plains, bien le savés,
> Si me mervoil que (vos) le soffrés.
> L'a[u] trier fist si grant mesprison
> Qu[e] il occist par träison
> Le meillor chevalier del monde.
> S'ore en gardez qu'il en responde
> E qu'il deie pleges trover,
> Les miens dorrai pur lui prover.
> En träison a trop laid vice;
> S'ore en faites droite justice,
> Nul droit ne.l poet de mort defendre,
> Que l'om deit bien träitor pendre;
> Temoine i out de plosors pars." (ll. 3126-39)

They discover that Yder still lives and the matter is dropped. Yder is persuaded to join the knights of the Round Table.

One day, Arthur, Gawain, Yvain, Kay and Yder go off seeking adventures. Arthur is jealous of Yder, towards whom Guinevere has shown some favour, and wishes some harm to come to him. He sends Yder to fight two giants, but Yder kills them both. That night Kay gives Yder water from a poisoned spring; they all go off in the morning, thinking him dead. The court mourns, all except Arthur and Kay. But two sons of the King of Ireland use special skills to save Yder and they relate to the court the cause of his near-death.

Hearing this, both Gawain and Nuc, Yder's father,

wish to 'prove' Kay's guilt by battle, the latter claiming the better right. They both make their claims using the formal terms of a trial by combat: Gawain:

> "Boens reis", dist il, "gentil e francs,
> Mult devrïez Keis tenir vil,
> Car fels e träitres est il;
> Vos l'amez, si'l tienc en damage.
> De (vos) prover l'en vos tent mon gage,
> Qu[e] il est träitres mortels,
> Se il le nie, e il est tels,
> Li fel träitres ramposnos,
> Qu'il ne deit converser od nos." (11.6335-43)

and Nuc:

> "Sire", dist il, "voster merci;
> Bataille offrez por vostre ami.
> Graignor dreit (en) ai que vos n'avez,
> Car mis fiz est, bien le savez.
> Le träitor apel de cest,
> Cert sui que copables en est.
> Träitres en est; s'il le niee,
> Seit en la bataille gagiee;
> Tot en sui pres de li prover
> E de mult bon[s] pleges doner." (11.6366-75)

Kay is saved, however, by the Queen's intervention and by Yder's clemency. Yder's 'amie' has finally deemed him worthy to marry her, and he forgives all who have wronged him.

Even though this episode contains no full trial, there are three accusations, with 'pleges' needed, of felony and treason. In the first instance, even though Yder is with the opposing forces, Gawain stresses the dishonour of the act; Kay, if guilty, should be hanged, as is the custom; Yder's recovery makes this unnecessary. In the second instance, despite Yder's survival, the

poisoning is deemed an offence serious enough to warrant trial by combat.

An interesting undercurrent is the relationship between Kay and King Arthur. Kay seems to be acting as Arthur's lieutenant in his crime; Arthur makes no pretence of affection for Yder, and is reluctant to see justice done.

La Continuation de Perceval by Manessier,[1] written in the first half of the thirteenth century[2], contains a similar incident involving Kay. The events leading up to the trial are outlined in G. D. West's article: "Grail Problems, I: Silimac the Stranger"[3] and begin in the first continuation.

A strange knight has ridden by the Queen without stopping. Kay is sent to bring him back, but he resorts to force and is unhorsed. Gawain, by courtesy, succeeds in persuading the stranger to turn aside from the mysterious and important mission of which he hints. Gawain promises to assist and protect him. As they ride back, a javelin strikes the stranger, having been hurled from concealment.

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[1] ll. 34935-45389 of Perceval le Gallois ou le Conte du Graal, ed. Ch. Potvin, Publications de la Societe des Bibliophiles Belges, No. 21, 6 vols. (Mons, 1865-71). Hereinafter referred to as Manessier's Continuation.

[2] A. W. Thompson, "Additions to Chrétien's Perceval - Prologues and Continuations", Arth. Lit., p. 215.

[3] Romance Philology, XXIV, No. 4 (May, 1971), pp. 599-611.

As the stranger dies, he tells Gawain to don his (the stranger's) armour and to mount his horse, letting the horse lead the way. As suspicion has fallen on Kay, Gawain rides after him, trampling him, before setting out on the stranger's mission.

After many adventures, he meets the sister of the stranger and she demands that he assist her against another knight and then avenge her brother's death. She accuses Kay of treason:

> "Et à tort et à mesproison
> Le m'ocist Kex en traïson." (11,38241-2)

Gawain expresses the uncertainty of Kay's guilt:

> "Douce amie, ce dist Gauwains,
> Onques ne poc estre certains
> Qui cius fu ki ensi l'ocist,
> Ne vaut a dire c'on ne fist." (11,38243-6)

But she explains that it is by astrology that she knows the details of the crime:

> "Sire," fait-el, "ne dotés mie;
> Je sai bien par astrenomie
> Que Kex l'ocist d'un gaverlot
> Que il avoit sous son sourcot
> Si que nus hom ne l'aperciut,
> Soi engingna et moi déciut;
> Ne me covenist pas proier
> Estrange home pour moi aidier
> Se cil vesqui ke par envie
> Geta li desloiaus de vie,
> Si ne li avoit rien meffait." (11.38247-57)

After serving as her champion against her enemy, Gawain again promises to avenge her brother. He outlines the steps he will take at King Arthur's court:

"Damosiele, si me sekeure
Li verais Diex et sa viertu,
Que à la court le roi Artu
L'apièlerai de traïson,
S'il ne m'en fait l'amendison,
Del chevalier ke il hocist;
Mais ne le vit ne cil ne cist,
Mais itant conté le m'avés
Que vous par art véu l'avés;
Nule rien plus ne vous demant;" (11.39144-53)

Gawain and the damsel arrive at midday at King Arthur's court. He keeps his identity a secret and demands justice from the King:

"À vous sui à moult grant besoing
Venus, bien le saciés, de loing
Desor le diestrier ki tost court,
Por querre droit en vostre court;
Droit sui venus querre, si l'aie,
S'il vous plaist, sans autre délaie." (11.39205-12)

He then formally accuses Kay of murder and of treason and demands that Kay submit to combat with him or become the damsel's prisoner:

"Sire," fait-il, "vostre merci;
Saciés que venu somes ci
Entre moi et ceste pucele
Qui vostre senescal apele
De murdre et de traïson
Qu'il fist come desloiaus hom
Del chevalier ki ocis fu,
Ensi com vous avés véu,
El conduit vostre ami Gauwain,
Dont il a le cuer tristre et vain;
U il contre moi se deffende
U à la pucièle se rende,
Qui est venue avoec moi ci,
De tout en tout en sa merci." (11.39215-28)

As they are in the midst of the noon meal, King Arthur cordially accedes to the stranger's request, but bids them dismount and eat. In the morning, at first light,

the combat may take place (ll.39229-37). But Kay declares that, since no respite was requested, he will do battle immediately:

> "Or, rois, si me consaut Dex, sire,
> S'il vous plaist et vous commandés,
> Jà n'en ert respis demandés
> Que maintenant ne me combate
> À lui por son orguel abatre." (ll.39242-6)

The King is greatly angered at Kay's haste to arm himself, as his meal has been interrupted. He orders that the combat take place immediately.

Gawain is the victor and asks Kay to yield himself prisoner to the damsel; but Kay declares that he would rather be killed (ll.39329-41). Gawain ponders his dilemma and wishes that he had never undertaken this quest for vengeance (ll.39342-58).

The King pleads with the damsel for Kay's life, offering to put himself 'in her service':

> "Ha, damoisele, aiiés merchi
> De moi, je me renc à vous chi;
> N'ociés pas mon senescal,
> Car péciés feriés et mal;
> Je vous em pri por vos francise,
> Par si que en vostre service
> Vous serai et trestuit mi home,
> Foi ke doi saint Pière de Roume;
> Tous jours m'averés, près et loing,
> Là ù sera vostre besoing;
> Faites, bele, por ma proière,
> Vostre chevalier traire arrière
> Qui moult est preus et combatans." (ll.39393-405)

She finally accedes and releases Gawain from his promise:

"Biaus amis, traiés-vous ensus,
Ne voel que vous en faciés plus
Que fait avés, vostre mierchi;
Li rois m'en prie ki est chi,
Et jou pour s'amor tant ferai
Que sa proière escouterai;
Quite li claim le senescal
Qui tant m'a fait anui et mal." (11.38415-22)

Kay's treachery is evident, as it was in the episode with Yder. Gawain, in his formal accusation, specifies "murdre" as well as treason. But he has mentioned to the damsel the possibility of Kay's making amends ("amendison", l. 39148). Kay makes no formal defense, but rushes to arm himself. He is again presented as unknightly; he hopes to take advantage of the weariness and hunger of the stranger (Gawain).

The King acts as judge, and presides over the combat, but has no authority to end it.

Kay's refusal to surrender presents Gawain with a problem. He acts for the damsel because he feels morally responsible for her brother's death. He had promised his protection to the stranger. Yet, as King Arthur's knight, he is swayed by the court's lamenting Kay's imminent death. Perhaps, too, he is uncertain of the legality of the damsel's 'astrenomie'.

The King is so anxious to save Kay's life that he offers to pledge himself to the damsel; she finally forgoes her quest for vengeance. As in the previous episode, the wronged one may show mercy.

In Perceval,[1] composed between 1181 and 1190 (Frappier, Arth. Lit., pp.158-9), the accuser acts as his own judge and sets the day and the place of the trial. This time it is Gawain who is accused of felony and treason. A stranger, Guigambresil, comes to King Arthur's court and accuses Gawain in the presence of all:

> Guigambresils le roi conut,
> Sel salua si come il dut;
> Mais Gavain ne salua mie,
> Ainz l'apele de felonnie
> Et dist: "Gavains, tu ocefs
> Mon seignor, et si le fefs
> Issi que tu nel desffas.
> Honte et reproce et blasme i as,
> Si t'en apel de trafson;
> Et sachent bien tuit cist baron
> Que je n'i ai de mot menti." (11.4755-65)

Gawain's brother, Engrevain, offers to defend him, as the family honour is at stake, but Gawain declines the offer. He offers to make amends:

> "Mais se je rien mesfait eüsse
> Au chevalier et jel seüsse,
> Molt volentiers pais en quefsse
> Et tele amende li fefsse
> Que tot si ami et li mien
> Le deüssent tenir a bien." (11.4779-84)

But, if this will not suffice, then he pledges to defend himself wherever Guigambresil wishes:

> "Et se il a dit son outrage,
> Je m'en desfent et tent mon gage
> Ou chi ou la ou lui plaira." (11.4785-87)

Guigambresil chooses the time and the place of the trial:

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[1] Chrétien de Troyes, Le Roman de Perceval ou le Conte du Graal, ed. W. Roach, 2nd ed. (Genève: Droz, 1959). Hereinafter referred to as Perceval.

Et cil dist qu'il l'en provera
De traïson laide et vilaine
Dusqu'al chief de la quarentaine
Devant le roi d'Escavalon,
Qui plus biax est que Absalon,
Au suen sens et a son avis. (11.4788-93)

Gawain pledges that he will be there.

He has been accused of 'felonnie' and 'traïson' in that he killed Guigambresil's lord without first challenging him. In the scene following he is offered, but declines to accept, the use of others' lances, horses and swords. It is thus implied that he is to defend himself by judicial combat.

The 'proof' is delayed, due to complications concerning the 'laws' of hospitality. The son of the lord whom Gawain allegedly killed extends hospitality to Gawain, without knowing who he is. The people of the town discover his identity and attempt to capture and kill him. Guigambresil discovers this and reports it to his lord. As Gawain is their guest, he must be allowed to leave unharmed; they are bound to protect him and, therefore, cannot have him killed in judicial combat (11. 6064-6080). A wise vavasor resolves the problem by having Gawain sent on a seemingly impossible quest; that of the Bleeding Lance. He must swear to return in a year's time (11.6092-6128). The battle (ceste bataille) is postponed for a year (11.6110-6112), thus confirming that this was to be a judicial combat.

Gawain, in his defense, makes no outright denial.

Indeed, it appears that he cannot remember the incident and he offers to make amends. In the previous trial it is Gawain who mentions this possibility for Kay. No sureties are demanded or offered; Gawain tenders his gage. Forty days' grace is given by the accuser, perhaps so that Gawain can make ready for battle. In the absence of judges, Gawain has no choice in the matter; he must go to defend his honour.

The Mort Artu contains a trial by combat between Lancelot and Gawain which ends a war of vengeance. This time it is Lancelot who is accused of treason, and Gawain is presented in an entirely different light. Lancelot has escaped capture at the hands of King Arthur's men in an episode involving Guinevere which will be dealt with later. Guinevere is being led to the stake when Lancelot and his men attack. The Queen is carried off by them and, in the mêlée, three of Gawain's brothers are killed - the favourite, Gaheriet, by Lancelot himself.

The King wages war on Lancelot. Lancelot tries by messenger to exculpate himself. After offering 'proof' by combat on the matter of Guinevere, he declares that Gawain's brothers' deaths were their own fault:

> "car cil meïsmes qui furent ocis furent achoison de leur mort." (par. 109, ll.35-37)

But Gawain is forceful in urging that the siege continue. Finally, the Pope intervenes to insist that Arthur take Guinevere back. When Lancelot returns Guinevere to King

Arthur, Bohort tries to force a trial by combat to defend Lancelot's killing of Gaheriet, saying that Lancelot did not kill him in 'disloyalty'. But the King refuses to allow it. At Gawain's insistence, Lancelot is banished, and Gawain assures him that hostilities will continue, so determined is he to avenge his brothers' deaths.

After the winter, Gawain presses the King to continue the war and Arthur besieges Lancelot in Lancelot's own country. The King grows more and more to dislike this war and requests that Gawain find a way to end it.

Gawain decides to settle the matter by single combat. Even though Lancelot is the 'best knight in the world', he believes he will succeed, because God is on the side of right:

> "et ce est la chose par coi je douteroie moins Lancelot, car je sai bien que li tors en est siens et li drois en est miens; par coi ne toi ne autres ne devez avoir poor de moi, car en toz leus aïde Nostre Sires au droit: c'est ma fiance et ma creance." (par. 144, ll.69-74)

Lancelot accepts; he believes that Gawain is pursuing this matter because, in his grief for his brothers' deaths, he would rather die than live.(par. 145, ll.59-61). It is decided that should Lancelot win, the siege and war are permanently ended; should Gawain win, the war and the siege will continue.

On the appointed day, Gawain arrives with King Arthur and King Karados as sureties; Lancelot with Bohort and Hector as his. Gawain accuses Lancelot of treason:

> "vos savez bien que entre moi et vos avons emprise une bataille si grant comme de traïson mortel por la mort de mes freres que vos oceïstes en traïson, desloiaument, ce savons nos bien tuit; si en sui apelerres et vous deffenderres." (par. 147, ll.37-42)

Lancelot, in his affection for Gawain, wishes to avoid running the risk of killing him. He offers to make 'amende' by becoming Gawain's man, he and his men except for Kings Bohort and Lionel, or by going into exile for ten years (par. 147, ll.65-82). He swears that he is innocent:

> "Et encore vos ferai ge autre serement que vos ne cuidiez, por ce qu'il n'ait entre moi et vos achoison de felonie: vos jurrai seur seinz que onques au mien escient n'ocis Gaheriet vostre frere et que plus m'en pesa qu'il ne fu bel." (par. 147, ll.82-87)

But Gawain insists on combat and makes his formal offer of 'proof':

> "Sire, veez me ci prest de prouver que Lancelos ocist desloiaument mes freres, et soit la bataille aterminee a quel jor que vos onques voudroiz." (par. 148, ll.16-18)

and Lancelot gives his offer of defense:

> "Sire, puis que ge voi que la bataille ne puet remanoir, se ge ne m'en deffendoie, l'en ne me tendroit mie a chevalier; vez ci mon gage por moi deffendre; ce poise moi qu'a fere le me couvient, et soit la bataille demain, s'il plest a monseigneur Gauvain." (par. 148, ll.20-25)

The King accepts their gages and the battle takes place the next day.

Before the battle, Lancelot goes to the minster and is confessed. He makes ready for battle at 'prime'. The

battle is waged till vespers, with Gawain growing mysteriously stronger at midday, as he does in other romances. Lancelot has all but won, but Gawain refuses to yield. Lancelot declares that, since the accuser, Gawain, has not proven his case by vespers, he, Lancelot, is the victor:

> "car bien m'en sui desfenduz vers vos jusques pres de vespres; et dedenz vespres qui apele home de traïson doit avoir sa querele desresniee et sa bataille veincue, ou il a perdue sa querele par droit." (par. 157, ll.14-18)

The King accepts this viewpoint and the siege is ended.

As in the previous trials, the accused's offer of 'amende' is refused. Both combatants believe that they have the aid of God. The sureties seem present to guarantee the outcome, and serve in the same capacity as the twelve kings in Floriant.

Lancelot makes carefully-worded denials of treason and disloyalty throughout, and believes that he was in the right in intervening to save Guinevere. The Pope has justified this point of view, but Gawain's single-minded quest for vengeance prolongs the war and finally brings about the trial by combat. Lancelot quits the field with honour at vespers, without having to kill his opponent.

In Sone von Nausay,[1] the hero finds himself accused of killing the King of Ireland and is saved from being executed by some Templars. Although Sone has no connection

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[1] ed. Moritz Goldschmidt, 3 L V S (Tübingen, 1899). Hereinafter referred to as Sone.

with King Arthur, Loomis justifies the inclusion of this romance, composed in the second half of the thirteenth century, in studies of Arthurian works because it contains much Grail material, and perhaps: "preserves important Arthurian matter not derived from extant French texts."[1]

Sone has killed the King of Ireland in open battle in Norway and is returning by ship, with the King of Norway's daughter, Odee, as a stowaway. Due to bad weather, they are forced to land in Ireland. They take refuge with some Templars, while their treacherous sea captain tells the bailiff of Ireland of their presence. The bailiff, seeking to avenge his lord's death, demands that the Templars release the traitor, Sone, to him:

> Au mestre dit: "Vous renderes
> Le mal mourdrier que vous aves.
> Le roy no signour nous mourdri.
> Car en trayson le feri." (11,6019-22)

The Templars insist that he have the protection of the law:

> Dist li templiers: "Ce ne savons.
> Un chevalier chaijens avons.
> Toutes les coses nous rendres
> Et apriés par loy le menrres." (11,6023-6)

The bailiff accuses Sone of murder and treason; Sone argues that he killed the King in open battle, in self-defense (11,6048-70). The Master Templar ensures that Sone has a fair hearing.

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[1] R. S. Loomis, The Grail from Celtic Myth to Christian Symbol (Cardiff: University of Wales Press, New York: Columbia University Press, 1963), p. 135.

All the peers gather in the morning at the temple and the bailiff asks Sone if he murdered the King of Ireland:

> Li haus baillieus mout haut parla,
> Voyant tous Sone demanda:
> "Mourdreres, en aves mourdri
> Le bon roy cui tierre ch'est ci?" (ll.6093-6)

Sone gives his defense, relating the circumstances of the battle, and offers to prove it by his body. He tenders his gage:

> Dist Sones: "Je n'en mourdri mie,
> Con preudon li toli la vie
> Pour mi et mon signour sauver,
> Cui il venoit desireter;
> Si l'ochis en son paveillon
> A plain jour devant maint baron.
> Et bien l'offre a moustrer du cors.
> Mourdre et traÿson par est fors."
> A tant va son gage baillier,
> Selonc ce rouva il jugier. (ll.6097-6106)

The peers have been instructed by the bailiff to act as judges and they go off to consider the case. They are afraid to make 'a false judgment', as many of their friends are still imprisoned in Norway (ll.6107-30). They finally decide that, if Sone can defeat two men in combat, he and all his party shall go free and be delivered safely to a good port. He shall be drawn and hanged if he is defeated:

> "S'il avoit tant de hardement
> Qu'il se vosist a .II. combatre,
> Se vaintre les puet et abatre,
> Tous sains et saus il s'en ira
> Et tout chil qu'il amené a.
> Et conduis lui sera livrés,
> Tant qu'a bon port soit arrivés.
> Traÿnes seroit et pendus,
> Se par ces .II. estoit vaincus..." (ll.6136-44)

Sone seeks counsel with the Templars and one advises him to accept the terms. Sone says that God will aid him. He accepts the terms but insists that the two men be knights, on horse:

> Et dist: "La bataille enprendrai,
> Contre deus m'en combaterai
> Mais que chil soient chevalier,
> Contre cui j'ai a desresnier.
> Ne ja vilain n'i meteront
> A cheval se combateront." (11,6165-70)

The bailiff repeats the promise of safe conduct and Sone swears with his right hand to undertake the combat. It is decided that it be postponed till the fifth day.

People gather from all parts; even the Queen comes. In the combat Sone kills both men and the Queen promises to carry out Sone's request; not to do so would be treason:

> Dist la dame: "Bien le vaurray,
> Ne ja traÿson n'i feray.
> Son convent mout bien li tenes.
> Il s'est con preudons delivres." (11,6319-22)

There is a discussion of terms, as the bailiff wishes the King of Norway's daughter to remain, but Sone is adamant. He also insists that the mariner who first accused him be dealt with and is willing to 'prove' his guilt:

> "Dont me faites droit dou laron,
> Traÿtour, encrieme felon,
> Dou maronnier qui m'encusoit
> Et mon loyer rechut avoit.
> Il a ouvré con fel et faus
> Et traÿtres et desloyalz.
> Et s'il voloit encontre aler,
> Encor (e) sui tous pres dou moustrer." (11,6337-44)

This is not necessary and the bailiff has the mariner brought forth and hanged:

Dist li baillieus: "Droit en feray
Et devant moi le manderay."
Adont l'a li baillieus mandé,
Mais on l'avoit ja acusé
As maronniers, qui (l) l'ont pendu. (ll.6345-9)

Sone and his party are indeed given safe conduct to a good port.

Even in the land of the enemy, Sone receives a fair trial. He owes this to the Templars, without whose aid he would have been executed. The guilt or innocence of Sone hinges on the manner of the killing. The bailiff insists that it was done 'in treason' but Sone maintains that the King was killed in battle.

The judges are swayed by other considerations and do not wish to see vengeance carried out on their imprisoned friends in Norway. Therefore, they wish to appear fair, by awarding Sone 'proof' by combat, but attempt to ensure his defeat by declaring that he must fight two men. Again, the Templars come to Sone's aid in giving him counsel and Sone protects his honour and perhaps increases his chances of success by insisting that the two opponents be knights.

A delay of five days is allowed to prepare for the event. Once the champions have been chosen and the combat takes place, all behave in honourable fashion. The champions are killed and, as Sone was to have been drawn and hanged, the mariner is hanged, his 'accusation' proven false. The bailiff is the actual accuser, the mariner merely 'informed' on his passengers, but it seems that a scapegoat is needed.

Sone, through the use of law and through his prowess, escapes from the people with whom he is at war.

Le Roman de Tristan en Prose[1] composed between 1215 and 1230 (Prose Tristan, p.8), contains an episode in which a host is charged with treason by the relatives of a man killed in his house.

Tristan meets his old friend Anguin, King of Ireland, who says that he has need of him. As Anguin has previously saved Tristan's life, Tristan is quick to offer his services, provided it does not bring shame to him:

> "Et je vos di bien et creant com
> chevaliers qu'il n'est riens ou monde
> que je ne feïsse por vos a mon pooir,
> se je ne veoie apertement que trop grant
> honte m'en poïst avenir." (par. 408, ll. 10-13)

Anguin relates how he invited the winners of a tournament, four relations of King Ban, to stay at his castle. Many others came too, and somehow one of the four was killed. Anguin swears to Tristan that he himself neither killed the man, nor engineered his death (par. 409, l. 14). But Blanor, one of the relations of King Ban and a knight of the Round Table, has accused Anguin of treason. He has sworn further that this treason will be known, as he, Blanor, will force Anguin to come to King Arthur's court to defend himself in combat against Blanor:

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[1] ed. Renée L. Curtis, Tome I (Munich: Max Hueber, 1963). Hereinafter referred to as the Prose Tristan.

> "Rois Anguins, tu nos as honiz, qui nostre parent nos a ocis en ton ostel en tel maniere. Ceste traïson a esté faite trop celeement. Mes je la descoverra! Et sez tu coment? Je la te ferai conoistre par ta boche meïsmes en la cort le roi Artus, car illé te convenra combatre encontre moi, cors a cors; et illec, se Dieu plest, te rendrai je recreant devant maint preudome." (par. 409, ll.20-25)

All the visitors departed, but two days ago Anguin received a letter from King Arthur summoning him to Camelot and ordering him to be ready to defend himself against Blanor's charge of treason. If he does not appear, the letter states that he will be destroyed and disinherited forever, both he and his heirs (par. 409, ll.31-36). In urging Tristan to fight in his stead, he again swears that Tristan will be fighting for right:

> "et por ce que vos en soiez plus asseür, vos jurerai je que je en droete querele vos metrai et en loial, et que de cest fait ne sui point corpables." (par. 409, ll.44-6)

Tristan accepts the task on condition that a boon be granted him after the combat (he wishes to ask that Yseut be given in marriage to King Mark) (par. 410, ll.3-5). This is granted and Tristan calls those present of Ireland and of Cornwall to witness the bargain made between the two. He asks that his identity be kept a secret at court and in combat; all agree to this (par. 410, ll.14-18).

The next morning the two go to Camelot, where many knights have gathered. King Caradox Brief Braz and the King of Scotland have been appointed by King Arthur as judges. King Anguin comes before the judges and announces that he is ready

to defend himself against the charge of treason if there be any of the house of Ban who wish to accuse him (par. 419, ll. 6-9). The relations of the dead man accuse Anguin of the crime. Blanor declares himself ready to prove in combat that Anguin is guilty and delivers his gage to the two kings (par. 419, ll. 9-13). Tristan now steps forward to state that he will defend the King:

> "Seignor, je deffendrai le roi qu'il onques ne fu corpables de ceste chose que cil chevalier li metent sus." (par. 419, ll. 14-15).

He tenders his gage (the skirt of his hauberk); the judges accept the gages and decree that the battle take place at once.

Honour is stressed in two final statements: Tristan assures Anguin of God's aid:

> "Or n'aiez garde, fait Tristanz, que si voirement m'eïst Diex, se jamés vos doit honor venir, ele vos vendra en cest jor d'ui, car se Diex me veust tenir en tele bonté com il m'a tenu dusques ci, je vos deliverrai de Blanor a vostre honor et a la moie." (par. 420, ll. 12-16).

and Blioberis reminds his brother, Blanor, that he is defending the family honour:

> "et Diex meïsmes, ce sevent tuit, a otroïé plus a nostre linaige de bonté que a linaige que l'en sache, Or vos soveigne donc de vostre linaige, et gardez qu'il ne soit avilliez ne abaissiez par defaute de vostre proesce." (par. 421, ll. 5-8)

This concept of honour is so important to the two combatants that neither surrenders, although both are badly

wounded. Blanor asks Tristan to cut off his head. Tristan, as victor, does not want to kill so noble a knight, and proposes to the judges that they make peace between Anguin and the house of Ban, so that the two may leave the field with honour:

> "Metez pes et concorde entre le roi d'Yllande et le linaige le roi Ban, si que li rois remeigne quites de cest apel, et nos dui chevalier, qui ceste chose avons assez chiere comparee de nos cors, puissons ceste bataille lessier atant par vos congiés et par vos honors." (par.429, ll.15-19)

This is irregular, but the two judges confer with some of King Arthur's retinue and finally accede to Tristan's request:

> "Sire chevaliers, or poez oster vos armes quant il vos plera, car nos prenons ceste chose sor nos. Li rois d'Yrlande est quites de l'apel et de la traïson d'ou Blanor l'avoit apelé. Il en est quites par vostre bonté et par vostre proesce. Et Blanor le ra si bien fait que nus ne l'en doit blasmer." (par.430, ll.12-16)

Tristan goes off and Anguin, acquitted by the judges, is allowed to leave too.

This episode is rich in procedural detail. Anguin, as host, is the one accused of his guest's death. But as he is a king and cannot be tried in his own domain, he is tried by his peers at King Arthur's court. As the letter from King Arthur threatens disinheritance, we can assume that Anguin holds his land from Arthur. He must obey the summons, but knows that he is no match for the younger Blanor and, therefore, he seeks a champion. He repeatedly assures Tristan

that he will be on the side of right in the matter. Tristan extracts the promise of a 'don' or boon, and calls men to witness this bargain; in a sense he is receiving payment. King Arthur is not present, but has appointed two kings, peers of Anguin, as judges. The 'proof' is not completed until one or the other yields, or is killed. The forgiving of the vanquished is this time left to the discretion of the judges.

Li Romans de Claris et Laris[1], begun in 1268 (Micha, Arth. Lit., p. 387), contains a similar incident, in which the hostess of a tournament is charged with treason.

Guerrehés visits a castle ready for war and the lady tells him her plight. She, seeking a husband, held a tournament, declaring that she would marry the winner. Bilas was victor but died shortly after. His brother, the Chatelain de la Rochele, charged her with treason and claimed that she held the tournament only to engineer his brother's death:

> "De traïson m'en apela
> Et dist, qu'a force mort l'avoie
> Et que le tornoi fet avoie
> Crier pour ce, qu'il en fust mors." (ll.21816-9)

The Chatelain is a powerful man and, as she can find no champion, she has made ready for the siege of her castle.

Guerrehés offers to fight for her and the next morning goes out to meet his opponent. The Chatelain swears

[1] ed. Johann Alton, B L V S 169 (Tübingen, 1884). Hereinafter referred to as Claris.

he will avenge his brother (ll.21920-26). Guerrehés tells him he is wronging the lady, that she is not guilty. If he desires her death through hatred, that is not knightly behaviour:

> "Vassaus, vous dites malement;
> Trop a grant tort la menaciez,
> Vostre pris mie ne hauciez,
> Car ne voi, que vous ai[t] mesfet
> En diz, en euvres ni en fet,
> Par quoi ele perde la vie;
> Se vous la haez par envie,
> Sire, fraingniez vo mautalant!
> Ne devez pas avoir talent
> Des dames vilonie faire;
> Si vous lo voz genz arrier traire." (ll.21929-38)

The Chatelain insists upon combat and boasts of his prowess:

> "Vassaus," fet il, "or me despont!
> Te viens tu de par li combatre?
> Certes, se vous estiez quatre,
> Touz quatre vous estrangleroie
> Toutes les foiz, que je voudroie." (ll.21940-44)

Guerrehés accepts the challenge:

> Guerrehes respont: "Je ne sai,
> Mes par tens serons a l'essai;
> Ou a moi vous combaterez
> Ou la pucele aquiterez!" (ll.21945-8)

He is victorious and delivers the Chatelain to the lady as her prisoner:

> Guerrehes, qui par la main tint
> Le chevalier, li delivra;
> Et ele erraument le livra
> Quatre escuiers, quel garderont,
> Nuit et jour avec lui seront. (ll.22026-30)

This romance is full of instances of knightly behaviour. In this episode Guerrehés defends a stranger, because he believes her story. Also illustrated is the

scope of the term 'treason'. As in Anguin's case, the lady receives blame as hostess. The lot of unmarried women seems to be precarious; this damsel has no man to defend her against a powerful opponent. There is no real trial as such: the Chatelain is acting as accuser and judge. Honour is stressed here too, as Guerrehés admonishes the Chatelain as to the duties of a knight and he, himself, is aiding a 'damsel in distress'.

Much earlier in Claris, Sagremor forces combat in a similar issue, and so saves a lady from burning.

Sagremor hears of the lady's plight before coming upon the scene. A knight relates to him how the lady awoke one morning to find her husband dead. His brother charged the widow with his death:

> "Et puis sa fenme en apela;
> Sus li mist, qu'ele mort l'avoit." (ll.9699-9700)

She denied the charge and said that she would be defended by a single champion:

> "Cele dist, que nianz estoit
> Et qu'onques pensé ne l'avoit
> Et qu'ele s'en defenderoit
> Par l'esfort d'un seul chevalier,
> Se nus l'en voloit desresnier." (ll.9701-5)

The brother agreed, but the widow could find no one to defend her. Hence, when Sagremor and the knight come upon the scene, the widow is about to be burned.

Sagremor pretends ignorance of the affair and asks to be awarded the lady, as she seems well-born and wise. It would be a pity to burn her:

"Chevaliers, Dieux vous beneie!
Ge vous requier en guerredon,
De la dame me faites don,
Que voi au feu si esgaree,
Si l'en menrai en ma contree,
Car molt me semble preuz et sage;
Se vous l'ardez, ce ert domage." (11. 9729-35)

The brother protests that the widow is a murderess and that he is about to execute her:

"Vasaus", fet il, "n'estes pas sage,
Quant vos requerez tel outrage,
Que je vous quite une mordriere.
Par le verai baron saint Piere,
Que ja ne la vous quiterai!
Maintenant ardoir la ferai:
Fuiez de ci, alez vo voie!" (11. 9738-44)

But he does mention that Sagremor may defend her in combat:

"S'il vous plest, si la defendez
Contre moi au fer de la lance!" (11. 9747-8)

Sagremor accepts the challenge:

A cest mot Sagremor s'avance
Et dist, qu'il la deffendera
Et de ce blaume l'ostera. (11. 9749-51)

The battle lasts even past midday, but finally Sagremor wins and has delivered the widow "Du blaume, dont ele iert retee:" (l. 9767). He then continues on his journey, having behaved with great honour.

As in the previous episode, the lady seems to have little protection from accusations. She will be burned for having murdered her husband. There is no time limit mentioned, but, obviously, as Sagremor and the knight come upon the scene, the time is past for champions. Sagremor's subterfuge is probably very necessary, as the brother would not offer battle at this point if he thought his challenge would be accepted. Hence, Sagremor 'engineers' the combat and saves

the widow. We have again an example of a "good" knight and a "bad" one.

Les Mervelles de Rigomer[1], a romance of the last third of the thirteenth century (Micha, Arth. Lit., p. 385), contains a trial by simple joust, instead of combat, to avoid bloodshed.

Lancelot is about to enter Rigomer and a knight is attempting to convince him that he should enter unarmed. A knight approaches them and accuses Lancelot of treason and claims that, as such, he cannot enter Rigomer:

> "Ha!" fait il, "träitres revois!
> Vos ne dëussiés mie entrer
> Ens es landes de Rigomer;
> Car ainc par droit n'i entra lere
> Ne faus chevaliers ne tolere." (ll. 4872-6)

He claims that tomorrow, at midday, Lancelot will give back the horse he stole and he charges Lancelot with felony for cutting off the hand of his cousin's son:

> "Ançois demain a mïedi
> Vos ferai tel con jo vos di,
> Se Dex m'en doune le pooir.
> Vos me rendrés cel cheval noir,
> Car a mon frere le reubastes
> Et en mëisme le navrastes...
> Le fil a mon cousin germain
> Et se li trencastes le main.
> Pruec vos apiel de felonie." (ll. 4877-85)

Lancelot denies the charge and is willing to defend himself if someone will accept the gages and act as judge:

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[1] von Jehan, ed. Wendelin Foerster-Hermann Breuer, G R L 19, 39, 2 Vols. (Dresden, 1908-15). Hereinafter referred to as Rigomer.

"Vassal", fait il, "par mesprison
M'avés reté de träison;
Mais pres sui que jou me desfenge,
S'il est qui les gages en prende,
Tout ensi con cil juceront
Qui a jucier nos averont." (11.4893-98)

The knight who has been talking to Lancelot gives his judgment: that they will have a simple joust, not a combat to the death. Whoever wins will have the horse:

"Sire", fait il, "le jucement
Vos dirai jou assés briément:
Il en sera faite une jouste,
Car je ne voel que il plus coste.
S'il vos abat del cheval noir,
Il le devra quite ravoir,
Et se vos del sien l'abates,
Le noir tout quite retenés." (11.4901-8)

The horn is sounded and people gather for the joust. Lancelot wins, claims the horse and also takes the other's shield.

This is a curious episode, as Lancelot makes no attempt to explain his earlier behaviour. He had rescued a damsel in distress and was later mistaken for her abductor. In the ensuing fight, he did, indeed, cut off a man's hand and take his horse. The accuser believes in his accusations of felony and treason. Lancelot makes no attempt to reveal the true facts and declares that they need a judge. Perhaps because Lancelot is obviously the stronger knight, the judge narrows the issue to the matter of the horse and wishes to avoid unnecessary bloodshed.

In these nine trials concerning treason and the common law, the judicial system follows the same pattern as that between lord and man, but here there is no question

of allegiance renounced or oaths broken. Most proofs are by single combat; the last trial being reduced to a simple joust. Kay's trials for his crimes in Yder never take place, but the accusers offer to prove the charge in combat.

The courts and the judges vary greatly in these instances. In two trials, the combat is planned to take place in the accuser's court. In Perceval, Gawain is to proceed to the court of the King of Escavalon to defend himself against Guigambresil. Sone, accused in the enemy's country, must submit himself to their judgment. Without the Templars' aid as counsel and protectors, he would have been executed immediately. Barons are appointed as judges, and they decide that Sone must defeat two men, just as Yvain fought three accusers. In Yder, both attempts to try Kay for killing and poisoning the hero take place at Arthur's court. The knights discuss the cases, but King Arthur is reluctant to allow a trial. In Manessier's Continuation, Gawain is in disguise as he seeks justice at the court of the defendant; King Arthur acts as judge in this instance. Lancelot's combat against Gawain in the Mort Artu takes place in neutral territory with both sides in the dispute settling upon the terms of the proof. Lancelot's trial in Rigomer is conducted on the spot, and the third knight, as disinterested party, acts as judge.

The two trials in Claris are vague in this regard; it appears that the accuser acts as sole judge in both instances.

The Prose Tristan contains a detailed account of court proceedings. Anguin is summoned to Arthur's court and must comply, on pain of severe penalty, as Arthur's vassal. Esmein describes this summons as the right of the king: "....the King could summon before his courts all persons in regard to any matters, except those claiming the court or jurisdiction of their lord." (Esmein, p. 52). Anguin, as king in his own right, is tried by two other kings, appointed by Arthur.

As in the previous chapter, delays are allowed to find champions and to prepare for battle. Guigambresil allows Gawain forty days for the journey and the preparation. Sone is allowed five days. Lancelot and Gawain prepare overnight for their battle, and in Manessier's Continuation, Arthur wishes a day's delay. In Rigomer, Lancelot's accuser proposes that the combat take place the following day at noon, but they joust immediately. In the Prose Tristan, there has been a delay, but the combat takes place on the same day as the formal hearing. In the case of the widow accused of murder in Claris, it is implied that she was given time to seek a champion, but, in both trials involving women, combat ensues immediately following the challenge.

A champion is allowed Anguin in the Prose Tristan, as it is allowed Guenelun. This is not explained in the romance but Lea gives two other circumstances admitting their use. In describing the method of challenging witnesses, he states that the witnesses were afforded "...the privilege of employing champions only on the grounds of physical infirmity or advanced age." (Lea, p. 102). Later, he further discusses the use of champions: "High rank, or a marked difference between the station of parties to an action, was also admitted as justifying the superior in putting forward a champion in his place." (Lea, p. 148).

Women are again allowed champions, and both women accused of treason have no kinsmen or husband to defend them. According to Li Livres de Jostice et de Plet,[1] written in the latter half of the thirteenth century (J. and P., p.xiv), probably by a law student of the School of Orléans (J. and P., pp. xxix-xxxi), a woman's husband was responsible for her behaviour, but, if a woman had no 'seignor', she was liable for her actions, as a man would be: "Feme ne puet deffandre nului en plet. Mès se ele est sanz seignor, ele puet bien deffandre son pleige, et soi-meisme. Feme qui n'a seignor puet plévir, et puet avoir juridiction, et procuration, et avocation." (J. and P., p. 233). These women were vulnerable, hence the damsel's search for a husband. In Yvain, Laudine

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[1] ed. Luigi N. Rapetti (Paris, 1850). Hereinafter referred to as Jostice et de Plet in the body of the text, and as J.and P. in parentheses.

marries again partly because she and her people need a lord. Lea mentions one case of kindness to women in the region of Bigorre in which a widow was exempt from all legal process until she married or until her sons were old enough to bear arms. (Lea, p. 112).

There is no actual use of sureties in these trials; in Yder, Gawain says that Kay should find 'pleges' in the first episode, and Nuc offers to produce 'pleges' himself in the second episode but Yder forgives Kay.

The knights tender gages in offering combat. In Roland, Pinabel and Tierri tender their right gloves, and gages are tendered in the trials of Maragot in Floriant, and of Guinevere in the Mort Artu poisoning episode. In this set of trials, gages are tendered by Gawain in Yder and in Perceval, and by both Lancelot and Gawain in the Mort Artu. In the Prose Tristan, Blanor and Tristan tender their gages, Tristan the skirt of his hauberk. In Rigomer, Lancelot states that he is ready to defend himself if someone will accept their gages. In Claris and in Manessier's Continuation, matters are quickly settled, with no sureties or gages mentioned.

When gages are tendered, only by those about to do combat, they are formally accepted by the judge or judges. This seems to be a personal pledge of honour. Pollock and Maitland define gages and pledges in their discussion of Contract: "In modern times we use the word pledge when a

thing is given by way of security. But throughout the middle ages such a thing is a gage, a vadium. On the other hand, the word pledge ...was reserved for cases in which there was what we now call suretyship, the plegius was a surety ... a gage is a thing, a pledge is a person." (P. and M., II, 185, n. 2). They further outline the procedure of wager, or of tendering one's gage, in the twelfth century: "Of the wager of law we have this account in MS. Brit. Mus. Egerton, 656, f. 188b: 'Il gagera la ley de sun gaunt plyee e le baylera en la meyn cely e puys reprendra arere sun gaunt, e dunke trovera il plegges de la ley.' When in later times we find that the glove is thrown down as a gage of battle, we may perhaps suspect that some act of defiance has been confused with the act of wager." (P. and M., II, 203, n.1).

The punishment of the defeated accuser occurs in one trial, that of Sone, when the mariner who first denounced Sone, is hanged. This accords with Lea's interpretation of the law: "Defeat was thus not merely the loss of the suit, but was also a conviction of perjury, to be punished as such; and in criminal cases it was also a conviction of malicious prosecution on the part of a worsted appellant." (Lea, p. 128).

In the combats the accuser and accused are treated equally and, barring intervention, one must die on the field or declare oneself defeated. Sone is vindicated when

he kills his two opponents. In the trials of the widow and of the damsel in Claris, the accuser declares himself defeated. The vanquished chatelain is delivered to the damsel as her prisoner. The joust in Rigomer is ended when the accuser is unhorsed.

Amends are mentioned by Gawain in Yder and in Perceval, and he offers to make amends when Guigambresil accuses him of treason. In the Mort Artu, Lancelot offers amends for the death of Gaheriet, even though he believes himself innocent of treason. He specifies that he will become Gawain's man, with all his men, and offers to go into exile for ten years. Gawain rejects his offer and the trial proceeds. In each instance, amends are offered before gages are tendered.

The combat may be ended without the death or surrender of one in a variety of ways. In the Prose Tristan, Tristan, acting for the defendant, intercedes for Blanor, as does Lancelot for Mador, in the poisoning trial. The judges' decision allows both to leave the field with honour. In the Mort Artu, Lancelot achieves the same result by claiming a point of law: that, as the accuser has not proved his charge by vespers, the defendant is acquitted of the charge. In Manessier's Continuation, Kay refuses to yield himself prisoner to the dead man's sister, and King Arthur pleads for Kay's life. He even offers to pledge himself to her, with all his men, as did Lancelot. In this trial the decision rests

with the accuser. In Yder, the victim averts the trial by showing mercy.

That peace cannot be made once a case has been begun is commented on by Lea: "When battle had been gaged, however, no withdrawal was permitted, and any composition between the parties to avoid it was punishable by fine and imprisonment...In accusations of treason, indeed, the royal consent alone could prevent the matter from being fought out." (Lea, pp 110-11). The Jostice et de Plet is specific on this point: "A totes les foiz que plainte est fete à jostice, l'en ne puet recevoir satiffacion fors par la jostice, que par la satiffacion est coneu la poine;" (J. and P., p. 309).

The crime in most cases is either murder and treason or felony and treason. The widow in Claris is charged simply with murder. In Perceval, Gawain is charged by Guigambresil with killing a man without announcing hostile intentions; Gawain does not seem to remember the occasion. This is understandable when we read in Jostice et de Plet that one could bring a charge one year after the crime (J. and P., p. 306). Sone is charged with having killed the King of Ireland but he bases his claim to innocence on the fact that he killed in open battle. In the Mort Artu, Lancelot uses the same argument, and asserts that the brothers' deaths were their own fault. In Yder and in Manessier's Continuation,

Kay strikes the victim in the back, from a distance, and also attempts murder by poison. It seems that he will be tried for the poisoning incident even though the victim recovers.

Anguin, in the Prose Tristan, and the damsel who held the tournament in Claris, are held responsible as hosts and charged with treason. In Perceval, Gawain's trial is postponed because the laws of hospitality have been violated. In Anguin's case, the actual murderer goes undetected, In the damsel's case, no one is to blame, but the chatelain in his grief must accuse someone. In the widow's trial in Claris, there is no indication that the widow's husband died unnaturally, yet she is charged with murder. In Rigomer, Lancelot makes no attempt to explain his innocence and, in this instance, the accusation does not stand.

Treason that has nothing to do with betrayal of one's lord or man is defined in Jostice et de Plet: "Traïson si est quant l'en asaut home dedanz trive, et li cos pert; quant l'en fiert home, et l'en ne voit mie le cop venir. Traïson si est de nuit entrée. Traïson si est quant l'en sorprant home, et l'en le fiert, si qu'il ne se puet deffendre." (J. and P., p. 297). Riedel translates Beaumanoir's elaboration: "...it is indeed treason to strike or wound during a truce or pledge or in ambush, or to bear false testimony in order to have a man put to death, to dispossess him, to cause him to be banished, to make him hated of his liege lord, or in many similar cases." (Riedel, p. 23).

Kay's actions towards Yder and the stranger best illustrate this crime of treason. All other defendants in this series of trials are portrayed as maligned individuals.

The penalty for treason and felony in the episodes examined thus far is death. Burning at the stake is again stipulated, this time for the widow charged with murdering her husband. Sone, if guilty, was to have been drawn and hanged. In Yder, hanging is mentioned as punishment for Kay. It would appear that these punishments are not products of the poets' imaginations. J. D. Bruce, in his notes on an earlier edition of the Mort Artu, feels that burning for women has no actual basis in medieval custom, but quotes the law from the Assises de Jerusalem stating that, when a woman's champion is defeated, she is to be burned, no matter what her crime.[1] R. S. Loomis, in Arthurian Tradition and Chrétien de Troyes, shows that the burning of women at the stake was threatened often in Medieval fiction and considers it a French custom historically.[2] Jostice et de Plet mentions in the list of 'paines' the burning of women who committed sodomy, and men proved guilty of serious crimes are to be hanged. (J. and P., pp 278-283). Pollock and Maitland, in a review of the felonies in English law at the

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[1] (Halle A.S.: Max Niemeyer, 1910) p. 282. Hereinafter referred to as Bruce, Mort Artu.

[2] (New York: Columbia U P, 1949) pp. 318-19 .

end of the thirteenth century list the punishments for treason, homicide, and other grave crimes: "For all these the punishment is death: in general, death by hanging, but for petty treason, a man shall be drawn as well as hanged and a woman shall be burnt, while, at least in the worst cases, high treason demands a cumulation of deaths." (P. and M., II, 511).

The punishment for treason is severe, but the process by which one is convicted of this crime seems to have little similarity to our modern idea of justice. Even though the judicial duel was considered a judgment of God, the abuses possible in this system are obvious.

CHAPTER III

CIVIL SUITS

Episodes involving land and money disputes are infrequent in the romances, and serve primarily as devices to illustrate the prowess and knightly virtues of the hero or the probity of the king. They, too, serve to show the workings of medieval law.

In Claris, Aglu Desvaus, a knight of the Round Table, champions some nuns in a land dispute. He comes upon them travelling along in a cart and the abbess tells their story: they have been dispossessed of their abbey by a descendant of the man who first gave it. He is a rich knight, but miserly and grasping; one who would take land from others (ll.27001-15). Tomorrow there is to be a hearing, but the knight is very strong and they are having difficulty in finding a champion to defend their right:

> "Demain sera li plez tenuz
> De moi et de cel chevalier,
> Qui tant se fet et fort et fier
> Que nostre terre veult avoir
> Par son sens et par son avoir
> Et por tant, qu'il ne cuide mie,
> Que nus nez por nostre abaie
> Osast a lui bataille emprendre
> Pour nostre droiture defendre." (ll.27023-31)

Aglu Desvaus agrees to be their champion (ll.27052-6).

The next day, at court, the knight makes formal claim, declaring that the land was given on condition that the heirs could reclaim it (ll.27073-90). He ends by

offering to prove his claim against any knight:

> "Et mousterrai, que je di voir,
> Contre le meillor chevalier,
> Qui en vorra armes baillier." (ll.27091-3)

Aglu Desvaus, with a glove in his right hand, declares that he is willing to defend the abbey and that the knight has lied:

> "Seingneur," fet il, "entendez moi!
> Ge defendrai en bone foi
> Au branc d'acier ceste abeie
> Et vous di, que voir ne dit mie
> Cist chevaliers, ainz a menti." (ll 27100-4)

The knight argues further, and the court decides:

> Quant li baron ce escouterent,
> Entre eus la bataille jugerent. (ll.27116-7)

Aglu Desvaus defeats the knight and the loser must never again take anything valued at one denier or more from the abbey:

> Ainsi fu la chose afermee
> Et l'abeie restoree;
> Ainc puis li chevaliers n'i prist
> Chose, qu'un seul denier vausist. (ll.27154-7)

The procedure seems essentially the same as in trials involving crimes, except that there is no accusation and no defense; rather a claim and a counterclaim. The trial by combat does not end in death, nor does the loser suffer dire punishment. The judges rule according to the matter of the dispute. Presumably, their decision is binding and the loser can never again make his claim.

In Rigomer, Lancelot acts for a widow attempting to obtain her dower rights. Again, the episode begins

with a telling of a tale. Lancelot is offered by his host an opportunity to gain honour. The host explains that, at a certain rich neighbour's death, the nephew, Macob Dicrac, rightly claimed the 'garison', but wrongly refused to allow the widow her dowry (ll.1529-43). Lancelot offers to counsel her:

> "Sire, se vos me tiesmoigniés
> Que la dame fust en son droit,
> Consel en avroie or endroit." (ll.1544-6)

but the host says that, even though in the right, she foolishly committed herself to settling the affair by combat:

> "Avoi! Sire, jo vos tiesmoigne
> Par verité et sans menchoigne,
> Que grant tort li fait li vassaus
> Et li doaires est loiaus,
> Mais que par un mesparlement
> Qu'ele fist par ïirement
> En est la bataille juchie.
> De c'est ele mal engignie,
> Que a bataille en est venue;
> Car ja vers lui n'avra ajue." (ll.1547-56)

The trial is to take place the following day at the host's castle; the King's provost is to act as judge (ll.1557-62). As the widow is from a distant land, she has no one to aid her against her very powerful opponent.

The trial begins with the provost granting the nephew time to seek counsel. This is refused the widow, as she has already spoken:

> Mais de la dame di por voir
> Qu'ele ne puet consel avoir
> Ne qui sa parole li die. (ll.1597-99)

But a lady whispers to her to request Lancelot's aid and the judges allow her to do so:

Et la dame l'a demandé
Et li sire li a livré. (11.1609-10)

Lancelot and the widow go off to one side; he makes her swear that right is on her side, and that his oath will be truthful:

Se li conjure que sor s'ame
Li die voir de son afaire,
S'il en puet vrai sairement faire.
Et la dame qui estoit fie
Tent sa main et se li afie. (11.1614-18)

After argument in court, the nephew issues his challenge to Lancelot:

"Vassal", fait il, "outreement
Sui pres que jo desrainier doie
Vers vos que la querele est moie
Si que ja n'en donrai respit,
Trop en ai ore grant despit
Et se vos en volés plus dire,
Hounis soi je se ne vos tire
Tant que j'en avrai mon creant,
Et vos tenrés por recreant." (11.1644-52)

and Lancelot replies:

"Cui qu'il anuit,
On verra bien ançois la nuit,
Li quels avra meilor raison
En detenir la garison." (11.1644-52)

The provost demands hostages, and instructs each to prepare for battle:

Et li provos qui les plais tint,
Sachiés que mout bien li avint,
Et a ostiages demandés,
Et on li a mout bien livré.
Lors commande que cascuns aille
Armer por faire la batailee,
Car iestre convient la mellee. (11.1657-63)

Lancelot defeats Macob Dicrac in combat, and, when his relations see this, they quickly go to the provost and

sue for peace:

> Quant li linaiges Macob voit
> Que il le pior en avoit,
> Que cil l'a mené a desroi,
> Dont vienent au provost le roi,
> Si li prïent de l'acorder. (11.1791-5)

He decrees that they must never again take up arms against the widow, and that she shall have the garrison:

> Par biel proier et par douner
> Fisent tant qu'il les departirent
> Ne onques puis ne combatirent,
> Mais la dame ot sa garison
> Toute cuite sans ocoison. (11.1796-1800)

Macob and his relations do homage to Lancelot and Macob is sent to seek out the Queen and place himself at her service (11.1801-8).

This is the first mention of a king's official acting as judge, and of a travelling court. This episode also gives us a glimpse of laws of inheritance. This widow does not inherit her husband's estate, only her 'dower'. The remainder goes to the man's blood relation. The widow has, like Lunete, spoken rashly when she makes her promise of proof by combat without having a champion. By this, she forfeits her right to change her mind. It seems that she cannot actively solicit counsel, but must fix upon someone immediately. Fortunately someone whispers to her that Lancelot, a stranger, is ready to aid her. As in other trials, the hero places great importance on being in the right. Again, there is no real accusation or defense, but rather claims made and denied.

Unlike the previous trial, the vanquished pays heavily and forfeits that which was rightfully his.

The second trial in Yvain concerns protection of a lady's rights as inheritor. The lady in question has an older sister who has claimed all their inheritance for herself. Anticipating the younger sister's appeal to King Arthur, the elder has obtained Gawain as her champion. He insists that she keep his identity a secret. The younger sister, failing to find a champion, brings her case to the King. The King sees justice in the younger sister's cause and asks the elder sister to give her sister her right:

> "Vos dites, fet li rois, que sage
> et demantres que ele est ci
> je li consoil et lo et pri
> qu'ele vos lest vostre droiture." (ll.4780-3)

The older sister defends her action and wishes to have the matter settled by combat:

> "Mes se uns chevaliers s'en ose
> por li armer, qui que il soit
> qui voelle desresnier son droit,
> si veingne trestot maintenant." (ll.4790-3)

As the younger sister has no champion, the King advises her that she may ask for fourteen days' respite:

> "Ne li ofrez mie avenant,
> fet li rois, que plus i estuet;
> s'ele plus porchacier se puet
> au moins jusqu'a quatorze jorz
> au jugemant de totes corz." (ll.4794-8)

The older sister accepts and the younger sister formally

requests the delay:

> Et cele dit qu'ele le requiert
> et si le desirre et demande. (ll.4806-7)

On the last day the older sister declares that it will soon be past 'none' and that, therefore, she has won. The King reprimands her and says that the decision is his, not hers:

> "Amie, a cort real
> doit en atendre, par ma foi,
> tant con la justise le roi
> siet et atant por droiturier." (ll.5906-9)

The younger sister does arrive with Yvain and the two ladies restate their positions.

The combat takes place between Gawain and Yvain, both disguised. They fight well and the onlookers are dismayed to see two such strong champions battle for such a cause. They wish the king to settle the matter and allow the younger sister her right, at least one-third or one-quarter of the estate:

> Mes l'ainz nee estoit si anrievre
> que nes la reïne Ganievre
> et cil qui savoient lor lois
> et li chevalier et li rois
> devers la mains nee se tienent:
> et tuit le roi proier an vienent
> que maugré l'ainz nee seror
> doint de la terre a la menor
> la tierce partie ou la quarte. (ll.6167-75)

But the King has allowed the combat, and it must continue. Neither champion succeeds in overpowering the other and, when they discover each other's identity, each wishes to yield to the other. Gawain admits that his cause is wrong:

"il m'en alast trop malemant
que, par mon chief, il m'eüst mort
par sa proesce, et par le tort
celi qui m'avoit el chanp mis." (ll.6338-41)

The King decides that he must settle the matter himself and tricks the older sister by asking: 'where is she who has robbed her sister of her inheritance?' (ll.6384-87). The older sister answers and thus admits her guilt. When she protests, the King threatens to declare Gawain defeated. She capitulates and the King has them swear oaths on the matter:

"Revestez l'an tot or en droit,
fet li rois, et ele deveingne
vostre fame, et de vos la teingne;
si l'amez come vostre fame,
et ele vos come sa dame
et come sa seror germainne." (ll.6432-7)

Here, as in the two previous trials, we are concerned with ladies unprotected by kinsmen or husband. This time both ladies must seek a champion. When the King is approached by the younger sister, he acknowledges her claim, but the elder sister has carefully procured a champion before offering to defend her claim in this manner. The younger sister is advised by the King, as judge, of her rights and claims the fourteen days' delay.

On the day of combat, the King reinforces his position as judge in his reprimand to the elder sister. Gawain shows a decided lack of zeal in the matter and admits that he thinks the elder sister is wrong, as do those present who have knowledge of the law. She is not penalized in any way,

but relations are normalized between the two by the oaths they swear before Arthur. It is of interest that the younger sister brings her claim to the attention of King Arthur with remarkable ease.

In Sone, on the other hand, the knight, Godefroi, has great difficulty in presenting his case to his king. Sone meets Godefroi, a poor man now, and, after hearing his tale of woe, discovers that Godefroi's wife is his cousin.

Godefroi tells how he used to have thirty knights and was in need of funds for them. He borrowed here and there, and to one money-lender he gave a document, imprinted with his seal, which stated that he owed two thousand livres. The man forged the amount to read one hundred thousand and took this to the king.

The king called Godefroi's peers together and ordered Godefroi to come and 'guarantee' this debt (ll. 12870-72). He also had to make good various other debts and was forced into ruin as he sold castles, towns and his heritage. The money-lender turned over the heritage to the king:

> "Dont a tort sui desyretés,
> Et li roys tient mes yretés.
> Car li leres mout se doutoit
> Qui a grant tort le mien tenoit,
> Si l'a deviers le roy livré," (ll. 12879-83)

Now no one will champion his cause, and, as the king hates him, he remains a ruined man:

> "Si m'a si viers le roi mellé
> Que li rois m'a si pris en hè,
> Nul franc homme n'en veut oÿr,
> Dont a mierchi me laist venir." (ll.12891-4)

Sone later finds a way to help his cousin's husband. A messenger comes to bring Sone to court, but Sone sends back word that he will come only if the king will do right by his cousin whom the king disinherited, and will bring the case to law:

> "Et nonpourquant a court venrroit
> Et volentiers vous sierviroit,
> Se sa cousine droit faisies
> Et par loy mener le volies." (ll.14655-8)

The king consents:

> Li rois qui au droit s'entendoit
> Dist que droit et loi li feroit. (ll.14659-60)

When Sone and Godefroi come before the king, he assures them that they will have justice, as he has promised it in the presence of his men (ll.14709-10). Sone tells Godefroi to kneel down and kiss the king's foot, but the king bids him rise and pardons Godefroi, pending the case:

> Dist Sones: "Godefroi, bassies
> Au piè le roi, si le baisies."
> Et Godefrois s'agenouilla.
> Li rois arrier son pïe sacha,
> Si a Godefroi relevè
> Et jusc'a loy tout pardonné. (ll.14711-16)

The bailiff has witnessed all this, and knows that the claim will be against him and that Sone will be the champion for Godefroi (ll.14721-4). He escapes on horseback,

fully aware of his guilt and not daring to stay behind (ll.14729-32).

Although the trial does not take place, the episode illustrates various aspects of the law. Godefroi's ruination because of debts seems sufficient reason for the king's and others' hatred. Godefroi cannot bring his case to court because he is ruined. It is not explained how exactly the bailiff benefited by Godefroi's ruination, but the king's coming into possession of Godefroi's heritage may have increased the bailiff's stature. Also, as the bailiff oversees the lands, he may have been gaining revenue illegally. He is certainly presented as a dubious character.

Through the king's fondness for him, Sone is able to effect a change in this state of affairs. Godefroi's kissing of the king's foot brings him back into the king's good graces, except for the matter of the case ('jusc a loy'). This episode shows the difficulties involved in attempting to have one's case heard. We have also glimpsed the expenses involved in having a retinue.

That the civil disputes are dealt with in the same manner as criminal cases seems surprising; yet this was indeed the case in actual fact. Esmein states that: "the forms of civil and of criminal procedure in the feudal courts were identical." (Esmein, p. 55). There is a formal claim made before judges: unnamed barons assume this role in the nuns' case in Claris; in the other episodes the King or

his official acts as judge. The widow's trial in Rigomer is judged by the King's provost. This is the only instance of an official judge presiding. In all other trials examined, others assume this role for the occasion. Yet officials of the King did act as judges in the twelfth and thirteenth centuries. The Jostice et de Plet contains a long description of the duties of bailiffs and provosts (J. and P., pp 336-49). Esmein explains that originally the judges: "were the 'provosts' ("prévôts"); later .... superior officers were created; they took the name of 'bailiffs' ("baillis") in the north and the centre and of 'seneschals' ("sénéchaux") in the south of France. The duty of these functionaries was to hold solemn assizes in the towns of their jurisdiction." (Esmein, p. 49). In Yvain, there is a preliminary hearing at which proof by combat is decided upon and a delay allowed by King Arthur, as judge. There seem to have been commitments made and a date for trial set in the other trials also: in Rigomer, the widow has earlier offered to prove her claim by combat. She is bound by this rash statement, as was Lunete, in Yvain, and seems to have lost all rights to advice. The care with which the formal statements must be made has already been attested to by Esmein (Esmein, pp. 56-7). Pollock and Maitland stress this too (II, 605) and the Jostice et de Plet contains sections on how to accuse for various crimes and lists pitfalls to be avoided. (J. and P., pp. 287-99).

Again, ladies are allowed champions and time to seek them out. In Yvain, the younger sister has fourteen days in which to find her champion (forty days in other manuscripts). The older sister claims that the champion must appear by 'none', but the King overrules her. In Rigomer, there has been an unspecified delay and, as the nuns are in search of a champion, we can assume there has been delay granted in this case too.

Before the combat in Claris, Aglu Desvaus tenders his gage but it seems that his opponent does not. In Rigomer, hostages are demanded and received on the day of combat but no further mention is made. However, as the relations of the defeated Macob Dicrac sue for peace and are bound by the provost's decision, it can be assumed that these are the 'ostiages'. In Yvain, no gages or sureties are mentioned.

The combats are ended when one combatant yields to the other. In Claris, Aglu Desvaus' opponent declares himself defeated (1.27149); in Rigomer, Macob Dicrac is seen by his relations to be the loser and they seek out the provost to yield on his behalf. In Yvain, however, much comment is made on the fact that two valiant champions are fighting so fiercely for such a trifling affair (11.6149-90). This combat ends as night approaches and the knights stop to consider the matter. This echoes the decision to end combat

at vespers in Lancelot's trial in the Mort Artu (see p. 55). Both Yvain and Gawain offer to yield and are even more insistent when they discover each other's identity. The King agrees to find another solution to the problem of the inheritance and uses his authority as King, not as judge, to end the matter.

In the trials discussed in chapters one and two, care was taken by the authors to keep the victors in the right, legally speaking. Civil claims differ as no crime is alleged to have been committed, but the cases are treated in the same manner, with pains taken to show the heroes fighting for right. In Claris, the nuns' claim to their land is not fully explained; it is difficult to ascertain whether the nuns' opponent's claim to the land is valid. He states that this was the term of his ancestor's agreement when the land was given as an abbey. Medieval laws governing ecclesiastical holdings are extremely complicated. Pollock and Maitland discuss methods by which a church or religious house holds land in their sections on contract and on tenure (II, 229 ff. and I, 240 ff. respectively), and a reading would indicate that such a dispute was possible.

In Rigomer, the 'garison' and the 'doaire' are in question. The dowry in medieval times is that portion which a widow is allowed of her husband's estate. According to Glanvill's De Legibus et Consuetudinibus Regni Anglie, this is either settled at the time of marriage, in which case a

man may not give more than one-third of his possessions to his wife, or, if there has been no will, the widow is entitled to one-third of his estate.[1] Thus the widow seems to have right on her side in claiming the dowry.

Macob Dicrac was to receive the 'garison' and it is difficult to ascertain exactly what is meant. The word seems to refer to the remainder of the estate, that which the widow would not normally receive. Godefroy includes in the meanings of this word the idea of goods and benefices: "- Provision, bénéfice, biens de toute nature: 'Mut i out de riches duns, / Robes, jueus e gareisuns. (S. Edward le couf., 1219, Luard.)"[2] Thus it is probable that the 'garison' means here the feudal estate.

In Yvain , the older sister has denied the younger any part of their father's estate. King Arthur feels that she is wrong and the onlookers at the combat state that the younger sister should be allowed one-third or one-quarter of the estate. Laws of the times indicate that the onlookers are probably correct. Beaumanoir asserts that one cannot disinherit any children: "...ou se je donne par convenance a l'un de mes enfans tant que li autre en seroient deserité s'il estoit soufert, - toutes teus convenances ne doivent pas estre tenues ....car voirs est

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[1] ed. and trans. G.D.G.Hall (London and Edinburgh: Nelson, 1965) pp. 58-9. Hereinafter referred to as Glanvill.

[2] Frederic Godefroy, Dictionnaire de L'Ancienne Langue Française (Paris, 1885; rpt. Liechtenstein and New York, 1961), Vol. 4. Hereinafter referred to as Godefroy.

que mes eritages par coustume est obligiés a mes oirs..." (Beaumanoir, par. 1025). Glanvill asserts that the inheritance shall be divided between co-heiresses, with the elder sister retaining the chief holding (Glanvill, p. 76).

After the combat, the judges render a decision. In Claris, the nuns' worsted opponent is not penalized, but he loses forever any claim to the abbey or its land. In Yvain, the elder sister must give the younger her rightful inheritance and the King has them swear oaths, one to the other. In Rigomer, however, Macob Dicrac and his relations not only must promise never to act against the widow, but they lose the 'garison' as well as the disputed 'doaire'. Further, Macob, with his relations, does homage to Lancelot and he is sent to place himself at the Queen's service.

Godefroi's plight in Sone illuminates other aspects of the relationship between lord and man. Godefroi keeps thirty knights and the expenses incurred force him to borrow money. Pollock and Maitland explain 'knight's service': the vassal owed his lord the service of a certain number of knights. The lord could demand their service for a limited period every year, usually forty days; after which period the lord assumed the costs. They consider that William the Conqueror brought to England this custom of apportioning holdings by fees of knights, usually in multiples of five (P. and M., I, 254-9). After Godefroi's ruination by

forgery of his sealed note, he is unable to obtain justice in the King's court and the King is free to give his heritage to some worthy knight. Sone obtains a promise of a hearing, and Godefroi must first kiss the King's foot. This seems to be an act of homage.

Homage is mentioned in Rigomer: Kacob Dicrac and his relations pay homage to Lancelot by kissing him. The younger sister in Yvain by oath becomes her sister's 'fame' and the elder her sister's 'dame'. Glanvill mentions that the younger sister is bound to serve the elder for her tenement (Glanvill, p. 76). According to Pollock and Maitland, homage is closely allied with fealty, and is the act of becoming man and lord. They mention that the ceremony can include the lord's kissing of the tenant and note that the act of homage is more solemn than the oath of fealty and that a man may do homage to various lords (P. and M., I, 297-301). Further, they state that homage is connected with military tenure and that, in the twelfth century, women could receive, but not do, homage (P. and M., I, 305-6). They give Bracton's definition of homage in which the lord is bound "to warrant, defend and acquit the tenant in his seisin against all men ... the lord owes as much to the tenant as the tenant to the lord, save only reverence." (P. and M., I, 301).

Two episodes have illustrated the power of the king: in Yvain the king tricks the elder sister, and imposes his will. In Sone is seen the great difficulty one can have in obtaining justice from the king. The justice a lord owes his man and the power of kings will be discussed further in chapter five.

The civil cases in the romances resemble closely the criminal cases: they differ in that the penalties are much less severe and points of procedure, such as the claim and counterclaim vary slightly. These episodes, with their details and points of law, seem to be drawn from life in medieval times and illuminate further its rough system of justice.

CHAPTER IV

CRIMES AGAINST GOD

The last four trials to be considered deal with crimes against God and against the laws of the church. Durmart le Galois,[1] a romance of the first half of the thirteenth century (Durmart, II, 95), contains a lengthy episode, very similar to the one in Floriant. Because Queen Fenise of Ireland will not marry him, Nogant has usurped her dominions and is besieging her at Limeris. Nogant, though giant-like in stature, has been exposed in an earlier episode as a bully and a coward. Durmart, the hero, is aiding Fenise against great odds, and the two have an undeclared love for each other. Nogant invites Arthur by letter to come to his aid in conquering Limeris. He promises Arthur this city and twelve rich castles, and promises to hold his land of him (ll. 12734-42). The King likes this offer, as he has no holdings in Ireland (ll.12743-5).

Arthur arrives with ten thousand men and Nogant presents him with two cities and twenty well-fortified castles. The King accepts, on condition that he is not disinheriting anyone:

> "Et je le preng par tel covent
> Que sens nului desireter
> Me pussiés cest don aquiter." (ll.12796-8)

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[1] ed. Joseph Gildea, O.S.A., 2 Vols. (Villanova, 1965-6). Hereinafter referred to as Durmart.

and asks Nogant who they are fighting and what manner of combat has been taking place:

> "Rois d'Yrlande, fait il, quel gent
> Tienent vers vos ceste cité?
> Et si me dites verité
> S'il font onques nule saillie
> Ne s'on i fist chevalerie
> Ains puis que vos venistes ci." (11.12868-73)

Nogant outlines the military strength within Limeris and claims that the Queen is a heretic, that she scorns marriage and that all within are heretics who should all be hanged or burned:

> "Il ont une roïne a dame
> Qui ne donroit gaire por s'ame,
> Car ele est mescreans et fole.
> De Deu ne vuet oïr parole;
> Marïage het et despise
> Et sacrament de sainte glise.
> Tot cil qui laiens sont o li
> Sunt mescreant; mais je vos di
> Se je les puis a force prendre,
> Je les ferai ardoir u pendre
> U sachier les membres des cors." (11.12883-93)

The battle is waged and King Jozefent, there with King Arthur, thinks he recognizes his son, Durmart. He suggests that they invite the knight and the Queen to talk with them, to ascertain the right, as kings should never wage war in the wrong:

> "Se nos n'avons droit en la guerre,
> Laissons la roïne sa terre,
> Se ralons en nostre païs,
> Car rois sacrés et benéïs
> Ne doit pas guerroier a tort." (11.13637-41)

The King agrees and wishes to find out if Nogant has been truthful:

"Bien savés que li rois Nogans
Les tient a felons mescreans,
Et je vorai demain savoir
Se il nos dist menconge u voir." (11.13975-8)

Jozefent acts as messenger and announces to Fenise a two-day truce (11.14046-9). He repeats to her Nogant's accusation (11.14133-46) and explains Arthur's presence:

"Certes, dame, li rois Artus
Il est a ce siege venus
Por les mescreans justicier
Et por la loi Deu avancier." (11.14147-50)

Fenise denies Nogant's accusation (11.14169-83) and agrees to come to see King Arthur.

Queen Fenise dresses splendidly for the occasion, and takes with her knights, clerics, townsfolk, twenty ladies and thirty maidens. On arrival she chats pleasantly with the King, who is favourably impressed.

Nogant formally accuses the Queen of heresy, in the presence of King Arthur; says he is ready to prove this and that she should be burned or brought low:

"Sire, dist il, de voir sachiés
Que tant est de mavaise loi
La roïne que je ci voi
Qu'ele ne doit terre tenir,
Car trop li plaist a maintenir
La fause loi qu'ele maintient.
Tote la terre qu'ele tient
Et son tresor et son avoir
Doi je par jugement avoir;
Ce ne me puet nus contredire.
Ele ne se puet escondire
Ne voiant clers ne voiant lais
De cest blasme qui si est lais
Dont ele ne se vuet recroire:
C'est de Deu haïr et mescroire.
Pres sui de mostrer orendroit
C'on le doit essillier par droit,

Et puis c'on le set si meffaite
Ele doit estre arse u defaite;
Ne creés ja son escondit." (ll.14284-14303)

Fenise, in a long speech, first talks of the wickedness of Nogant, then says she is ready to prove him false, and mentions archbishops, abbots and bishops:

"Preste sui de moi escondire
Et de vos fauser et desdire.
Ensi com on esgardera,
Dex et li drois me gardera.
Ce sachent bien li archevesque
Et li abé et li evesque
Qui la loi de Rome sostienent
Et qui l'escriture retienent
C'ains n'ou talent de Deu mescroire." (ll.14329-37)

She then makes a profession of faith resembling the Apostle's Creed (ll.14345-70). Finally she says that she will go through fire to prove her faith:

"Et se li rois Artus, mes sire,
Ne me croit de ce qu'il m'ot dire,
Si face un grant fu alumer
Et benefr et conjurer,
Et je irai parmi le fu." (ll.14371-5)

If God vindicates her, then Nogant should receive punishment (ll.14376-84).

Many people come forward as character witnesses and prove to the King's satisfaction that Nogant has lied:

Cil de Limeri la cité
Et chevalier et clerc et lai
Avant se traient sens delai
Por la roîne delivrer
Et por le roi Nogant fauser.
Tant ont parlet et tant ont dit
Qu'il ont le roi Nogant desdit
Et que sa parole ont fausee. (ll.14386-93)

While the King and his followers debate about what to do with Nogant, Durmart comes forward and formally accuses

him of treason toward his liege lady. He offers to 'prove' this in combat:

> "Rois Artus, de Bretaigne sire,
> Fait li Galois, entendés cha:
> Li rois Nogans que je voi la
> Guerroie a tort sa liege dame,
> Se li a gasté son roiame
> Comme fel trahitres provés.
> Se vos justice m'en tenés,
> Certes, tos aparilliés sui
> De mostrer cors a cors vers lui
> Qu'il est mavais trahitres fauz
> Fel et parjurs et desloiauz
> Et qu'il a tort vers la roïne." (11.14630-41)

Nogant seems to accept, but then pretends that he cannot fight Durmart, as Durmart is not his equal:

> "Mais je vuel savoir et despondre
> En quel point je le doi respondre
> U par avöé u par moi.
> L'on me dist qu'il est fix de roi,
> Mais il n'est pas rois coronés,
> Et je sui rois, bien le savés,
> Si ne sai mie la raison
> Que je responde se roi non." (11.14659-66)

At this, King Jozefent gives one of his kingdoms to his son, so that Durmart is also a king. Nogant escapes on a dromedary, a very swift beast (Durmart, II, 142), and none can catch him. Nogant's followers are saved from punishment because they plead with Queen Fenise for mercy. They all swear allegiance to her and are bound to serve her.

Fenise is charged with a crime against God and Nogant pretends to be attempting to punish a heretic. It is asserted that the heretics should be hanged or burned. Even though King Arthur is present as 'defender of the faith', the whole trial is conducted in a secular manner. Fenise

offers to undergo a dreadful ordeal, but this is not mentioned again by anyone. She does make a real profession of faith, but the clerics in her party are merely witnesses along with the knights and the townsfolk. They are not asked to swear particularly to her faith in God. Fenise's trial is followed by the trial of the perjured accuser, which lies within the scope of the demonstrated law that punishment is due the defeated party.

The following three trials concern marriage, the first dealing with the crime of having married a king under false pretences and of having been falsely anointed Queen. In Le Livre de Lancelot del Lac,[1] composed between 1215 and 1220 (Mort Artu, p. viii), a false Guinevere accuses the Queen of having usurped her place. The false Guinevere sends a maiden with her letter to King Arthur's court. She declares, by letter, that she is the true Guinevere and that the present Queen usurped her place. She demands justice and the death of the Queen:

> Si te pri & requier por la loialte et la droiture de ta cort que de ceste desloiaute soit prise ueniance. par le jugement de chiaus de vostre ostel. Et cele qui tant ta tenu en pechiet mortel soit liuree a destruire a mon cors. (p. 12, ll.36-39).

and the maiden makes the offer to prove the charge of treason by combat:

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[1] part II, The Vulgate Version of the Arthurian Romances, ed. H. Oskar Sommer (Washington: The Carnegie Institute, 1908-16), Vol. IV. Hereinafter referred to as the Vulgate Lancelot.

> Et vous sire fait elle au roy se vous ou autres volies desfendre. que ma dame neust este traie ou par vous . ou par autrui . je sui toute preste que iou le vous moustre en vostre cort . ou en autre orendroit . ou a terme deuise . Et la (de)moustrance niert pas faite desloiaument . ne sans raison mais par cheualier loial & esprouue. (p. 14, ll.30-34)

The Queen is called upon to defend herself, but Gawain takes her part:

> Sire vees moi ci tout prest et appareillie de desfendre madame . enuers le cors dun cheualier . ou tout ensi comme vostre cort esgardera quele na coupes en ce que cele damoisele li met sus . et quele est vostre espousee et vostre compaigne enointe et sacree par loial mariage . si comme royne doit estre. (p. 15, ll.15-19).

The combat does not take place, as the knight who came with the maiden is very old. The King decides that this is too important a matter; it will be judged at Candlemas at Bedingran. He tells the maiden to inform the false Guinevere that she is to come with her people and be ready to prove her charge:

> Et elle amaint o li tout le sien quar illuec voeil iou que la coze soit a fin menee par le jugement de ma cort et de la soie. Mais ce li di(col.c)tes de par moi que elle se gart de mettre nulle cose auant . quele ne pusse prouuer. (p. 16, ll.26-29).

He tells the Queen to be ready also:

> Et vous dame fait il a la royne . soies a cel ior preste por vous desfendre. (p. 16, ll.32-33)

At the royal court at Bedingran the false Guinevere makes her formal charge and offers to prove it by combat or by whatever the court decides:

> Roys artus fait elle iou sui venue a mon ior pour demoustrer & por desrainier la traison qui de moi et sor moi a este faite . si comme ie vous mandai par mes lettres par vne pucele . et sui toute preste de faire ma desrene si comme vostre cort esgardera ou par cheualier qui le mousterra cors a cors ou par autre iugement de vostre cort que iou sui desheritee et enchascie a tort de vous. (p. 45, ll. 25-30).

Galehot says that she must name the one she is accusing and she names the Queen. The Queen makes her formal denial and offer of defence:

> A chel mot se leua la royne et (s)en vint deuant le roy si li dist . que onques par li nauoit este faite cele traison ne porparlee et sui toute preste que iou men desfende a lesgart de uostre cort . ou par cheualier qui sen combatra cors a cors ou par iuise. (p.45, ll. 39-42).

Baudemagus cautions that they must know more about this lady, as to whether or not she will consider herself bound by the judgment of the court:

> Et il est bien drois que auant que vous fachies de ceste cose iugement que vous soies seurs de ceste damoisele. que elle atenge uostre iugement ou soit son preu ou son damage. (p. 46, ll. 4-6).

The false Guinevere delays a few days and has the King kidnapped. She then returns to court and declares that, without Arthur present, the matter must be suspended. She holds the King prisoner until after Easter, by which time she succeeds in winning Arthur's love. The court reconvenes on Ascension Day and Arthur surprises everyone by stating that he knows the Queen to be guilty and that they will hear the testimony of the barons of the false Guinevere's people! (p.55). He asks the barons of the false Guinevere's country to decide which one is the true Queen:

> Si vous en ai chi semons . si voeil que vous me iures sour sains . que vous nen dires riens pour amour ne pour haine se parmi la uerite non. et que vous seres feu a celi qui li drois hoirs en doit estre. (p. 55, l. 41 - p. 56, l. 2).

They, of course, choose the false Guinevere.

The King, on the advice of Galehot, waits until Pentecost to sentence the Queen. As his own barons refuse to serve as judges, King Arthur sits in judgment with the false Guinevere's barons. Bertholai, as spokesman, delivers the verdict. The Queen is to lose her hair, down to the scalp, as the crown touched her here, and the skin of her hands where she was anointed, and the skin of her cheeks to mark her. She is then to be banished (p. 58, l.35-p. 59, l. 2).

Lancelot renounces his allegiance to King Arthur so that he may defend the Queen:

> iou le vous quit tot . que iou ne voel mais riens tenir de vous des ore mais en auant. Pourcoi fait li roys biaus amis. Pour ce sire fait lancelot . que iou ne porroie riens desrainier eu vostre cort encontre vous . tant comme iou fuisse de nostre maisnie. (p. 59, l. 41 - p. 60, l.3).

and declares her sentence to be false:

> Iou fait lancelot voeil mostrer que cel iugement que vous aues fait sour madame est faus et maluais et desloiaus si sui prest que iou le moustre encontre vostre cors . ou encontre vn autre . Et sil nen y a asses en vn ie men combaterai encontre . ij . ou encontre. iij. (p. 60, ll.4-8)

He offers to defend the Queen by combat against the King or anyone else. Indeed he is willing to fight two or

three. The false Guinevere's barons are willing and King Arthur cannot dissuade either party. Galehot insists that each of the three fight Lancelot separately and that the battle take place a week later.

Just before the battle, Galehot asks the King to acquit the Queen and thus stop the battle but the King says that he cannot. After Lancelot has killed two of the champions, the Queen intervenes. The losers declare the trial by combat improper because Lancelot did not swear an oath. But Galehot signals for the battle to continue:

> Et quant Galeholt lentent si se traist vers celui qui le cor doit sonner . et li fait sonner. Et ce fist il por ce que il quidoit que la royne eust tort del blasme que on li auoit mis seure. et que li iugemens fust droituriers. (P. 65, ll.3-6).

The third champion is defeated and the Queen is pronounced free, but still an impostor. Later the Pope excommunicates Arthur for his treatment of the Queen and the false Guinevere and Bertholai are stricken by a disease (God's punishment). They both confess before they die and the Queen is reinstated.

The Queen's punishments are reminders that her crime is against God. Lancelot's impetuous offer to prove false judgment against three opponents is moderated by his friend, who also takes care that Lancelot does not make an oath, and perjure himself. The Pope, in excommunicating Arthur, underlines the irregularity of the

whole affair.

The two remaining trials deal with adultery committed by queens. In the Mort Artu, an attempt is made to entrap Queen Guinevere and Lancelot, who are suspected of adultery. Agravain and a party of armed knights come to Guinevere's room while Lancelot is there. Lancelot escapes but the Queen is taken prisoner. The King sends some to take Lancelot prisoner and orders King Yon and other barons to pass judgment on the Queen immediately; her guilt is not in question. They are to decide the manner of her death:

> "Et ge vos commant, fet il, tout premierement, por ce que vos estes rois, et as autres barons, qui ceanz sont, aprés, et si le vos requier seur le serement que vos m'avez fet, que vos esgardoiz entre vos de quel mort ele doit morir." (par. 92, ll.42-46).

King Yon persuades the King that the judgment should wait till the next day, as it is past 'none':

> "Sire, fet li rois Yons, il n'est pas us ne coustume en cest païs que l'en face aprés none jugement de mort d'onme ne de fame." (par. 92, ll.50-52).

The following day they pass sentence and announce that she should die for her crime of disloyalty and felony:

> "Et nos disons par droit jugement que de ceste chose seulement avoit ele mort deservie." (par. 93, ll.14-15).

The Queen is to be burned. Arthur has decided this:

> Et li rois commande a ses sergenz qu'il feïssent en la praerie de Kamaalot un feu grant et merveillex, ou la reïne sera mise. (par. 93, ll.30-33).

Lancelot and his friends save the Queen but, in the mêlée, three of Gawain's brothers are killed; the favourite, Gaheriet, by Lancelot himself. The aftermath of this battle has already been discussed in Chapter II. Lancelot takes the Queen to his castle and Gawain and the King plan revenge. The King calls upon the aid of all those who hold land of him and delays fifteen days. After hearing of some barons' great reluctance to make war on the house of Ban, Arthur requires of his men an oath on relics that they will help in the vengeance (par. 104, ll.67-71).

Before the first day of battle Lancelot sends a message to the King through a damsel. He expresses surprise at the King's actions and says that, if the King has moved against him on account of the Queen, he is ready to defend himself against one of the best knights:

> "Et s'il dit que ce est por madame la reïne dont l'en li a fet entendant que ge li ai fet honte, si li dites que ge sui prez de deffendre encontre un des meilleurs chevaliers de sa cort que de cest chose ne sui veraiement encorpez." (par. 109, ll.25-29).

Lancelot's offer is not taken up and war ensues.

After more than two months, the Pope intervenes. Because the Queen was condemned to die without her crime having been proven, Arthur must take her back, in peace. (p. 307). Arthur agrees but will not stop the war. Guinevere bargains for Lancelot's safe-conduct to his own country. As Lancelot delivers the Queen to Arthur he makes a careful

statement which implies their innocence:

> "Sire, fet Lancelos, se ge amasse la reïne de fole amour, si com l'en le vos fesoit entendant, ge ne la vos rendisse des mois et par force ne l'eüssiez vos pas." (par. 119, 11.35-38).

The question of guilt hinges upon the exact nature of 'capture in the act'. Agravain and his party consider Lancelot's leaving of the Queen's chambers as sufficient proof. The rightness of Lancelot's action in rescuing the Queen is based on his claim that the lovers were not caught in the act, and that, therefore, Guinevere's guilt is not proven. The Pope, in his intervention, sides with the lovers, and overrules King Arthur.

The final trial, that of Iseut in Beroul's Tristran[1], composed in the last decade of the twelfth century (Tristran, II,36), follows an episode similar to the preceding one. In the first part of this long episode, the dwarf, Frocin, has spread flour on the floor between the beds of Tristran and Iseut. Tristran foils this attempt to entrap the lovers by leaping from bed to bed; but his wound opens and he leaves bloody traces on the Queen's bed and on the floor.

The King enters with the three malicious barons and the dwarf, sees the blood, and considers it 'proof' of their adultery. No justification by Tristran will satisfy him:

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[1] The Romance of Tristran by Beroul, ed. A. Ewert, 2 Vols. (Oxford: Blackwell, 1939-70). Hereinafter referred to as Tristran.

"Trop par a ci veraie enseigne;
Provez estes" ce dist li rois,
"Vostre escondit n'i vaut un pois.
Certes, Tristran, demain, ce quit,
Soiez certains d'estre destruit." (11.778-82)

Tristran pleads for mercy toward the Queen, at least, and offers to defend himself against anyone who would claim that he has wrongfully loved the Queen:

"Qar il n'a home en ta meson,
Se disoit ceste traïson,
Que prise eüse drüerie
O la roïne par folie,
Ne m'en trovast en chanp, armé." (11.799-803)

But he and the Queen are bound and taken prisoner.

The King sends for all his people and announces that they are both to be burned at a pyre. The people protest that there should be a judgment first:

"Rois, trop feriez lai pechié,
S'il n'estoient primes jugié;
Puis les destrui; sire, merci!" (11.885-7)

King Mark is adamant and sends his nephew off to be burned. Tristran asks permission to enter a chapel on the way and from there he escapes.

Mark sends Iseut to the pyre despite Dinas' urging that there be a judgment:

"Sire, merci de la roïne!
Vos la volez sanz jugement
Ardoir en feu; ce n'est pas gent,
Qar cest mesfait ne connoist pas;
Duel ert se tu le suen cors ars." (11.1096-100)

Dinas expresses concern that Tristran may seek to avenge Iseut's death if legalities are not observed. Before the sentence is carried out, the leader of some lepers convinces

Mark that giving Iseut to them is a far worse punishment. But Tristran and Governal then rescue her from them.

Tristran and Iseut make a life for themselves in the Forest of Morrois. One day they learn from the hermit, Ogrin, that Mark has formally declared them outlaws, to be captured dead or alive:

> "Sire Tristran, grant soirement
> A l'en juré par Cornoualle,
> Qui vos rendroit au roi, sanz falle
> Cent mars avroit a gerredon.
> En ceste terre n'a baron,
> Au roi ne l'ait plevi en main,
> Vos rendre a lui o mort ou sain." (ll. 1370-76)

One day, a forester leads Mark to where Tristran and Iseut lie sleeping chastely, with Tristran's sword between them. The King takes this as a sign of their innocence, and when Tristran sends a letter to him, he is ready to be merciful. In the letter to Mark, Tristran states that he is ready to tender his gage in defense of the Queen and offers to defend her against the charge that they had love 'in excess' between them:

> "Ge sui tot prest que gage en donge,
> Qui li voudroit blasme lever,
> Lié alegier contre mon per,
> Beau sire, a pié ou a cheval -
> Chascuns ait armes et cheval -
> Qu'onques amor nen out vers moi,
> Ne je vers lui, par nul desroi." (ll. 2568-74)

Mark does allow the Queen to return, but ignores Tristran's offer of defence; Tristran must stay away from the court. He restores Iseut to Mark, and again offers to

defend himself, by combat or by ordeal. Again no one makes this possible by accusing him formally.

With Tristran away from court, the evil barons now urge Mark to insist that the Queen defend herself, as she has never done so. Mark is angry, and reminds the barons that they never agreed to fight Tristran. But when the Queen hears of this, she agrees to make an oath, but one of her own choosing:

> "Se Damlé deu mon cors seceure,
> Escondit mais ne lor ferai,
> Fors un que je deviserai.
> Se lor faisoie soirement,
> Sire, a ta cort, voiant ta gent,
> Jusqu'a tierz jor me rediroient
> Q'autre escondit avoir voudroient." (11,3232-8)

She wishes the presence of King Arthur and his knights, as sureties, so that all may be bound by the outcome of the trial. It is decided that the trial will take place in fifteen days.

On the day of the trial, Iseut has arranged that Tristran, disguised as a leper, station himself at the edge of a very marshy area, the Mal Pas; all must pass by here on their way to the trial. When Iseut arrives, she asks the 'leper' to carry her across. There, with Mark, Arthur and many knights as witnesses, she climbs on his back and straddles him.

Before the oath-taking ceremony, Arthur makes a speech, in his role as surety, ensuring that all present understand

that they must hold themselves bound by the outcome. The relics are brought, and King Arthur asks Iseut to swear that there was never love between her and Tristran:

> "Entendez moi, Yseut la bele,
> Oiez de qoi on vos apele:
> Que Tristran n'ot vers vos amor
> De putee ne de folor,
> Fors cele que devoit porter
> Envers son oncle et vers sa per." (ll.4191-6)

But, as Iseut cannot swear to that without perjuring herself, she swears her own oath, that no man save Mark and the leper who carried her was ever between her legs:

> "Or escoutez que je ci jure,
> De quoi le roi ci aseüre:
> Si m'ait Dex et saint Ylaire,
> Ces reliques, cest saintuaire,
> Totes celes qui ci ne sont
> Et tuit icil de par le mont,
> Q'entre mes cuises n'entra home,
> Fors le ladre qui fist soi some,
> Qui me porta outre les guez,
> Et li rois Marc mes esposez;" (ll.4199-4208)

All present declare that she has more than vindicated herself:

> "Dex!" fait chascuns, "si fiere en jure!
> Tant en a fait aprés droiture!" (ll.4219-20)

As in the Mort Artu, the accusers, notably the wronged husband, consider the evidence as sufficient proof, and the defendants do not. Unlike King Arthur, Mark scorns even to have a judgment deciding the manner of Tristran's and Iseut's deaths, but readies a pyre immediately. After Iseut's rescue, the pair is outlawed, but, once returned to her husband, Iseut still must defend herself in court. As Iseut feels friendless in her husband's court, she requests the presence of King Arthur and his knights as sureties to

guarantee the outcome. A fifteen day delay is granted for preparations. A successful Iseut can never be re-accused, nor will slander be allowed. Her very famous trickery allows her to make a truthful oath, and God does not punish her.

In these four episodes, the trials are secular in nature, surprisingly, and there is very little mention of the church in the matters of heresy, adultery and improper marriage.

King Arthur acts as judge in all but one episode. In Durmart, Jozefent explains that Arthur has come to judge heretics and to advance God's law; the King and his barons preside over Fenise's trial. They also act as judges in Durmart's attempt to prove Nogant guilty of treason. In the false Guinevere episode, Arthur also presides, first with his own barons, then with those attached to the accuser. In Tristran, King Arthur is sent for to guarantee the outcome of the trial; he brings many of his knights and acts as chief justice, formally requesting Iseut's oath on relics. Much earlier, Mark ignores his barons' advice, and intends summary execution. In the Mort Artu adultery episode, King Arthur, as the injured party, demands justice of his barons, but informs them as to their precise duties. Thus the power resides with the king in these instances too.

The four episodes illustrate several modes of proof and variant procedures. In Durmart, Fenise, after offering to undergo a horrible ordeal, is vindicated by witnesses as to her character. It is indicated that some punishment is due

Nogant, as perjured accuser and trial by combat is averted when Nogant flees. Although proof by combat was originally contemplated in the Vulgate Lancelot, the false Guinevere's barons serve as her witnesses and assert that she is indeed Guinevere. Pollock and Maitland state that in this method of proof what was required of the defendant was: "an oath supported by the oaths of oath-helpers...In course of time... we see a rationalistic tendency which would convert the oath-helpers into impartial 'witnesses to character'." (P. and M., II, 600). Esmein describes this type of proof: "the accuser...could offer to prove the fact by witnesses, subject to the accused's right subsequently to falsify ("fausser") these witnesses." (Esmein, pp. 59-60).

Lancelot does challenge the court's verdict, in the false Guinevere episode. He offers proof of false judgment and fights three champions to save Guinevere. He first renounces allegiance to the King, as did Mador in charging Guinevere with treason. Pollock and Maitland mention this renouncing of allegiance: "That a lord should make an attack on his man, or a man on his lord, even under the forms of the law, is scarcely to be tolerated. If the man will bring an appeal, a criminal charge, against his lord, he must first 'waive the tenement'." (P. and M., I,303).

The reopening of the trial resembles Tierri's action in Roland. However, Tierri seems to be bringing a new suit entirely. The appeal from false sentence is described by Esmein as consisting of: "wager by battle by the litigant

against the peers who sentenced him." (Esmein, pp. 51-2).

Proof by combat is offered by Lancelot in defending himself and the Queen against the charge of adultery in the Mort Artu; Tristran too offers combat in the same circumstances. These offers are refused, as their guilt is considered already proven.

Iseut's proof consists of swearing an oath on relics. This was regarded as a genuine ordeal in the superstitious middle ages, relics often eliciting confessions where all other methods might fail (Lea, pp. 284-5). Also, witnesses were often required to swear on relics (Esmein, p. 60). Pollock and Maitland discuss the justification of this method: "The swearer satisfies human justice by taking the oath. If he has sworn falsely, he is exposed to the wrath of God..." (II, 600).

The use of champions in these episodes add new aspects to the concept. In the adultery cases, the lovers are quick to offer to champion the Queens. In Lancelot's appeal of false judgment, three champions are chosen from among the judges. In the false Guinevere episode, a very old man is sent as champion,and King Arthur's knights reject the combat. In Durmart, Nogant feels he should have a champion as Durmart is not of his rank. This idea is echoed in Sone's trial, when he stipulates that his opponents must be knights (see p.58). The Jostice et de Plet, in a section on how to judge combat, underlines the importance

of rank: "Si doit regarder...la personne, qu'ele soit tele que se doie combatre. Quar dure chose seret, si d'une personne, comme contes, ou rois, se combatoit a basse persone." (J. and P., p. 102).

There are many delays granted for various reasons. In the Mort Artu, King Yon insists on a day's delay in the sentencing of Guinevere for adultery as one should not pass sentence of death after 'none'. After Guinevere's rescue, a delay for travel is allowed by King Arthur for all his men to gather to take part in the vengeance. In the Vulgate Lancelot, the trial of Guinevere, accused by the false Guinevere, is delayed many times, and we are given the impression that the court is in session only at times of religious festivities. The formal hearing is at Candlemas, is delayed until Ascension Day, and the sentencing follows at Pentecost. In Lancelot's appeal of false judgment following the sentencing of Guinevere, he and his opponents are granted a week in which to prepare for combat. In Tristran, Iseut's trial is postponed for fifteen days as she has requested the presence of King Arthur. Earlier in this episode, the barons urge Mark to delay the judgment one day, so as to avoid wars of vengeance. Their ideas parallel those expressed by the barons in Thèbes.

Crimes against God are dealt with severely in these romances. In Durmart, Fenise is accused of heresy: Nogant declares in his formal accusation that, as she lives by the

'false law' and hates God, all her treasure, lands and goods should come to him. He says that neither with clerics or with lay people could she clear herself of this blame. By law she should be exiled, but, because of the gravity of her crime, she should be burned or brought low. Fenise successfully defends herself through profession of faith, offer of proof by ordeal, and through many witnesses. The judges turn their attention to the perjured Nogant. Durmart formally accuses him of treason against his lady, and, by feudal law already discussed, he is indeed guilty. After his escape, his followers are saved from punishment when Queen Fenise forgives them.

That heretics were punished severely is attested to by Pollock and Maitland: "On the mainland of Europe obstinate heresy had long before the date of our statute (1411) been treated as a crime worthy of death by burning." (P. and M., II, p. 544).

In the Vulgate Lancelot, Guinevere is accused by the false Guinevere of treason, disloyalty, and mortal sin. It would seem that King Arthur is not properly married and that the false Guinevere has been robbed of her rights. Arthur, after having been ensnared by this lady, allows the accuser a successful proof by witnesses. Guinevere's punishments all have to do with having married a king under false pretences. Due to Lancelot's intervention, she is merely banished, and is reinstated later.

In the two final episodes, adultery is not precisely named, nor is the crime labelled treason. In the formal trial of Iseut, in Tristran, Arthur repeats the charge: that Tristran loved her basely and wrongly. Iseut acquits herself by oath on relics, and the lovers have carefully denied their guilt, privately basing their claim to innocence on the fact that they are victims of a love philtre. In the Mort Artu adultery episode, King Arthur's barons sentence Guinevere to die for her disloyalty and felony. Lancelot and Guinevere do not deny the charge but Lancelot invites the King to believe in the lovers' innocence: he first offers to defend the charge in combat against two champions. Then, as he returns Guinevere to Arthur, he states that if he loved the Queen 'de fole amour', he would not be giving her up so easily.

In both episodes the lovers are considered by the husbands to have been caught in the act. In Thèbes, Ethiocles also requests only the sentencing of Daire, as he considers Daire's guilt not in question. Beaumanoir describes the law in France concerning wronged husbands, and states that, if a husband kills the lover caught with his wife, and raises the cry for witnesses, he shall not lose life or limb for the murder. (Beaumanoir, par. 1637). Capture in the act, which eliminates the need for proof, is outlined by Esmein: "During the Middle Ages, when a person was taken in the act, an accuser is unnecessary and the

wager of battle is not available. The justiciar...judges him at once in the public presence, according to the testimony of those who have seized him." (Esmein, p. 61). Even for a certain time after the act, the form of justice could be invoked by raising a hue and cry, or 'hareu", as the criminal was sought (Beaumanoir, par.1571), (Esmein, p. 61).

Indeed, the escaped lovers, Lancelot and Tristran, are both sought in this way.

In the adultery episodes, the punishment is to be burning, both for the ladies and for Tristran. Punishments for adultery are listed in the Jostice et de Plet, and burning is not mentioned. Instead, one is at the mercy of the king, twice. The third offence is punishable by exile, and one's goods are confiscated by the king (J. and P., p. 280). One could assume that, as the wronged husbands are kings, they are exercising their power in planning to have the transgressors burned.

King Mark formally declares Tristran and Iseut outlaws, and offers a reward for their capture. His barons swear to seek them out, just as Arthur has his men swear oaths to aid in the capture of Lancelot and Guinevere in the Mort Artu. Temporary outlawry seems to have been a method of forcing a defendant to come to court, or to obey a court's decision. In the treatises and legal authorities consulted for this study, it is in the sections on outlawry that formal delays are mentioned. A defendant is allowed several delays,

after which he is outlawed. The Jostice et de Plet states that, in the case of a nonpayment of debt, a man has forty days in which to pay, after which he is banished from the town until he can pay (J. and P., p. 311). Esmein describes 'forbannissement' or the procedure of contumacy as: "the outlawry and the delays, consisting of four periods each of an assize. The four periods will always be found, and the last term will always be of an assize or forty-day duration ("quarantaine")...The person banished was really without the law; his murder went unpunished, and all were forbidden to shelter him." (Esmein, pp. 73-75). Delays seem to have been common in a general way: Beaumanoir mentions that judges could make use of three periods of delays, each consisting of fifteen days, followed by one delay of forty days, then seven days, and finally three days (Beaumanoir, par. 1853). Esmein also states that a man arrested on suspicion may be held for forty days (Esmein, p. 63). In the romances delays are granted for extremely logical reasons, giving time for travel, for the seeking out of champions, witnesses, sureties, and for preparation of proof by battle. King Mark's lifting of the pronouncement of outlawry and the subsequent trial of Iseut fall within the framework of the judicial procedure.

That the highest secular power resides with the king is illustrated in the romances, but the Pope intervenes

twice in these episodes; in the Vulgate Lancelot, he excommunicates Arthur for banishing his lawful wife. The King is unrepentant and Guinevere is reinstated only after death-bed confessions by the false Guinevere and her confederate, Bertholai. In the Mort Artu, the Pope overrules Arthur in the matter of Guinevere's adultery, and Arthur is prompt in obeying. It would seem that, in matters of marriage, the church is the higher authority. Pollock and Maitland describe excommunication as ecclesiastical outlawry, as a method of forcing an obstinate offender to obey. Again, it may be temporary: "If the excommunicate does not seek absolution within forty days...he will be kept in prison until he makes his submission (P. and M., I, p. 478).

It seems clear that crimes against God are matters reserved for ecclesiastical courts. Esmein outlines the jurisdiction of the'courts Christian': "To this jurisdiction belonged also the cognizance of certain crimes, committed by any person; for example, those of heresy, sorcery, adultery, and usury." (Esmein, p. 50). Pollock and Maitland also state that the church had jurisdiction over marriage, divorce and legitimacy (I, 127), and describe the procedure in cases of heresy. The defendant was tried in the ecclesiastical court, but turned over to the secular court for sentencing: "in order that the 'irregularity' of blood-guiltiness may be decently avoided" (I, p. 545).

In the romances these crimes are dealt with in an entirely secular manner. However, in the matter of heresy, it is stated that the king is acting to preserve the faith. In the cases of adultery, it has been seen that the wronged husband has certain licence and that matters proceed quickly following 'capture in the act'. The Pope's intervention in the matter of Guinevere's and Lancelot's adultery is of a secular nature; he declares that they were not 'caught in the act', hence Guinevere was condemned without trial. Only in the false Guinevere episode does the Pope, as the highest ecclesiastical authority, claim his rightful jurisdiction, and place Arthur in the position of offender. Thus, even in matters of crimes against God, the law in the romances seems to correspond with that of medieval times.

CHAPTER V

TRIALS AS CEREMONIES AND THE MORAL VIEWPOINT

It has been seen in the previous chapters that most points of law found in the romances have their parallels in actual medieval law. Yet to be discussed are the ceremonial aspects and the moral point of view expressed through them. The trials examined are public events, witnessed by many. These occur in the open, either at a lord's or king's court, or in the field, witnessed by the armed forces of those involved. Even Lancelot's joust in Rigomer is witnessed by many, the horn being sounded to call the people. In two romances, the trials are scheduled for special days: the trial in Roland takes place at Aix on the feast of St. Silvester; in the Vulgate Lancelot the court meets on three high days in the Christian calendar, Candlemas, Ascension Day and Pentecost. In a discussion of royal courts, Pollock and Maitland mention that in the latter half of the eleventh century the king's court was in session only three times a year, when the king wore his crown (I, 109).

A delay is allowed in Lanval for the gathering of the enlarged court, and in Tristran, a special open place is designated for the trial, and the knights joust there beforehand. A picture emerges of trials as colourful spectacles, as well as solemn ceremonies.

There is a very formal request for justice in some of the episodes. Either the lord demands it of his vassals (Roland, Thèbes), or the vassal requests it of his lord (Mador and Guinevere both request it in the Mort Artu poisoning incident). In other instances, justice is requested of a lord when the charge is directed against that lord's vassal (by Floriant in Floriant, by Gawain in Manessier's Continuation and by the false Guinevere in the Vulgate Lancelot). In Yvain the younger sister asks King Arthur for counsel, but she too receives justice. It is assumed in this incident that the dead father of the sisters held his land of the King. In Sone, Sone requests justice on behalf of Godefroi who, on doing homage to the king, becomes his vassal once more. In Durmart, Fenise makes formal request of King Arthur; he is perhaps in the position of Nogant's overlord, Nogant having promised to hold his land of him, as did Maragot promise the emperor in Floriant.

This request for justice is the formal beginning of the judicial procedure. It has already been noted that the lord owed his vassal protection and warranty (see p.96). Further, it was the lord's duty to give justice: "If a lord persistently refuses justice to his man, the tie of fealty is broken, the man may openly defy his lord, and, having done so, may make war upon him".(P. and M., II, 505). This duty of a sovereign towards a subject was illustrated quite recently. In a man's long battle to have his case heard in court, he

finally appealed to the sovereign, and Queen Elizabeth II ordered that "right be done".[1]

The procedure of the courts has already been seen to correspond to what is known of medieval law. The language used in the trials varies remarkably little from romance to romance. One might argue that literary influencing has occurred, based on this similarity of terms. E. A. Francis, in her article "The Trial in Lanval", cites Hoepffner's opinion expressed in his book Les Lais de Marie de France that the trial of Daire in Thèbes was added due to the influence of Roland, and that, in turn, Marie borrowed the idea of including a trial scene, with debated over points of law, in Lanval. However, she points out the many differences between the trials of Daire and of Lanval, and shows that the procedure in Lanval closely parallels that known of medieval law. She concludes that Marie de France may have had knowledge of cases heard, and may have used actual trials as sources.[2] J. R. Rothschild, in "A Rapprochement between Bisclavret and Lanval", shows that Bisclavret also contains a judicial judgment and the same legal terminology, and finds it not surprising that Marie shows this knowledge, given her supposed background and residence.[3] Ewert concludes

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[1]The Globe and Mail, Toronto, Thursday, April 19, 1973, p.1.

[2]Studies in French Language and Mediæval Literature Presented to Professor Mildred K. Pope (1930; rpt. Freeport: Books for Libraries Press, 1969), pp.115-24.

[3]Speculum, XLVIII (1973), 78-88.

that Marie was Abbess of Shaftsbury, the natural daughter of Godefroy d'Anjou, father of Henry II (Lanval, pp.ix-x). In his commentary of Béroul's Tristran he adds that: "Beroul evinces, in addition to a particular interest in law, a sound knowledge of the legal forms and procedures of his time, a preoccupation which he shares with Marie de France and other writers of the age of the Plantagenets." (Tristran, II, 226).

The idea of using trials in romances may have been borrowed, but it is highly probable that the language used came directly from medieval procedures witnessed or heard of. The terms appear, with their same precise meanings, in the Jostice et de Plet. In the section on 'how to accuse' the procedure is outlined for the appeal of treason: "Uns hons dit issi: Cil homes m'a féru à tort do costel, en traison, et m'a fet tiel plaie; et ne vi pas le cop venir; et sui prez de mostrer et de l'avérer contre son cors, si comme je doi. Cil fet encontre tel ni et tel deffense comme il doit." (J.and P., p. 297).

Rules involving times of day are implied or stated directly in the romances. In the Mort Artu poisoning episode, Guinevere's champion must appear by vespers; in Yvain, Lunete's champion must appear by midday, and in the later episode, the elder sister believes that she will have won her case if the younger's champion has not appeared by 'none'; King Arthur overrules her on this point.

In the Mort Artu adultery episode, King Yon states that

one should not pronounce sentence of death after 'none'. The barons also urge postponement of judgment till the following day in Thèbes and in Tristran. In Rigomer, the knight accusing Lancelot of treason and felony states that the combat will take place at noon the following day. In Manessier's Continuation, the king wishes to postpone the combat till the following morning, and is very angry at having his dinner interrupted by Kay's haste. In Roland, Floriant and in the trial following Gawain's war of revenge in the Mort Artu, proof by combat is postponed till the following morning. In this last episode Gawain and Lancelot begin the battle shortly after 'prime', and Lancelot declares himself the victor as he has not been defeated by vespers. In Yvain, Gawain and Yvain also cease to fight as champions for the two sisters at nightfall. This rule is corroborated in actual rules of combat: "The burden of proof was on the combatant who fought for an affirmative proposition; his adversary won if the stars appeared before the fight was over" (P.and M., II, 634).

'None' may signify noon (Godefroy, Vol.5), or may indicate use of canonical fourth hour, approximately three o'clock in the afternoon (Godefroy, Vol.10). Vespers refers to nightfall, and 'prime' to the first canonical hour, roughly six o'clock in the morning (Godefroy, Vol.10). It is natural that legal procedures would have limits set in terms of times of day as well as number of days' delay. Times of day are not mentioned in the treatises examined for this study,

but perhaps this sort of rule was a minor consideration, and varied from court to court.

As seen in the romances, and in the legal authorities and treatises cited, medieval trials proceed by judgment before proof, except in cases of 'capture in the act' (Mort Artu adultery episode, Tristran), or known guilt (Thèbes). The judgment is the decision as to whether the accuser or the defendant must prove his assertion or denial, and as to the form of proof required. In Lanval, the proof resembles that of our day; the accused must produce evidence to prove his boast. In Durmart, Fenise exculpates herself by witnesses, and the false Guinevere proves her case by witnesses in the Vulgate Lancelot. In Tristran, Iseut makes an oath on relics. However, the proof most widely used is that of combat. All the proofs, even that by combat, were considered the judgment of God, and it was the widespread belief that God would punish the perjurer: "...It was a sacral process. What triumphed was not brute force but truth." (P.and M.,II, 600). This belief that God took an active part in the proceedings is emphasized in some romances: in Roland, the fact that God will decide is mentioned by both sides in the dispute, and it is declared at the end that God has decided. In Yvain, before his combat against three in defense of Lunete, the hero delivers a long homily on God and right. In the Prose Tristan, Tristan assures Anguin that they have no need to fear as they are in the right. Preceding the combat between Lancelot and Gawain in the Mort Artu, both men declare that they will defeat the other because right is on their side. Gawain states

that even though Lancelot is famous for his prowess, God makes those fighting for wrong weak. In the false Guinevere episode in the Vulgate Lancelot, God actually punishes the offenders, as the false Guinevere and her confederate Bertholai die horrible deaths, struck down by a mysterious malady.

Pollock and Maitland explain the role of God in trials: "In neither country [Normandy or England] had men passed the stage at which they look to the supernatural for proof of doubtful facts. The means of proof are solemn formal oaths and ordeals designed to elicit the judgment of God." (I, 74). The religious aspect of the ordeal of combat is stressed in Roland, when Pinabel and Tierri pass the night in preparing their souls, in Floriant, when the hero hears mass before the combat, and in the Mort Artu, when Lancelot goes to the minster before beginning combat against Gawain.

In a system based on the idea that God will punish the defeated as perjurer, sworn statements and oaths must obviously be of great importance. The sacredness of acts of homage and oaths of fealty has been noted previously (see p.96 and p.39). Indeed, one gathers that people in medieval times were not constrained to do right or to obey by any general moral precept, and that the oath played a very necessary role in society. In the Mort Artu, following the rescue of Guinevere by Lancelot in the adultery episode, Arthur finds it necessary that his men swear oaths on relics to ensure their active participation in his war of vengeance. In Tristran, all men swear to seek out Tristran and Iseut when King Mark has them outlawed.

The importance of truthful oaths is emphasized in many romances. In Rigomer, Lancelot has the widow swear that she is in the right in the matter of her dowry, as he wants to be sure he is on the side of right. In the Mort Artu poisoning episode, Gawain will not defend the Queen, as he does not believe he can make a truthful statement on the matter. Lancelot words his defense carefully, that the Queen did not intend disloyalty or treason. The Queen can now make her oath, declaring the same thing, and Gawain sees that he also could defend the Queen, on these terms. In the Vulgate Lancelot false Guinevere episode, Lancelot's combat against three is declared illegal at one point, as Lancelot has not sworn an oath before combat. Galehot fears that his friend would perjure himself in oath, as he is not sure which Guinevere is the true one. Therefore, he has the horn sounded to begin the combat again. Oaths before combat and the formula for these are carefully set down in the Jostice et de Plet (pp.307-8), and by Beaumanoir (par.1840). There is an episode in Le Roman en Prose de Tristan, a critical analysis by E. Löseth, in which wrong triumphs over right, but it is explained that no oaths were made before this combat.[1]

It has been emphasized that God will punish only those making untruthful statements, and not necessarily those 'guilty' in our sense of right and wrong. In the romances, care is

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[1](1891; rpt. New York: Franklin, 1970), par.230a.

taken to ensure that the hero never makes an untruthful statement, and that he therefore never runs the risk of God's punishment. Nowhere is this strange aspect of medieval law so aptly illustrated as in Iseut's ambiguous oath in Tristran. Her trial, and the preceding events, have been much commented on. H. Newstead, in "The Equivocal Oath in the Tristan Legend", believes that the staging for Iseut's oath derives from a Hindu ritual, the 'Act of Truth', often invoked in literature by adulterous wives to dupe their husbands.[1] P. Jonin shows that King Mark's actions and the various legal stages all have sound basis in medieval law. He notes that the only point at variance with known legal procedure is the punishment of burning for adultery.[2] F. Whitehead states that the lovers' guilt is not in question, but whether or not it can be proved. But he views Mark as the offender when he refuses Tristran proof by combat, and sees Tristran's miraculous leap as God's vindication of the lovers' innocence.[3] P. Le Gentil, in "La Légende de Tristan vue par Béroul et Thomas", attempts to impose our system of values on Béroul's treatment of the lovers. He believes that their great natural passion places them on the side of innocence, and that therefore Béroul makes God their

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[1] Mélanges offerts à Rita Lejeune (Gembloux: Duculot, 1969), II, 1081.

[2] Les Personnages Féminins dans les Romans Français de Tristan au XII^e Siècle (Aix-en-Provence: Annales de la Faculté des Lettres, 1958), pp.59-108.

[3] "The Early Tristan Poems", Arth. Lit., p.140.

accomplice, even when they are 'caught in the act'.[1]

But throughout the trials, and by all accounts in medieval treatises, God acts only when called upon to judge, and judges only the veracity of statements made. B. Blakey, in "Truth and Falsehood in the Tristran of Béroul", shows that the author never allows Tristran or Iseut to swear untruthfully. He comments on the medieval attitude to truth: "One was not bound to be truthful unless one had sworn to be so", and concludes that: "It is essential... that we do not underestimate the almost magical power of the sworn word, cornerstone of the political, social and judicial systems of an age."[2] Thus, in Tristran medieval law is never violated, but is used by all to its fullest extent. Iseut merely uses the law wisely, and though guilty in our eyes of adultery, is vindicated by the standards of Béroul's day.

The trial scenes in the romances give life and meaning to a legal system, and greatly aid in our understanding of the medieval code of ethics.

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[1] Romance Philology, VII (1953), 112-8.

[2] History and Structure of French, Essays in the Honour of T. B. W. Reid, ed. F.J. Barnett et al (Oxford: Blackwell, 1972) pp. 25-9.

CHAPTER VI

CONCLUSION

In this examination of the trials in fourteen Arthurian romances and in two other works, Roland and Thèbes, it has been seen that there is great correspondence between the details of the trial episodes and what is known of medieval legal procedure. The crimes, punishments, forms of procedure, choices available to the accuser, defendant and judges, the settings, the language used and the moral viewpoint expressed, all have their parallels in the laws and customs of the twelfth and thirteenth centuries. More exact correspondence would be difficult to prove, as in that period there were few national laws, and customs varied from area to area.

We cannot, of course, conclude that the romances give a complete view of medieval procedure. They are fictional accounts, depicting the adventures of a legendary king and his followers. There are a few aspects of the law not illustrated in them, or mentioned only briefly.

The medieval treatises consulted for this study deal for the most part with civil matters; criminal law occupies very little space in them. Yet civil suits are depicted rarely in the romances. It is natural that the more mundane matters of ownership, tenancy, and inheritance are of minor consideration in these tales, as trials over criminal matters offer far more dramatic scope.

By the twelfth century, king's officials, bailiffs, provosts and seneschals, were serving as justices (see p.91), yet this is illustrated in only one trial, that of the widow in Rigomer. The absence of king's officials in the trial scenes may be explained by the fact that the romances deal for the most part with high-born individuals. Pollock and Maitland note that one of the most important clauses in the Great Charter of 1215 was that: "A man is entitled to the judgment of his peers; king's justices are no peers for earls or barons"(I, 173). Thus it would be unusual to find the personages in the romances judged in this manner.

During the twelfth and thirteenth centuries the position of the King was steadily growing stronger. As the King came to represent the public good, his officers assumed rights of justice for him, and the list of royal causes continued to grow (Esmein, p.51). If the King was the highest justice, it follows that there was no one to judge the King. He also had the right of judgment by his peers, and therefore was immune from ordinary prosecution (P. and M., I, 518). With the increasing power of the King came new methods of bringing malefactors before the courts: arrest on suspicion, inquest by the country, and the official inquest (Esmein, pp. 62-94).

In none of the romances studied do these new methods of procedure appear, but the increased power of kings is illustrated in a few instances. In Thèbes, Ethioclés is answerable to no one, and in the Vulgate Lancelot, King Arthur, in the thrall of the

false Guinevere, uses the law as a tool to set aside his Queen. Even the Pope's excommunication of him does not deflect him from his lawless course of action. In Yvain, King Arthur uses his power to force the elder sister to share her inheritance with the younger, after ordinary legal procedure has failed to solve the problem. However, in most romances, the king is primarily a feudal overlord, as much bound by regulations as his vassals. This depiction of a purely feudal society, in an age when that social system was rapidly being transformed, is perhaps an attempt to idealize the relationship between lord and vassal. It may also serve to firmly place King Arthur and his knights in the past, as belonging to a by-gone age.

The trial scenes in the romances serve various purposes. Some merely serve to increase the hero's reputation, in prowess and in moral rectitude, and to illustrate the knightly virtues. All three trials in Claris fall into this category, as does the trial involving the widow and her dowry in Rigomer. As such, they can be removed with ease from the body of the works. Most trials, however, form an integral part of the stories, sometimes furnishing motivation for subsequent events, or providing a conclusion to an earlier incident, and sometimes serving as devices to explain the hero's movements. In most instances the trial scenes aid in characterization; in particular the accusation of Gawain in Perceval and the trial of Guinevere for poisoning in the Mort Artu seem

to serve this purpose. In a few romances, the trial is a high point in the story. Lanval is essentially the story of a trial, and in Durmart and in Floriant the trials are important confrontations. In the Mort Artu, the combat between Gawain and Lancelot is essential to the drama and is a factor in the death of King Arthur. In Roland, the trial of Guenelun provides a fitting dénouement for the death of the hero, and the trial of Iseut in Tristran is the high point in the romance.

Besides illustrating the ideal in knightly behaviour, and aiding in characterization, the trials enable the authors to express moral attitudes. Honour is the highest virtue, form is stressed and also the importance of sworn statements. The legal system is idealized, and the victors in each trial are shown to be in the right. The law is also illustrated as a useful tool. In the Mort Artu, Lancelot is to be admired for his clever, careful oaths. In Tristran, the public is meant to be sympathetic toward the lovers and to applaud Iseut's skilful use of the law. The precept seems to be that one should learn to use the law wisely.

Points of law are discussed often. In Roland, in Thèbes and in Lanval, the discussion centres around whether or not there has been a crime committed. While Gawain and Yvain act as champions for the two sisters in Yvain, the onlookers give their views on the laws of inheritance. In Floriant, the punishment due a king is argued, and in the Vulgate Lancelot false Guinevere episode, King Arthur's barons refuse to take part in the

sentencing of Guinevere, as the procedure has been highly irregular. The prominence given these arguments seems to indicate that these points of law were of great interest to the public for whom the romances were intended. It is also possible that they found their way there as a result of actual judgments.

In the Middle Ages the courts were great in number: there were royal, seigniorial, municipal and ecclesiastical courts(Esmein, p.48). In medieval courts litigants could make use of advocates, but were required to appear in person (Esmein, p.56 and P. and M., II, 604-5). It is quite possible that some of the audience may have been involved in cases themselves, at least in matters of civil law. The pitfalls were many in this barbaric system, and knowledge of the law must certainly have been regarded as desirable.

We can conclude that the authors of the romances and their public probably had fair knowledge of the law, and that the trial scenes in the romances were of great interest to all. The trials provide colourful illustration of this strange system of justice in which the judgment of God played so large a part, and could greatly aid legal and social historians in understanding the twelfth and thirteenth centuries.

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