What Silence Desires: Female Inheritance and the Romance of Property in the *Roman de Silence*

Silence, the girl raised as a boy who becomes a minstrel of enormous talent and a knight of great prowess in the thirteenth-century romance that modern editors call simply the *Roman de Silence*, has understandably aroused the gender-bending curiosity of modern readers. The author, Heldris of Cornwall, is otherwise unknown, and the question has even been asked whether Heldris — like that other Cornwall native Silence herself — was a "transvestite she."[1] Silence's parents conceal her female body with masculine clothes in order to circumvent a capricious law that prevents women from inheriting property, but in her life as a man Silence turns out to be a bit too successful for her own good. She eventually becomes the favorite knight of King Evan of England, the same king whose law she is dodging, and the plot consists primarily of adventures and misadventures arising from the dramatic possibilities of a cross-dressed hero and the danger of being discovered.

Academic readers of the early twenty-first century have been prepared — perhaps too well prepared — for the delights and frustrations of such a text by everything from Shakespearean comedy to feminist theory.[2] Despite some

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[1] Sarah Roche-Mahdi, "Introduction," in Heldris of Cornwall, *Silence: A Thirteenth-Century French Romance*, ed. and trans. eadem (East Lansing: Colleagues Press, 1992), ix–xxiv, here xi n. 2.

[2] Regina Psaki, in her edition of the poem, calls it "at least proto-feminist" ("Introduction," in Heldris de Cornuälle, *Le Roman de Silence*, ed. and trans. eadem [New York: Garland, 1991], ix–xxxvii, here xxx), and another recent editor suggests that it deals with "matters that the modern reader might reasonably expect to find expressed so explicitly . . . in French feminist criticism of the 1970s rather than in a medieval romance" (ed. Roche-Mahdi, xx). Edward J. Gallagher has remarked that the romance has "an almost uncanny air of modernity about it" ("The Modernity of *Le Roman de Silence*,"

anachronistic excesses, much progress has been made in understanding this recently-discovered text, especially the unusually large scope it gives to exploring the construction of gender. A growing body of work also now recognizes the centrality of the "feudal politics of lineage" to Silence's story.[3] For Heldris's contemporary audience, property and gender were inextricably linked as determiners of identity, and the gender games in which the text engages are at least partly a fictionalized space in which to explore other questions of social identity.[4] The law of inheritance that provides the central plot

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University of Dayton Review 21.3 [1992]: 31–42, here 39). This is a story, the critics tell us, about the "politics of gender" (Roberta L. Krueger, *Women Readers and the Ideology of Gender in the Old French Verse Romance* [Cambridge: Cambridge University Press, 1993] chap. 4); "the role of performance in gender identification" (Peggy McCracken, "'The Boy Who Was a Girl': Reading Gender in the *Roman de Silence*," *Romanic Review* 85 [1995]: 517–36, here 517); "deconstructed masculinity" (Lorraine K. Stock, "The Importance of Being Gender 'Stable': Masculinity and Feminine Empowerment in *Le Roman de Silence*," *Arthuriana* 7.2 [1997]: 7–34, here 9); "sexualized textuality," (Kate Mason Cooper, "Elle and L: Sexualized Textuality in the *Roman de Silence*," *Romance Notes* 25 [1985]: 341–60); "gender neutrality" (Erin F. Labbie, "The Specular Image of the Gender-Neutral Name: Naming Silence in *Le Roman de Silence*," *Arthuriana* 7.2 [1997]: 63–77); "queer identities" (Elizabeth A. Waters, "The Third Path: Alternative Sex, Alternative Gender in *Le Roman de Silence*," *Arthuriana* 7.2 [1997]: 35–46, here 38); and "lesbian desire" (Kathleen M. Blumreich, "Lesbian Desire in the Old French *Le Roman de Silence*," *Arthuriana* 7.2 [1997]: 47–62). It is a "*texte de jouissance*" (Peter L. Allen, "The Ambiguity of Silence: Gender, Writing, and *Le Roman de Silence*," in *Sign, Sentence, Discourse: Language in Medieval Thought and Literature*, ed. Julian N. Wasserman and Lois Roney [Syracuse: Syracuse University Press, 1989]: 98–112, here 98) in which the intertwined ambiguities of gender and language make it a "map of its own misreadings" (R. Howard Bloch, "Silence and Holes: The *Roman de Silence* and the Art of the Trouvère," *Yale French Studies* 70 [1986]: 81–99, here 98).

[3] The phrase belongs to Sharon Kinoshita, who wisely observes, "any attempt to gauge the political significance of *Silence* without taking into consideration the social institutions and practices by which feudal society reproduced itself is at best partial and at worst misleading": "Heldris de Cornuälle's *Roman de Silence* and the Feudal Politics of Lineage," *PMLA* 110 (1995): 397-409, here 397). Kinoshita has recently extended this work in "Male-Order Brides: Marriage, Patriarchy, and Monarchy in the *Roman de Silence*," *Arthuriana* 12.1 (2002): 64–75.

[4] Until recently the social dimension of the poem was seldom viewed as centrally important to its meaning, noteworthy exceptions being Simon Gaunt, "The Significance of Silence," *Paragraph* 13 (1990): 202–16, who suggests, "Heldris's praise of Silence reinforces class hierarchies rather than breaking down gender stereotypes" (212); and Kinoshita, "Feudal Politics." Recent work emphasizing the importance of genealogy, property, and class includes: Kinoshita, "Male-Order Brides"; Peggy McCracken, *The*

motivation to *Silence* is no mere plot device, but rather speaks to fears and desires with deep roots in the realities of thirteenth-century inheritance practices. Silence's story, written during a century in which the rapid evolution of those practices reflects well-known power struggles between kings and nobles — and driven as it is by a desire to preserve landholdings — may aptly be called a romance of property rights.

Reading the romance in terms of the desire for property resolves two impediments to interpretation. First, it helps explain the status of the *Roman de Silence* as a chivalric verse romance at a time when prose romance and vernacular historiography were in the ascendant.[5] Though Heldris does not avail himself of the legitimating effects of prose or of historical subject matter, the *Roman de Silence* does give voice to many of the same preoccupations that were spurring the rise of prose romance and prose histories at the time of its composition. Much contemporaneous writing addresses such topics as dynastic succession and the proper relations of princes and nobles by referring to an authoritative past that has been idealized into a model for the present, a transcendent model that tends to subsume the actions of individuals into narratives with long (and often tragic) trajectories.[6] Heldris, on the other hand, by translating the secure transmission of landholdings into the object of a traditional romance quest, orients his narrative around the identity formation of an individual. The practical difficulties faced by thirteenth-centry nobles in acquiring and holding onto the landed wealth that defined their identity resonate deeply with the sudden reversals and random interruptions of *Silence's* romance narrative, yielding a relationship to contemporary concerns

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Romance of Adultery: Queenship and Sexual Transgression in Old French Literature (Philadelphia: University of Pennsylvania Press, 1998), who notes that Silence is "a figure who seems to subordinate erotic desire to a desire for property and proper succession" (148); and Robert S. Sturges, "The Crossdresser and the *Juventus:* Category Crisis in *Silence*," *Arthuriana* 12.1 (2002): 37–49.

[5] On the tendency of thirteenth-century historical writing to fashion itself after romance, see Gabrielle M. Spiegel, *Romancing the Past: The Rise of Vernacular Prose Historiography in Thirteenth-Century France* (Berkeley and Los Angeles: University of California Press, 1993); and eadem, *The Past as Text: The Theory and Practice of Medieval Historiography* (Baltimore: Johns Hopkins University Press, 1997), esp. chaps. 10–11.

[6] Spiegel, in both of the works already cited, addresses in detail the purposes and forms of thirteenth-century writing about the past. On the adoption of historiographical concerns into romance, see Lee Patterson, "The Romance of History and the Alliterative *Mort Arthure*," in idem, *Negotiating the Past: The Historical Understanding of Medieval Literature* (Madison: University of Wisconsin Press, 1987), 197–230.

every bit as tangible as the idealized and linear patterns of contemporaneous prose narratives. The poem's heroine makes her way in the world as a disinherited heiress whose male disguise is constantly in danger of being discovered, and her struggle to keep her inheritance, like any other romance quest, has obstacles that must be overcome. Silence's quest thus shares the characteristic pitfalls and shifting fortunes common to romance, but it also dramatizes — from the perspective of an individual heiress — the real-world complications of the quest for property.

The second benefit of a reading that foregrounds the inheritance of property is that it allows at least a tentative answer to the question, "What does Silence desire?" Others have noted that Silence, although she is desired by many, has no perceptible desires of her own.[7] Or, more precisely, her only explicit statements of desire take a negative form, as in these remarks at the age of twelve (the threshold of medieval adulthood): "'Ne voel perdre ma grant honor, / Ne la voel cangier a menor. / Ne voel mon pere desmentir'" ("'I don't want to lose my high position; / I don't want to exchange it for a lesser, / and I don't want to prove my father a liar'" [2651–2653]).[8] The narrator, who goes along with Silence's self-negation by using masculine pronouns to describe her, confirms that her renunciation of desire is habitual: "Et tols jors ert pres a contraire / A Cho que ses cuers voloit faire" ("He was always ready to go against / what his heart wanted him to do" [2677–2678]). It is easier to construe Silence's negatively-framed statement of desire if we remember Northrop Frye's definition of desire's function in romance: "the quest-romance is the search of the libido or desiring self for a fulfillment that will deliver it from the anxieties of reality but will still contain that reality."[9] As a cross-dressed female who aspires to inherit her father's patrimony, Silence *is* one sort of desiring subject in this romance of property, one who has her choice of identity crises: she can be a disinherited heiress or a female knight. Both alternatives are feudal unthinkables that reflect, in Frye's terms, a cultural desire to be delivered from the uncertainties of noble inheritance but

[7] McCracken, "'The Boy Who Was a Girl'," 530; Barbara Newman, *From Virile Woman to WomanChrist: Studies in Medieval Religion and Literature* (Philadelphia: University of Pennsylvania Press, 1995), 165; and eadem, *God and the Goddesses: Vision, Poetry, and Belief in the Middle Ages* (Philadelphia: University of Pennsylvania Press, 2003), 122–34.

[8] Quotations are from *Silence*, ed. and trans. Roche-Mahdi. Subsequent citations appear in the text.

[9] Northrop Frye, *Anatomy of Criticism* (New York: Atheneum, 1967), 192.

simultaneously to engage and overcome those anxieties in a romantic fantasy that contains a recognizable feudal reality. And the desire of Silence and her parents to preserve her inheritance operates in tandem with another version of the desire to be delivered from feudal uncertainty: since marrying an heiress was one of the few methods by which a medieval nobleman could add to his patrimonial holdings and increase his status, Silence also functions as the desired object of the quest.[10]

Silence gives voice to feudal anxieties via the atmosphere of uncertain outcomes and shifting procedures that the poem shares with the aristocratic culture that produced it. The feudal hierarchy was in its application a highly varied network of practices, with the laws governing inheritance often becoming in actual use a game of find-the-loophole. And who got to inherit what depended at least as much on custom and local patronage as it did on law. Both customs and laws were in rapid transformation at the time of the poem's composition in the second half of the thirteenth century. At this time, relatively few noble inheritances would have been governed strictly by primogeniture (even fewer in France than in England), and in fact medieval noblemen — with the help of a growing legal profession — went to great lengths to provide for their daughters, younger sons, and widows. Silence's father Cador, whose idea it is to cross-dress his daughter, is in one sense doing what every medieval nobleman did: maneuvering to protect his property and to take care of his family interests. Cador's maneuvering, however, must operate within strict limits because he and his wife Eufemie hold their land directly from the king of England, making them tenants-in-chief subject to stringent royal controls in matters of property succession. They would not have available to them the legal instruments for designing a custom inheritance package that were becoming increasingly popular with those of lower aristocratic rank, and the royal decree they circumvent stands as a reminder that inheritance rights were a major bone of contention between medieval kings and their greatest vassals.

The application of feudal history to *Silence* would admittedly be easier if we knew more details about its author and its first audience, but while it is impossible to know the provenance of the poem with certainty, the contest

[10] See Georges Duby, "Women and Power," in *Cultures of Power: Lordship, Status, and Process in Twelfth-Century Europe*, ed. Thomas N. Bisson (Philadelphia, University of Pennsylvania Press, 1995), 69–85. Duby notes that when a woman stood to inherit a lordship, "if she chanced to be an orphan without a brother, then the husband gathered up with her the power of which she was the legitimate holder" (71).

between royal control and baronial privilege was of equal concern in both France and England during the thirteenth century. In favor of English influence on the poem, Heldris does claim to be from Cornwall, the setting is in England, and English law and custom are strikingly relevant to the property considerations in the text. Lynne Dahmen has convincingly related *Silence's* themes of lineage and feudal legitimacy to other insular romances of the period.[11] The poem's heroine, however, does a good deal of cross-Channel shuttling as a minstrel and a knight, and there is no reason to think the poem's author stayed in one place either. The only extant manuscript of the poem is written in Picard dialect (not Anglo-Norman), and French inheritance practices, though exhibiting considerable regional variation as well as differences from those of England, also show substantial resonance with the situation in the poem. The process of centralization that Norbert Elias has called the "monopoly mechanism" peaked somewhat earlier in England than in France, but on both sides of the English Channel the thirteenth century was characterized by royal aggrandizement and noble attempts to contain it.[12] French nobles would certainly have been aware of the more restrictive controls under which their English counterparts had traditionally lived, but also of Magna Carta and its attempt to limit royal power. So the dramatization of inheritance and royal control might play differently on opposite sides of the English Channel, but it would still play.

In *Silence*, the heavy royal hand in matters of noble inheritance comes to the fore when King Evan institutes the law that prevents women from inheriting in response to an inheritance dispute involving twin sisters:

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[11] Lynne Dahmen, "Heldris' Use of Insular Materials in the *Roman de Silence*," paper at the International Congress on Medieval Studies, Kalamazoo, MI, 5 May 2000. I am indebted to Professor Dahmen for providing me with a copy of this unpublished paper. As Dahmen notes, much of Susan Crane's work on insular romances is helpful in articulating the intersection of history and romance in *Silence*; see esp. chap. 2, "Land, Lineage, and Nation," in S. Crane, *Insular Romance: Politics, Faith and Culture in Anglo-Norman and Middle English Literature* (Berkeley: University of California Press, 1986), 53–91.

[12] Norbert Elias, *The Civilizing Process: Sociogenetic and Psychogenetic Investigations*, trans. Edmund Jephcott (Oxford: Blackwell, 2000), 263–64, 266–67, 268 ff. On the rapid increase of the royal monopoly in France under Philip Augustus, see Jean Dunbabin, *France in the Making 843–1180* (Oxford: Oxford University Press, 1985), 371–73; John W. Baldwin, *The Government of Philip Augustus: Foundations of French Royal Power in the Middle Ages* (Berkeley: University of California Press, 1986).

.jj. conte esposent les puchieles.
Cho dist cascuns qu'il a l'ainsnee;
Por quant li uns a la mainsnee. /
Mellee i ot por son avoir,
Car cascuns [violt] la terre avoir.
Li uns le violt par mi partir;
Li altres dist qu'il iert martyr
Et vis recreäns en batalle
Ançois qu'il a plain pié i falle. (280–288)

[Two counts married the girls.
Each one claimed to have the older,
but one of the two must have had the younger.
There was a quarrel over the inheritance,
for both of them wanted to have the land.
One wanted to share it equally;
the other said he would be a martyr
and vile coward in battle
before he would yield an inch of it.]

The counts attempt to settle the dispute through trial by combat, but both are killed in the process. It is as though feudal culture threatens to self-destruct when confronted with perfect equality, either in the disposition of property or on the field of judicial combat. King Evan is so outraged by the deaths of the two counts that he declares, "no woman shall ever inherit again / in the kingdom of England / as long as I reign over the land" ("Ja feme n'iert mais iretere / Ens el roiame s'Engletiere, / Por tant com j'aie a tenir tiere" [314–316]).

In something like a twisted version of *conjointure,* that familiar romance technique whereby multiple story lines are woven into one harmonious whole, the case of the two sisters, their count husbands, and King Evan functions as a *dis*jointure in which several dissonant social realities collide in one romance situation. All the participants have differing interests going into the dispute; all experience significant losses as a result of it; and the new law damages the interests of heiresses — such as the poem's heroine — who are not yet born at the time of its inception. With some modification, Fredric Jameson's comments on the cultural underpinnings of romance shed light on the social discord of this episode in *Silence*:

> As for romance, it would seem that its ultimate condition of figuration ... is to be found in a transitional moment in which two distinct modes of production, or moments of socioeconomic development, coexist. Their antagonism is not yet articulated in terms of the struggle of social classes, so that its resolution can be projected in the form of a nostalgic (or less often, a Utopian) harmony.[13]

If we substitute mode of inheritance for mode of production and remember that the struggle is not a latent one between classes but an overt one within the aristocratic class, Jameson's formulation suggests the power of romance to address the anxieties surrounding a moment of transition. New regulations and shifting practices regarding the division of land among sisters, the status of heiresses in relation to their husbands and male relatives, and the role of the king in the inheritances of his greatest vassals were sources of considerable disquiet for thirteenth-century nobles. Silence's struggle to resolve her inheritance problems is indeed a utopian quest to work out such anxieties. In the poem's dramatic denouement, Silence, after maintaining her masculine disguise through many narrow scrapes and high adventures, is finally revealed by Merlin's magic to be female. In this idealized romantic outcome, the king restores Silence's land to her, repeals the law forbidding female inheritance, and marries her himself, thus bringing psychological resolution to an unresolved social problem.

But before I say more about the poem's idealized ending, the situation of the twin sisters and their judicially killed husbands needs further contextualization. Heldris's episode of sisterly discord was not the first romantic treatment of such inheritance difficulties; it is essentially an inside-out version of a similar story found a century earlier in the *Yvain* of Chrétien de Troyes (4704 ff., 5820–6446), and the differences between the two versions illustrate the shifting status of female heirs during the thirteenth century. In Chrétien's story, it is the sisters rather than their husbands who quarrel over the inheritance, and there is no dispute about which sister is older, only about whether the elder should divide the inheritance with the younger. In *Yvain*, the equally matched combat between Yvain and Gawain (the champions the sisters have chosen) ends when the two friends recognize each other and — with a courtesy contrasting sharply with the grim determination of

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[13] Fredric Jameson, *The Political Unconscious: Narrative as Socially Symbolic Act* (Ithaca: Cornell University Press, 1981), 148.

the counts in *Silence* — each proclaims he has been defeated by the other. And King Arthur's intervention could hardly be more opposite to King Evan's: Arthur proclaims that the younger sister shall have her share. In Chrétien's time, the division of land between sisters could still have been seen as an innovative resolution and the king's intervention as a noble gesture that settled a matter in which he had no personal stake. But by Heldris's time, as we shall see, kings took a much more direct interest in the division of land and were acutely conscious that dividing it among heirs could remove some of it from royal control.

Silence thus conflates together several issues that would have been at stake when sisters stood to inherit property. If it were really just a dispute about which child was the elder, it would have been a problem for twin sons as much as for twin daughters. Inheritance by daughters, however, was often considered more partible than inheritance by sons; girls were expected to share. Not, however, in any straightforward or universally attested fashion, and especially not in any way that remained constant during the course of the thirteenth century or on both sides of the English Channel. At the beginning of the century in England there was usually a mix of feudal law and family obligation in which one daughter inherited the property and did homage for it, but was in turn expected to provide for her sisters. Normally the heiress would have been chosen by the overlord, and which daughter the lord chose depended as much on her husband's relationship with that lord as it did on the heiress's seniority.[14] Both the choice of which daughter would inherit and how that daughter would provide for her sisters became increasingly regularized during the course of the thirteenth century, although that regularization proceeded more slowly than did corresponding customs regarding male inheritance, and a higher degree of uncertainty would have accompanied any devolution of land in which the heir or heirs were female. The expectation that the lord would choose the eldest daughter gradually became more fixed, but so did the expectation that the eldest daughter would divide the inheritance equally with her sisters. In France, the partition of estates among both male and female heirs had long been more common than in England, but there were considerable regional variations, and discontinuities between

[14] S. F. C. Milsom, "Inheritance by Women in the Twelfth and Early Thirteenth Centuries," in *On the Laws and Customs of England: Essays in Honor of Samuel E. Thorne*, ed. Morris S. Arnold et al. (Chapel Hill: University of North Carolina Press, 1981), 60–89, here 66.

customary law and practice could easily lead to conflict.[15] Despite more varied practices, the makers of French law, like their English counterparts, also attempted to codify female inheritance customs in a way that kept the main residence and its associated feudal service with the eldest sister but divided the land equally. In Champagne, for example, a baronial council of 1212 legislated that when land was divided among sisters, "the eldest daughter would inherit the castle, but her sisters would share all other assets of the inheritance equally."[16]

The increasingly standardized partitioning of land between sisters may have been a welcome innovation to most thirteenth-century aristocrats, but from the point of view of the overlord or king, the practice brought with it the same problems as the older system of *parage* upon which it was based. *Parage* was a partition of land among male heirs wherein the younger brothers did homage to the eldest for their portions and only the eldest did direct homage for his portion to the original lord. The practice had been brought to England by the Normans but abolished in the mid-twelfth century; in France it was a common practice until expressly forbidden in 1209 by Philip Augustus.[17] The reason for its demise during the tenure of strong central rulers seems clear: only the eldest brother's portion was under the direct control of the overlord, and the revival of the practice as a model for dividing inheritances among female heirs also reintroduced the diminishment of central control. Depending on whether one was a lord or a vassal, an elder sister or a younger sister, born early in the thirteenth century or later, the changes in how land was partitioned among heiresses would have been variously welcome or unwelcome, and the transitions were neither smooth nor uncontested.

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[15] Malcom Vale, *The Angevin Legacy and the Hundred Years War 1250–1340* (Oxford: Blackwell, 1990), 82, 101–2.

[16] Theodore Evergates, ed. and trans., *Feudal Society in Medieval France: Documents from the County of Champagne* (Philadelphia: University of Pennsylvania Press, 1993), 51.

[17] On *parage* and its abolition see Baldwin, *The Government of Philip Augustus*, 262-63; Marc Bloch, *Feudal Society*, trans. L. A. Manyon (1961; repr. London: Routledge, 1989), 205, 208; Ch. Petit-Dutaillis, *The Feudal Monarchy in France and England*, trans. E. D. Hunt (London: Routledge & Kegan Paul, 1936), 303. On later female inheritance practices derived from *parage*, see Evergates, *Documents from the County of Champagne*, 49–54; J. C. Holt, "Politics and Property in Early Medieval England," in *Landlords, Peasants, and Politics in Medieval England*, ed. T. H. Aston (Cambridge: Cambridge University Press, 1987), 65–114, here 107; Scott L. Waugh, "Women's Inheritance and the Growth of Bureaucratic Monarchy in Twelfth- and Thirteenth-Century England," *Nottingham Medieval Studies* 34 (1990): 71–92, here 74–75.

The overdetermined situation of the two counts and the twin sisters in the *Roman de Silence* sets a match to this volatile mix. The indistinguishability of the counts as much as the exact parity of the daughters ensures that there would be a conflict regardless of whether older customs or newer customs are applied, but the particular nature of the dispute highlights the emerging inheritance practices of the thirteenth century. One of the counts claims that the inheritance should be divided equally, suggesting that newer rules favoring partition apply, but then it makes little sense for him to claim that his wife is the elder daughter and the sole heir. The other count insists that his wife is the elder sister, a fact that would automatically favor him only if the newer rules are in effect. In that case, however, there would also be a formal expectation to divide the property equally, an option he finds less attractive than dying as a recreant in battle (at least he gets his second choice). The king finds no reason to favor one count's claim over the other's, and his extreme reaction to the disastrous duel calls into question the narrator's earlier claim that he was known to be a king who "upheld justice in his realm" ("ot justice en sa ballie" [119]). All of the participants in the dispute seem to find the challenges posed by female inheritance insurmountable, and the contest over the sisters' land dramatizes the dynamics — and the anxieties — of a period of transition.

While twin sisters whose husbands kill each other constitutes a romantic exaggeration, sisterly disputes over inheritance certainly happened, and may even have been relatively frequent.[18] On the British side of the English Channel, the question of dividing land among sisters figured in such prominent cases as the disposition of the earldom of Chester in mid-century and of the kingdom of Scotland at the end of the thirteenth century.[19] In at least two humbler cases from earlier in the century, a younger sister was placed in a

[18] Milsom, "Inheritance by Women," 80. Nor does the environment on the Continent appear to have been less litigious. Baldwin, in a survey of exchequer cases heard at Falaise and Caen between 1207 and 1223, sums up, "in matters of inheritance and land possession, over half of the litigants were disadvantaged women and minors" (*The Government of Philip Augustus*, 229).

[19] R. Stewart-Brown, "The End of the Norman Earldom of Chester," *English Historical Review* 35 (1920): 26–53, here 46–47. In *Silence*, Chester is the location of the fateful trial between the two counts married to the twin sisters (293), and also the location of the rebellion in which Silence turns the tide in favor of King Evan (5287 ff.). On the fates of the real and fictional counties of Chester as exemplars of increasing royal control, see Kinoshita, "Male-Order Brides," 67–69.

nunnery by the elder sister and her husband. This might have been considered an appropriate fulfillment of the family obligation to provide for the non-inheriting sister by the sister doing the placing, but in neither case was it considered so by the sister who was placed. The younger sister in one case managed to get married surreptitiously, escaped from the nunnery with her new husband, and claimed the right to inherit property along with her sister. After the new husband cleared himself from abduction charges, the younger couple began a lengthy litigation with the older couple. In the other case the younger sister had been placed in the nunnery as a young child and claimed that "she properly returned to the world when she reached the age of discretion." She was excommunicated and had to pursue her right to leave the nunnery in ecclesiastical courts before taking up her property case in secular courts. She finally reached an agreement with her elder sister about twenty-five years after her first claim.[20] Given the alternative of such protracted litigation, settling a property contest by judicial combat seems almost merciful, but suffice it to say that the sisterly quarrel in the *Roman de Silence*, sensationalized though it is, strays little from the pattern of real thirteenth-century disputes.

King Evan's abolition of female inheritance in reaction to the deaths of the two counts pushes royal sovereignty somewhat further than any medieval king could have been confident in achieving. It does, however, dramatize the difficulties of a time when inheritance customs were in flux and when the king of England maintained older, more stringent forms of control over his chief tenants than those lords could maintain over their tenants, while the king of France was enjoying the fruits of steadily increasing centralization. Of the many forms of royal control, perhaps the most relevant to *Silence* were the restrictions on alienation, especially as it relates to the division of land between female heirs. Alienation simply means a transfer of ownership, but came into use as a conditional gift whereby the grantor could circumvent primogeniture by deeding land to someone on the condition that the grantee deed it back to someone the grantor specified, usually a younger son or daughter.[21] There are two important points about alienation in the second half of the thirteenth century: first, it was rapidly growing in use during this period, and second, it was available to the greatest fief-holders

[20] Milsom, "Inheritance by Women," 80.

[21] For a clear introduction to such forms of alienation as entail, use, and enjointure, see Chris Given-Wilson, *The English Nobility in the Late Middle Ages* (London: Routledge, 1987), 137 ff.

only via an expensive license from the king. In England, Henry III expressly forbid unlicensed alienation by tenants-in-chief in 1256.[22] In France, a royal ordinance of 1275 established higher tariff rates for alienation of land held from the king than for alienation of land held from lesser lords.[23] Lords who held land directly from the king thus had the least flexibility of any freeborn persons in how they could dispose of their property.

The actions of real thirteenth-century kings make clear why, in the *Roman de Silence*, King Evan does not attempt to choose one daughter as heir. If he were to partition the land equally as Chrétien's King Arthur does, Evan would lose direct control over the younger sister's portion since she (or her husband) would owe feudal service not to the king but to the older sister. On the other hand, allowing the dispute to proceed to judicial combat also has risks; a general outbreak of violence after the two counts are killed is only narrowly avoided (307-308). By entirely doing away with women's ability to inherit, King Evan appears to be dodging alternatives that are from his point of view equally unattractive, and his decree would have bothered some members of Heldris's audience less than others. There were longstanding complaints in medieval society that female inheritance damaged the social structure by fragmenting great estates,[24] and the variety of opinion is clearly represented in the poem in the words of those who swear to uphold the king's decree: "Alquant le font ireëment / Et li plusor moult liëment, / Qui n'en donroiënt une tille" ("Some did it in anger, / but most did it quite gladly — / the ones who had nothing to lose" [321–326]). But in the real England, unlike King Evan's, no one did anything to stop women's ability to inherit, and for good reason: abolishing female inheritance would have seriously disrupted the functioning of aristocratic society. Between 1200 and 1327, 57.3% of English baronies were inherited by women at least once and 19.5% of all baronial inheritances during the period went to women.[25] The importance

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[22] Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Clarendon Press, 1994), 382; Scott L. Waugh, "Non-Alienation Clauses in Thirteenth-Century English Charters," *Albion* 17 (1985): 1–14, here 12.

[23] Reynolds, *Fiefs*, 303.

[24] On problems associated with dividing fiefs, see Bloch, *Feudal Society*, 203; Theodore Evergates, *Feudal Society in the Bailliage of Troyes under the Counts of Champagne, 1152–1284* (Baltimore: Johns Hopkins University Press, 1975), 126; Scott L. Waugh, *The Lordship of England: Royal Wardships and Marriages in English Society and Politics 1217–1327* (Princeton: Princeton University Press, 1988), 52.

[25] Waugh, *Lordship*, 19.

of female inheritance pertained to the situation in France as well as England and at various levels of the feudal hierarchy. In the County of Champagne, for example, "women represented over 20 percent of the ordinary fief holders" during the third quarter of the thirteenth century.[26] If over half the barons in the land owe their holdings to a female ancestor and lesser aristocratic inheritances owe a similar debt to the maternal line, a huge sector of the economy would simply disappear into the king's coffers if that king did away with women's ability to inherit.

The emphasis on female inheritance seems to be a conscious choice on Heldris's part, since, in his literary source from the Arthurian *Vulgate*, it is not the cross-dressed maiden but rather her father and brother whose inheritance is lost and then restored.[27] It is not simply, though, the fact of widespread female inheritance in actual thirteenth-century practice that makes Evan's law seem so outrageous, but also the particular function of women's inheritance in noble society. We have seen that there was not much freedom in the way the tenants-in-chief could dispose of their property, and if it was difficult for one noble to grant land to another, then that meant it was also difficult to become the recipient of someone else's grant. What little wiggle room there was derived largely from female inheritance. The loss involved in the fragmentation of an estate when women inherited was someone else's gain, and even when an estate fell to a single heiress it was still someone else's gain. Unlike a dowry, which usually reverted to a woman's family if she had no heirs, and if she did have heirs was likely to be used to provide for daughters and younger sons, the land an heiress brought with her — fragmented or not — was permanently added to her husband's patrimony. By preventing his female subjects from inheriting property, Evan is also depriving his male subjects of an important and rare means of acquiring land and status.[28]

Silence turns out to be an only child, thus underscoring the crude arbitrariness of a law designed to avoid the problems of partible inheritance. There is, however, the precedent of Silence's mother Eufemie, who had also been the only child of the Count of Cornwall. Under ordinary circumstances Eufemie's father could not make a match for her without the king's approval,

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[26] Evergates, *Feudal Society in the Bailliage of Troyes*, 130.

[27] For the story of Avenable/Grisandole, see Rupert T. Pickens, trans., *The Story of Merlin*, in *Lancelot-Grail: The Arthurian Vulgate and Post-Vulgate in Translation*, ed. Norris J. Lacy, 5 vols. (New York: Garland, 1993), 1:323–29.

[28] See Waugh, *Lordship*, 21–24 on the redistribution of wealth among the aristocracy through the combined effects of marriage and inheritance.

and if he died before his daughter married, the king would have the right of wardship, which means he would collect the profits from her land until such time as he arranged a marriage for her to a man of his choosing. Giving the daughter and the land with her to a man of his own choosing is exactly what King Evan does in arranging the marriage of Silence's parents Cador and Eufemie, except he does so while the Count is still alive and without even consulting him. The king's adviser who explains the situation to Cador reminds him of the inheritance law saying, "the land should have been this lady's, / but she no longer has a right to it" ("Cesti devroit estre la terre, / Mais n'i a droit qu'ele puist estre" [1453–1454]), and the loss of the woman's rights is also a loss of her father's.[29]

The abolition of female inheritance in *Silence* thus exaggerates the already stringent control a thirteenth-century king had over his barons, especially over their female children, and Eufemie's situation also resonates with another royal practice. Upon the death of one of his tenants-in-chief, the king automatically took formal possession of the land, granting it back to the heir only when the heir had paid the relief, a kind of inheritance tax. By enforcing this rule the king preserved for himself another right that lesser lords had long since been forced to give up.[30] King Evan's freedom to dispose as he pleases with the Count of Cornwall's land and daughter while the Count is still alive is simply a nightmare version of the prerogatives thirteenth-century kings actually had over their chief tenants. For the greatest fief-holders of thirteenth-century kings, the ability to reprogram the sex of a child must have seemed almost as attractive — and almost as likely — as any other mechanism for evading royal control. The fluidity of Silence's gender mirrors the social reality in which the laws and customs governing female inheritance were less fixed than their masculine counterparts and where heiresses of great estates offered noblemen the rare opportunity to join the king's monopoly instead of being excluded from it.

The risk of partitioning estates and the hope of acquiring them were both possibilities, we have seen, when women stood to inherit property in late thirteenth-century France and England. King Evan has it both ways:

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[29] As Kinoshita observes, "the king usurps the father's familial authority" ("Feudal Politics," 401), but I would like to emphasize that such usurpation is already implicit in the abolition of female inheritance.

[30] S. F. C. Milsom, *The Legal Framework of English Feudalism* (Cambridge: Cambridge University Press, 1976), 163.

he forbids female inheritance when the division of an estate between sisters threatens the loss of royal control over the younger sister's portion, but he reinstates it when a single heiress — Silence herself — would bring a great estate on the market. Then he marries that heiress himself, thus asserting direct and undisputed lordship over her land. This action would extinguish the county of Cornwall as a separate barony upon the death of Cador, further centralizing and aggrandizing the king's authority. Our temptation to read this final scene of the romance in terms of Silence's personal success or failure in resisting the patriarchy may cause us to forget that Heldris's first audience was more interested in ascending the patriarchy than resisting it. Aristocratic anxiety in the face of royal strictures is merely the flip side of the nobility's romantic longings for land and status. On the most literal level Silence overcomes the uncertainties of her upbringing and environment to attain the highest status possible for a woman of her birth. She does not, of course, become queen through any ordinary means, and the fact that the best knight in the land marries the king functions as a fantasy of upward mobility for those nobles who could not beat the king at the game of property politics, but also could not join him as Silence does.

Craig A. Berry
Independent Scholar