In the following essay, Thomas draws a correlation between Alisoun's adamant defense of her rights concerning her body and a mock legal case.

In the Prologue to her Tale the Wife of Bath argues that Paul gave wives authority over their husbands. She summarizes her argument thus:

I have the power durynge al my lyf
Upon his propre body, and noght he.
Right thus the Apostel tolde it unto me,
And bad oure housbondes for to love us weel.
Al this sentence me liketh every deel.
(D 158-62)

There is some ambiguity in the Wife's reference to Paul's words as a "sentence," a term which in Middle English has a number of meanings, including an opinion, a doctrine, a judgment rendered by God or by a court, a punishment imposed by a court, a statute or law, and a practice or custom (MED). Immediately following the above-quoted lines, the Pardoner responds to the Wife's remarks by exclaiming: "Now, dame, ... by God and by Seint John! / Ye been a noble prechour in this cas" (164-65). Like "sentence," the word "cas" has a variety of meanings, such as a state of affairs, an event, an action or deed, an instance or example, a civil or criminal question contested before a court of law, an accusation or charge (MED). In both quotations there is a disjunction between legal and religious terminology. Is, for instance, the "sentence" of Paul, in the Wife's use of the term, a religious doctrine, a judgment rendered by God; or a legal doctrine, a judgment rendered by a court? The Pardoner suggests that the Wife is presenting a legal issue for the listeners' judgment. I will argue that the Wife is not delivering a mock sermon, as critics such as Lee Patterson and Charles E. Shain have argued, but is, rather, delivering a mock legal case.

While I agree with Patterson and Shain that the Wife is in control of her rhetoric rather than powerless before it, and does not suffer from what one critic has called "a certain mental blindness," I differ about what type of
rhetoric it is that she is in control of. While Patterson argues that the Wife offers a sermon joyeux in the Prologue, he bolsters his argument with some points which, in fact, undermine his assessment of her rhetorical strategy. He claims that the Wife "preempts the very language of accusation" in her "mastery of masculine modes of argument." However, is a sermon joyeux the embodiment of "the language of accusation"? Or does this not sound, again, like a disjunction between legal and religious terminology? And what could more embody a masculine mode of argument than the rhetoric of the courtroom, stemming as it does from the agonistic tradition of the Greeks and Romans, and replacing in medieval society, or perhaps merely embodying another form of, the trial by battle? Furthermore, the Wife's strategy of turning other people's words against them is surely more appropriate to the cross-examination strategy of the courtroom than to the pulpit.

Like Patterson, Shain is convinced that the Wife's Prologue results from the fact that Chaucer, like all of his contemporaries, "was steeped in the lore of pulpit rhetoric." Shain goes so far as to posit that "Chaucer had inevitably to make use of that powerful and pervasive instrument of medieval culture, the sermon" [italics mine]. However, the trial, in both the ecclesiastical and secular courts, was increasingly becoming another "powerful and pervasive instrument of medieval culture," and it is inevitable, as well, that Chaucer, having performed the functions of magistrate and civil servant, would also have been steeped in this powerful cultural form.

Derek Persall has noted that Chaucer's lifetime saw "the increasing use of litigation and the increasing sophistication of legal procedure." He concludes, "[T]he law, which had once functioned and been thought of as a last resort when all means of reconciling disputes had failed, was now becoming a first resort." The Wife may be mocking the newly evolving forms of legal procedure and argumentation, and their practitioners. Furthermore, this interpretation can explain the Wife's use of legal terminology which critics in the "sermonist" camp must ignore. Some of the terminology of the Prologue can only be fully understood in the context of fourteenth-century legal practices; however, Shain and Patterson overlook disjunctions between legal and theological terminology.

The form of the Wife of Bath's rhetoric closely follows certain Common Law practices of presenting a case. These legal echoes create an unwritten text behind the garrulousness of her Prologue. However, some legal background and definitions are necessary to facilitate this discussion. Sir Matthew Hale's History of the Common Law serves well to define what the Common Law is: "The Laws of England may aptly enough be divided into two kinds, viz. Lex Scripta, the written Law; and Lex non Scripta, the unwritten Law: For although ... all the Laws of this Kingdom have some Monuments or Memorials thereof in Writing, yet all of them have not their Original in Writing; for some of those Laws have obtained their Force by immemorial Usage or Custom, and such Laws are properly call'd Leges non Scriptae, or unwritten Laws or Customs." The Common Law of England is unique in its use of unwritten law; unlike legal systems which are derived from the Roman tradition, it is not completely codified. As Henry Sumner Maine explains, "The theoretical descent of Roman jurisprudence from a code, the theoretical ascription of English law to immemorial unwritten tradition, were the chief reasons why the development of their system differed from the development of ours." The Leges non Scriptae create an indeterminate quality in the English Law, as well as an instability, which in its positive aspect is an adaptability to changing social and political circumstances.

The lex non scripta is determined and decisions are made by examining prior cases and thereby establishing the "custom of the courts." A modern legal writer explains: "The idea of looking back to prior cases for guidance is as old as our professional courts. ... During the Middle Ages ... prior cases were also inspected, but rarely revered. Law was not found in a single case; rather, a group of cases illustrated the true law. Law, in this sense, was the total custom of the courts." However, it has been established by legal historians that the citation of cases in medieval courts took a necessarily vague form. Arthur R. Hogue explains:

In the Middle Ages the courts were unquestionably guided by traditions and customs built up in the handling of case after case. But there was not the citation of cases in the modern fashion. Rather, citation took the form of professional memory and ultimately the only authority cognizable by the court was the record of the case. But this record, it must be remembered, might be buried under...
several hundred pounds of parchment rolls and consequently be very difficult to find; to "search the record" was a serious task which the court would not lightly assign to anyone.13

Thus, the case record from which the lex non scripta was determined was "buried," even though it did exist in written form. Oral recitation of the record was necessary, and one of the tasks of the professional lawyer was to memorize this inaccessible case record.

The movement towards literacy, which created the written case record, also created the need for a new profession, one which then sought to expand its role. The legal profession has from its very inception incited suspicion and hostility. May McKisack, for instance, notes how during the Peasants' Revolt on June 13, 1381, "prisons were opened and in Cheapside a number of lawyers, Flemings and other unpopular persons ... were summarily beheaded."14 The unpopularity of the profession may be related to the form of oral argumentation it uses, and to the profession's alignment with rhetoric, not with either writing or literacy.

The form of legal argumentation in the fourteenth century was fundamentally similar to that practiced at present.15 Legal reasoning, which depends upon a balancing of findings on both the law which applies in a case and the facts which apply (or can be proven), has always been problematic to logicians. For instance, in "A Semiotics of Legal Argument" Duncan Kennedy discusses the logical problem inherent in the conventions of legal argumentation: "From the great mass of facts, the lawyer selects those that he or she thinks can be cast as 'relevant' to one of the preexisting rule formulae that together compose the corpus juris. Then the lawyer works to recast both facts and formula so that the desired outcome will appear compelled by mere rule application."16 A further convention of legal argumentation described by Kennedy is that "argument and counterargument are presented as simply 'correct' as applied to the general question, without this presentation binding the arguer in any way on the nested subquestion."17 Kennedy concludes his dissection of legal argumentation by asserting:

Legal argument has a certain mechanical quality, once one begins to identify its characteristic operations. Language seems to be "speaking the subject," rather than the reverse. It is hard to imagine that an argument so firmly channelled into bites could reflect the full complexity either of the fact situation or the decision-maker's ethical stance toward it. It is hard to imagine doing this kind of argument in utter good faith, that is, to imagine doing it without some cynical strategy in fitting foot to shoe.18

The Wife of Bath is aligned with the legal profession through her use of similar rhetorical strategies. John Manly has pointed out how highly rhetorical the Wife of Bath's Prologue and Tale are. He claims that about fifty percent of their content consists of rhetorical devices, with only the Monk's Tale and the Manciple's Tale showing a higher incidence.19 John A. Alford has demonstrated that the rhetorical Wife is the philosophical Clerk's direct counterpart. He states: "The Clerk has not merely gone 'unto logyk'; he is Logic personified. The Wife is not only one of the most rhetorical of the storytellers; she is Dame Rhetoric herself. ... [A]nd their performances stand out as examples of (and commentaries upon) the two disciplines they represent.20 In Alford's interpretation, the conflict between the Wife and the Clerk "is rooted in the recurrent tension between two modes of discourse, rhetorical and philosophical."21 We see in this opposition a tension between oral and written traditions, although Alford does not address this dichotomy in his article.

In Platonic thought the opposition between rhetoric and logic/dialectic is essentially a moral one. Alford explains: "In contrast to dialectic, whose object is truth, rhetoric is morally indifferent. Its only guide is self-interest. Its practitioners may side with the true but they may just as easily side with the false--to deceive, to have the guilty judged innocent, to make the worse cause seem the better. ... Their object, in a word, is not truth but power."22 We can see from the examples which Alford uses the obvious connection between rhetoric and the legal profession, and by an extension which Alford does not make, between the Wife of Bath and the lawyer. The objections to and anxiety caused by the legal profession seem to be related to its professional practice of undermining what Douglas Canfield has termed "the chivalric code of the word as bond." He says of the Wife:
“Her most dangerous weapon is not so much her ‘queinte’ ... but her tongue, with which she subverts not only Scripture, ... but the entire Code.”

Essentially, for the medieval audience, the lawyer is aligned with speech, not written language. It is what lawyers orally do to texts which causes the most suspicion and anxiety, just as what the Wife of Bath does to texts in her narrative arouses suspicions about, and objections to, her. The Wife wields rhetorical power over the written word which lies "buried" in her argument just as the case records do in their heaps of parchment scrolls. It is not easy to "search the record" in the Wife's case either, as one must have considerable memory of Scripture to be able to recall extemporaneously the "buried" halves of her Scriptural quotations.

The same vagueness of citation common to the fourteenth-century judicial system is notable in reference to the Wife's use of citation in the first part of her Prologue. The "cas" she argues is founded upon doctrine which is proven by reference to the writings of St. Paul, but typically the Wife cites only one half of a "sentence" and ignores the other. In lines 158-62, quoted in the opening paragraph above, the Wife uses two statements of Paul as her authority. The first reads, "The wife has not the power of her own body, but the husband; and likewise also he hath not power of his own body, but the wife" (I Cor 7:4). She uses this passage to affirm the "sentence:" "I have the power duryinge al my lyf / Upon his propre body, and noght he" (158-59). Similarly, she makes use of Paul's commandment, "Husbands, love your wives" (Eph 5:25), while suppressing the fact that this "sentence" is embedded in a text which also commands, "Wives, submit yourselves unto your own husbands, as unto the Lord" (Eph 5:22). The Wife exploits the "buried" nature of the scriptural case record she cites in her effort to establish her own laws of marriage which are based upon "custom," not the text of the New Testament. She establishes the lex non scripta of marriage, which then takes precedence over the lex scripta of Paul. From the point of view of English jurisprudence, this is correct procedure.

The Wife mediates between the written laws of marriage found in the New Testament and the "custom" of marriage established by experience. She finds the "custom of marriage" by examining a group of "cases": her five marriages. We can make an alignment between her use of "experience" and the legal use of "custom." In her determination of the "custom of marriage" the Wife also uses the legal strategy of combining a rule formula with a body of facts. She applies her rule to her marriages, but the marriages are recast in a manner that proves her rule.

The Wife presents her argument without addressing the counter-argument, thereby following a standard form of legal argumentation. "I quitte hem word for word" (422) she says, proclaiming that she is presenting one side of a battle of words, not dialectically balancing the sides of a logical argument. Like a barrister, she engages in a verbal contest which has distinctly well-drawn lines of demarcation. Verbal ammunition, and not fairness, is the primary consideration in the formulation of her argument. As a sermon, the Wife's speech would be absurd; however, as an example of legal reasoning it is quite typical of the rhetorical strategy of the courtroom.

The Wife's use of Paul involves channeling him into "bites" which automatically become rules which are then presented as simply "correct" as applied to the general question of a wife's authority over her husband. The other halves of the quotations do not have to be addressed, as her assertions do not have to be binding on "the nested sub-questions." The Wife applies her bites of law to her facts, which are taken from the history of her marriages, and proves that her definition of the custom of marriage is correct. She recounts the stories of her marriages in such a way that her authority over her husbands is proven. However, her rule has been cast in such a way that her stories will prove it, and the facts presented in the narratives are limited to those that prove her rule. Whether or not the Wife is found to be "misquoting" or "misusing" Scripture depends upon whether one considers her to be using a dialectical strategy or a rhetorical one. The agonistic form of trial law, by this period fully established, does not compel barristers to give a fair and balanced description of the other side's position; in fact, procedure compels them to do the opposite. Lawyers, like all rhetoricians, must continually play to an audience, and cannot follow the motive of fair play. As Alford states of the rhetoricians: "To achieve 'the maistre,' to manipulate other people into believing or behaving according to one's own wishes is 'what orators most desire.'"
At the conclusion of the "Thou seist" passages in the Prologue, the Wife explains, in summary, "Under that colour hadde I many a myrthe" (399). While "colour" contains the meaning of "pretense," it also refers to a legal practice called "pleading colour" which was invented in the fourteenth century. D. W. Sutherland explains this peculiar practice:

It is odd that the defendant should have to describe not only his own claim but also the plaintiff's. ... But this description of the plaintiff's claim by the defendant was the specific element of "color," and the law insisted that the defendant include it if he wanted any discussion of the parties' rights in court before the case went to a jury. And if this seems strange, it is surely much stranger that what the defendant said about the plaintiff's claim was not true and not expected to be true, but pure sham, pure fiction.25

Sutherland claims that colour was "a product of the early fourteenth century. ... Fourteenth century barristers could give fictitious color if they wanted to, and sometimes they did." It became by the fifteenth century necessary to ascribe false claims to one's legal opponents in order to facilitate judgment and mediation of a case.27

The "Thou seist" passages in the Prologue are clearly meant to be seen as instances of pleading colour, for not only does the Wife specifically refer to her ploys as "colour", the Wife concludes this section of the poem by saying:

Lordynges, right thus, as ye have understonde,
Baar I stifly myne olde housbondes on honde
That thus they seyden in his dronkenesse;
And al was fals, but that I took witnesse
On Janekyn, and on my nece also.
(379-83)

In this passage the Wife openly admits that she ascribed false arguments to her husbands, and invented fictional claims which she used against them. It seems that in the Wife's use of "colour" there is a buried reference to a developing legal practice, one whose ironies and, perhaps we could even say, moral subversiveness, Chaucer could not have failed to notice.

It is the rhetorical nature of the legal profession which makes it dangerous and highly unpopular. What lawyers orally do to a buried case record in the fourteenth century gives room for abuse in the legal system. It seems that it was not in their function as writers of documents that lawyers were attacked by the peasants during the Revolt, but in their role as rhetorical speakers about hidden documents. It is "hidden writing" and those who have control and mastery over it which appear to pose the greatest threat to the "word as bond."

If the Wife is, as Canfield argues, "subversive to the chivalric code of the word as bond," it is not as "subversive female," but in her appropriation of the barrister's rhetoric that she poses a serious threat to the "code." Michael Clanchy has noted that the increased dependence upon litigation and the increasing sophistication of legal procedures toward the end of the medieval period had the effect of "weakening and straining the bonds of affection in feudal lordship." The courtroom undermined the chivalric code of the oral oath as much as any other force at work to bring about the demise of feudal society. As a "mock lawyer" the Wife is much more dangerous to the chivalric code than she is as a "resistant woman." In the face of a growing bureaucracy, the personal, feudal ties of the oral oath were fast disappearing. The agonistic approach of trial procedure was antithetical to the idea of personal allegiance contained in feudal bonds.

Jean Sire de Joinville, in his "Histoire de St. Louis" describes King Louis as the ideal feudal king who settles disputes between his subjects in person. Joinville describes the king not as a judge who makes rulings, but rather as one who presides over the making of bargains and compromises. On the other hand, the bureaucratic
Henry II devised an automated system of justice emphasizing speed and decisiveness. The plaintiff obtained a writ in standardized form ... instructing a jury to be summoned, the jury gave a verdict of 'Yes' or 'No,' and judgement and execution then followed. The system stopped people rambling on about their grievances by compelling them to confine their statements within prescribed forms. ... Like Frederick II's system, the common law penalized people for making agreements. To compromise with the defendant was to insult the king, whose aid had been given to the plaintiff to prosecute a wrongdoer. ... Henry II's automated system of law made it easier--and more necessary--for neighbors to sue each other in the king's court.32

In Clanchy's assessment it is legal procedure itself which is pulling society apart. The bureaucratic system is disintegrating feudal ties and replacing them with increasingly necessary disputes.

Carolyn Dinshaw has said, "The Wife is everything the Man of Law can't say."33 Dinshaw argues that the Wife is exposing the techniques of the "clerky glossatores," "exposing techniques that they would rather keep invisible,"34 yet the Wife's rhetorical techniques go far beyond mere glossing. She is herself a product of uncertainty; her contradictions and antagonism are an embodied depiction of the new bureaucratic system itself. As Dame Barrister, the Wife represents the agonism and contorted logic of the new bureaucratic order of society. However, like the Man of Law, good bureaucrats are always possessively secretive as bureaucracy works best when it and its procedures are kept the most invisible. A modern writer has noted that in contemporary American society few people have any understanding of even their basic legal rights.35 This problem stems from the occulted nature of the procedures of all bureaucratic systems.

From an historical perspective there are a number of significant factors underlying the Wife's attitude toward texts and documents. She uses texts in a manipulative fashion and also attacks them, tearing "thre leves" out of one and tossing another in the fire. The increasing bureaucratic dependence upon documents in the fourteenth century caused concern about their proper use and function, and about the nature of what constituted a "valid document." As M. T. Clanchy states, "Documents did not immediately inspire trust."36 The Peasant's Revolt of 1381 reveals anxiety about legal documents in the rebel's inconsistent use of them. The peasants burned legal documents and then turned around and asked for other documents as proof, usually within a remarkably brief period of time, suggesting a naive attitude towards what constitutes proof of an agreement. For if proof can be burned and the agreement cancelled, of what value is any document as proof?

May McKisack relates how in their attack on the Abbey of St. Albans on June 15, 1381, the rebels burned the charters of the Abbot "by virtue of which he enjoyed his manorial rights, and, displaying the king's charter, forced him to seal a deed of manumission concocted by themselves."37 Just two days earlier, the peasants had rejected the King's offer of a charter of pardon, calling it "a mockery and some of them, returning to the city, ordered the execution of all lawyers."38 A further instance of the rebels' attitude toward legal documents occurred during their attack on Cambridge. The peasants, McKisack relates, entered St. Mary's during mass and seized the chest containing the university archives ... ; another chest full of parchments was taken from the house of the Carmelites. Both chests (containing documents of priceless value to the historian of the medieval university) were publicly burned in Market Square, an old woman named Margery Starre crying, 'Away with the learning of clerks, away with it!' as she flung parchments on the fire. The rebels then drew up a document whereby the university formally surrendered its privileges to the town and agreed to be governed by the municipal authorities.39
It appears that it is not writing and literacy which the peasants are objecting to, as they are willing to use documents to their advantage. However, the peasants place too much faith in the power of the document in and of itself, when it is only proof of a preceding agreement. The document is not the actual agreement, and can only be offered in court as evidence of an agreement. Once in the courtroom, as we see in the Wife of Bath's performance, rhetoric seizes a manipulative power over the documentary evidence.

During the Revolt the peasants demonstrate a belief in the magical power of the document itself. This is illustrated in their attitude that if it is burned it has no power, and if it is in hand it is all-powerful. They are naively unaware of the ascendant power of the legal profession and its ability to manipulate documentary evidence. Legal procedures are much more complex than the peasants are admitting to in their actions. They attempt to override the bureaucracy, but ultimately cannot. To do the peasants justice, however, we must acknowledge that legal naiveté remains a problem in modern, democratic societies. One legal author recently asked: "Is it really the case that it is the fault of lawyers that no one understands the law but lawyers?"

The autumn Parliament of 1381 confirmed "the king's revocation of his charters of manumission to the rebels," demonstrating the fundamental worthlessness of the documents which the peasants had demanded and received. The rebels' initial skepticism about the power of a written charter had within days given way to an almost magical belief in it. Too late did they discover that the documents had no magical power, nor any real power at all, as power did not rest in the written charters but in those with the power to manipulate and interpret them. It is through interpretation and application that the legal document assumes meaning as proof of an agreement.

In an examination of the peasants' actions in the Revolt of 1381 we can see a crippling legal confusion. While I am in agreement with Steven Justice's assertion that the peasants did have a degree of literacy and legal knowledge, Justice ignores the fact that the peasants' legal demands and legal ideology were somewhat confused. During the Revolt, they frequently demanded documents which did not exist. As in their previous belief in the legal value of the Domesday Book, the peasants exhibited a mythical belief in the existence of ancient legal documents which were supposed to promote their freedom from bondage. The peasants believed in a chivalric legal past where words held true. They longed, essentially, for a mythic legal past, not as it was, but as they nostalgically imagined it to have been. The peasants believed in the value of the "word as bond," whereas in the new legal bureaucracy this bond was routinely subverted. It was, in fact, the bureaucratic legal system itself which undermined the written documents which formed the only remaining evidence of those ancient oral oaths.

The peasants were looking back to an Edenic past--a time when the oral word was the bond, and the written document was a recording of what was spoken, not merely negotiable evidence, as it had now become. In Jesse Gellrich's interpretation of the events of 1381, what incited the anger of the peasants toward legal documents was "the theft of spoken promise--what peasants took to be their natural right--out of the venerated symbol of it on the inscribed page." That spoken promises and legal contracts appear to be two separate and distinct things is at the heart of the peasants' legal anxieties and confusion. They wanted the oral promises given to be put in writing as proof, but discovered that the new "proofs" were worthless. The peasants could not create by themselves legally valid documents.

In the Revolt the peasants looked for and attempted to create the equivalent of what we could oxymoronically call "written oaths," documents which would constitute evidence of the oral ties which once bound them to their land. They believed that the original documentary evidence surviving from the oral past offered them legal redress, when in reality this is extremely unlikely. They also believed that they could create new charters, not realizing that these documents could easily be subverted or ignored. The peasants addressed their complaints to the king personally, wanting to see in him a king similar to Joinville's portrait of St. Louis. They wanted to see the king as their seignorial protector and arbitrator; however, this direct contact between king and subjects had been replaced by a bureaucracy which now oversaw the complex procedures embodied in what one scholar refers to as "the extraordinary formalism of medieval common law." The peasants rebelled against the mediation of these bureaucratic officiaries who now blocked their access to their lord, the King.
M. T. Clanchy has demonstrated that "lay literacy grew out of bureaucracy," and in this sense literacy and bureaucracy worked together to block the peasants from obtaining the mediating function of their king as feudal lord. If the peasants were opposed to literacy it was in this context that it appeared most hostile to their customary rights: law now equalled bureaucracy. Feudal law was personal and based on oral oaths which did not require the function of intermediaries, but now law was a complex bureaucratic system. It had become the modern definition of "law," that is, "everything to do with the administration of justice in a society, such as the law or laws, the lawyers, the judges, and every system, office, and functionary concerned with the enactment, application, determination, and enforcement of the laws."47

Bruce Lyon explains that "the last two centuries of medieval England witnessed the elaboration of the machinery of process and of the rules of pleadings and a refinement of legal principles previously established. No longer was the law dominated and molded by legislation but by a skilled, learned, proud, and jealous legal profession."48 He explains further:

It was during the fourteenth and fifteenth centuries that the legal profession became highly organized and obtained a monopoly over the law. ... It was this learned, skilled, and tough legal profession that molded and practiced a tough common law that withstood all competition and attempts to weaken it and emerged triumphant under the legal principle that the law of the realm is the supreme master, above both king and parliament.49

So, while the king, parliament, and peasants try to wrest control of the law, the battle is about to be won by the legal profession, and this profession is instrumental in bringing about the ascendancy of a bureaucratic system over a feudal one. The lawyers' powers lie in the indeterminacy of the unwritten rules and customs which control the application and interpretation of the written laws. In the fourteenth century their power also lay in the occulted nature of the buried case record.

The Wife's argument in the Prologue is ostensibly about the authority of the wife over the husband in marriage; however, the buried legal argument is about the legal authority of the oral over the written. This aspect of the Prologue reflects the social tensions in the background of the literary performance. There is, in fact, a battle going on outside the poem for control of the law, a battle which will be won by "a skilled, learned, proud, and jealous legal profession" with which the Wife is subtly aligned through her appropriation of legal rhetoric. There is also a buried accusation against the misuse of documents by those in power, including both king and parliament. The Wife covertly exposes the tortuous logic by which the courts are making their rulings, bringing up the question of who is ruling whom, or what is being ruled by what. Is law ruling or is rhetoric? And what form of law has precedence, if law indeed is ruling--the written or the unwritten?

The authority of the lex non scripta over the lex scripta forms not only a backdrop to the Wife's Prologue, it is her Prologue. The Wife's fifth husband reads her a case history of wicked wives, and she quites him by tearing "thre leves" out of the book and making him later "brenne his book" (D 816), an action which echoes that of the defiant peasant Margery Starre who cried, "Away with the learning of clerks, away with it!" However, unlike the rebel peasants, the Wife asks not for a new lex scripta, but creates for herself a lex non scripta. Her "laws" of marriage is an oral argument which quites the written word. She proves through wily argumentation that wives were given authority over their husbands, and that she has had authority over her own. Doubtless her argumentation throughout makes the foot fit the shoe, but this form of rhetoric is about to become a powerful force in society. Furthermore, the Wife's Prologue leads to a tale about a legal case, its sentencing, and the commuting of that sentence, giving further justification for the legal undertones of her Prologue.

Chaucer aligns the Wife of Bath with the practitioners of a form of oral argumentation which uses a particular form of logic and rule application. In the tension between lex scripta and lex non scripta, the Wife is on the side of the unwritten law. She "proves" her authority in her Prologue, and, as one who is aligned with the lex non scripta, she does have authority. The courts have the power to interpret the lex scripta, and through rhetoric and rule
application they make it say what they want it to say. Likewise, the Wife assumes the power of oral interpretation over the written texts of both Paul and her husbands. There is buried in her Prologue an alignment between the hatred toward lawyers (and their power of interpretation) demonstrated by the peasants’ attacks upon them, and the hatred toward women (whose rhetoric is necessarily oral) in written texts of the period. The Wife is aligned in her Prologue with interpretation, the unwritten law, and legal rhetoric, and most significantly with the mediation between written and unwritten.

At his coronation ceremony Richard II "swore on the cross to confirm the laws and customs of the people." However, just what exactly constituted "the laws and customs" was not that easy to determine. For instance, a historian notes that in the coronation ceremony, "especially noteworthy were the pains taken to remove any doubt that the laws which the king swore to confirm were those which had been established in the reign of Edward the Confessor, not those which had been ordained by the legislation of Edward I," and further, an alternation was made to the coronation oath established in 1308 for Edward II, "whereby the king swore to uphold whatever laws the people might elect for the glory of God. For these phrases there was substituted in the coronation oath of 1377 an ambiguous reference to the laws of the church." From the very opening of his reign, those close to Richard attempted to escape from being bound by the laws and customs of the people; however, the underlying problem is the uncertainty of what constituted the laws and customs. Were they established by Parliament's spoken word and by the written laws which it established; or, was the law established by the decisions of the Judges whom Richard consulted on his rights and obligations; or by immemorial custom filtered down through the established case record; or by the word of the King himself? At the heart of this confusion is the dichotomy inherent in the common law between the supposed certainty of codified law, and the flexibility and apparent uncertainty of the unwritten law determined by custom.

The Wife of Bath reinforces rule by law (a written/oral negotiation) rather than by oath and sovereignty. She is aligned with the new order of things which will not be bound by the sovereignty of the king, but takes the power of interpretation and negotiation unto itself. Neither the written laws nor the sovereign oath rule; what now rules is the professional, bureaucratic negotiation between lex scripta and lex non scripta. The buried argument of the Wife's Prologue is that those who are professionally assuming the power of legal interpretation are an emerging political force destined to become "the supreme master, above both king and parliament."

Notes

1. All references to the text of Chaucer are to Larry D. Benson, et al., eds., The Riverside Chaucer (Boston, 1987), and they will be included within the text as line citations.


5. Patterson, "For the Wyves Love," 678.


17. Ibid., 190.

18. Ibid., 192.


22. Ibid., 110.


26. Ibid., 186.

27. Although it is no longer necessary to "plead colour," the term remains part of the legal lexicon and is understood as a common tactic. The term was used, for instance, in Milo Gayelin, "Their Own Petard: Many Lawyers Find Malpractice Suits Aren't Fun After All," *The Wall Street Journal*, July 6, 1995, A1, A6. A defense lawyer explaining the nature of the growing number of legal malpractice suits states: "In many cases where conflicts [of interest between the lawyer and the opposite side] are alleged, the conflicts really do not cause anyone any harm. They're in there for color."


31. See N. L. Corbett, ed., La vie de St Louis: Texte de XIVe siècle (Quebec, 1977), 95.
34. Ibid., 120.
35. Fredric G. Gale, Political Literacy (New York, 1994), passim.
37. McKisack, 415.
38. McKisack, 411.
40. Gale, Political Literacy, 11.
41. McKisack, 419.
42. Steven Justice, Writing and Rebellion: England in 1381 (Berkeley, 1994).
43. Rosamond Faith, "The ‘Great Rumour’ of 1377 and Peasant Ideology," The English Rising of 1381, ed. R. H. Hilton and T. H. Aston (Cambridge, Engl., 1984), 43-73. She states of this early revolt, "its legitimizing ideas seem not to have come from egalitarian hopes of a better future but from views of an idealized past. It was conservative to the point of archaism, and the book that largely inspired it was not the Bible, but the Domesday Book."
46. Clanchy, From Memory, 19 and passim.
47. Gale, Political Literacy, 6.
49. Ibid., 625.
51. Ibid., 14-15.

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