

Joan of Arc as *prisonnière de guerre*¹

Abstract

Contrary to what has been previously claimed, the birth of the French term *prisonnier de guerre* dates back to long before the early seventeenth century. The corpus of documents which form the foundation of this article includes some sixty occurrences of the term (in French or Latin) over a period of more than a century, the earliest dating to 1357. In contrast with previous studies on the status of prisoners of war which have tended to rely on a modern conception of the term, this present investigation focuses on contemporary perceptions of those who were designated *prisonniers de guerre* in the later middle ages. The significance of this discussion is demonstrated in particular through the case of Joan of Arc, who, perhaps surprisingly, was considered a *prisonnière de guerre* by the English. In her case – which was by no means an exception to the general rule – the status of *prisonnier de guerre* derived from the property rights which her ‘master’ (or captor) enjoyed over her. It did not involve any protection of the prisoner her (or him) self. Contemporary debates around the status of *prisonniers de guerre*, when such questions were raised, were focused on the rights of the master. Perhaps is it more appropriate not to speak of the status prisoner of war but rather the status of the master of the prisoner of war.

Keywords:

Joan of Arc, Prisoner of war, Ransom, Property right, Combatant status

¹ I would like to express my deep gratitude to Professor Anne Curry who provided generous and useful advice throughout the process of building up this argument. I also owe a special thanks to Professor George Bernard for his careful reading and suggestions on an earlier draft. The research carried out for this paper has also received funding from the European Union's Seventh Framework Programme (FP7/2007-2013 - MSCA-COFUND) under grant agreement n°245743 - Post-doctoral programme Braudel-IFER-FMSH, in collaboration with the Labex Patrima of the Université de Cergy-Pontoise.

The term ‘prisoner of war’ is today easily and ubiquitously understood. Both the term and the concept are deemed to be the creation of the early modern period. The earliest occurrence in a French dictionary of the term ‘prisonnier de guerre’ is to be found in Jean Nicot’s *Thresor de la langue Françoise* of 1606.² For England the earliest reference noted in the *Oxford English Dictionary* is dated to 1608, and is deemed to be modelled on the French lexical item.³ The same is true of the occurrence around the same time or a little later of the Italian form *prigionero de guerra*.⁴ Research by Philippe Contamine in the 1990s suggested that the form in French and in Latin (*prisonarius guerre*) could be traced back to at least the fifteenth century, although the earliest of the three examples he cited was 1454.⁵ When I published my study of prisoners in the Hundred Years War, I was able to add a further twelve occurrences of the term in French and Latin.⁶ At this present stage, I have amassed sixty-seven examples relating to forty-one unrelated cases and covering a period of more than a century between 1357 and 1490.

Late medieval prisoners (of war) are virtually everywhere, in narrative sources of all kinds (i.e. journals, memoirs, chronicles), poetry, miracle accounts, legislative and diplomatic records (i.e. royal ordinances, peace treaties), administrative records (i.e. safe-conducts, payment orders and receipts) and legal or normative records (i.e. court cases, legal or chivalric treatises). The search for the phrase ‘prisonniers de guerre’ had therefore to range very widely, covering a vast amount of printed and manuscript sources. No doubt there are other late medieval occurrences of the phrase awaiting discovery. However, any such discovery is unlikely to alter the broader picture that is drawn in this present study.

² J. Nicot, *Thresor de la langue francoyse tant ancienne que moderne* (Paris, 1606), p. 512. See also the online database provided by the *Centre National de Ressources Textuelles et Lexicales* (www.cnrtl.fr/etymologie/prisonnier).

³ ‘prisoner of war, n.’. *Oxford English Dictionary Online*. December 2016. Oxford University Press. <http://www.oed.com/view/Entry/267433?redirectedFrom=prisoner+of+war&> (accessed 10 Jan. 2017); citing J.-F. Le Petit, *A General History of the Netherlands*, trans. E. Grimeston (16 vols., London, 1608), x. 544: ‘Three Captains, as many Lieutenants, Ancients, Sargents and Corporalls of his Regiment, shall remaine prisoners of war to his Excellency, untill the above-named be fully delivered’.

⁴ Tullio De Mauro and Marco Mancini, *Garzanti etimologico* (Milan, 2000), p. 1623.

⁵ P. Contamine, ‘Un contrôle étatique croissant : les usages de la guerre du XIVe au XVIIIe siècle : rançons et butins’, in P. Contamine, ed., *Guerre et compétition entre les états européens du XIVe au XVIIIe siècle* (Paris, 1998), pp. 199-236, at p. 201. In the appendix to this present article his examples are included as nos. 36 (1454), 40 (1477) and 41 (c.1489-90).

⁶ R. Ambühl, *Prisoners of War in the Hundred Years War. Ransom Culture in the Late Middle Ages* (Cambridge, 2013), pp. 4-5.

The relatively small number of occurrences indicates that the usage of the phrase was at a formative stage in the fourteenth and fifteenth centuries, when it still needed explanation or justification. Following this premise, we are bound to learn much from a detailed analysis of the corpus and from the contexts in which the references occur, using both qualitative and, to a smaller extent, quantitative methods, taking inspiration from Contamine's important comment: 'l'apparition et la diffusion de l'expression "prisonnier de guerre" impliquent une certaine prise de conscience d'un statut particulier'.⁷ What was this 'special status' and why should it have developed at the time and in the context it did, i.e. the Hundred Years War? In the first part of this article we shall examine under what circumstances the expression 'prisoner of war' in French and Latin occurred in the later middle ages, and explore what usage of the phrase tells us about contemporary perceptions of prisoner-taking and prisoner status in warfare.

Scholars in the past have tried to work out a definition of the status of prisoners of war. For lack of a better way of conceptualising the relationship between the prisoner and his master, Maurice Keen compared it to a 'close chivalrous bond'.⁸ Avoiding the question of definition, Pierre-Clément Timbal focused on describing the laws which governed the ransoming process of prisoners of war from their capture to their release.⁹ I have attempted in my own analysis more of an all-embracing approach.¹⁰ Going beyond the strict legal confines, I have identified and tested political, juridical and social principles which affected the fate of prisoners of war. In many earlier studies, the status of prisoner of war emerges as an elusive concept, imposed on the realities of the late medieval world. But the prisoner of war of such studies was not the *prisonnier de guerre* of this present enquiry. He was, according to modern definitions, any combatant captured by the enemy in war.¹¹ The present enquiry proposes to take a fresh look at the question of status, avoiding any modern preconceptions.

⁷ Ibid., p. 201.

⁸ M. Keen, *The Laws of War in the Later Middle Ages* (London, 1965), p. 164.

⁹ P.-C. Timbal *et al.*, ed., *La guerre de Cent Ans vue à travers les registres du Parlement, 1337-1369* (Paris, 1961), pp. 306-7.

¹⁰ Ambühl, *Prisoners of War*, pp. 19-51.

¹¹ For the content and a discussion of the International Humanitarian Law on the status of combatant and prisoner of war (in international armed conflict), see the website of the ICRC (International Committee of the Red Cross), especially rules 3 and 106. https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul (accessed 10 Jan. 2017). A historical perspective on the status of prisoner of war is proposed in E. Crawford, *The Treatment*

This is particularly relevant to the case of Joan of Arc. It has been generally overlooked that she was indeed called ‘prisonnière de guerre’ in records of a tax raised in Normandy for purchasing Joan from her Burgundian captors. When Jules Quichérat cited one of these records in 1859, linked to his edition of the Trial of Condemnation, he gave the crucial passage incorrectly, using the word ‘personne’ rather than ‘prisonnière’: ‘dix mil livres tournois au paiement de l'achat de Jehanne la Pucelle, que l'en dit être sorcière, *personne de guerre*, conduisant les osts du dauphin’ (‘ten thousand livres tournois for the purchase of Joan the Maid, said to be a sorceress, *person of war*, leading the armies of the dauphin’).¹² Although there have been efforts by Benedicta Rowe and Auguste Léon Bailly-Maître to correct the error, the dominance of Quichérat’s edition of the trial of condemnation has ensured that the description of Joan as ‘personne de guerre’ has percolated through most historical works.¹³ For instance, it was mentioned in Charles Marie de Robillard de Beaurepaire’s important study of the estates of Normandy, also published in 1859,¹⁴ and has continued to be cited in more recent works.¹⁵ However, as we shall see, there is ample evidence, thanks to the survival of other records linked to the tax levied in Normandy, that the correct wording is ‘prisonnière de guerre’.

As is well known, Joan was put to death in May 1431 as a relapsed heretic. A letter in the name of Henry VI, as king of France, following her death indicates that, had she not been found guilty by the church court, she would have been tried for treason.¹⁶ Both situations appear to be at odds with Joan’s description as a prisoner of war, who might be deemed, following the customs of the times, to have the right to be ransomed. Noticeably too, it was not Joan’s French allies but the English, her

of Combatants and Insurgents under the Law of Armed Conflict (Oxford: OUP, 2010). Chapter 2: ‘Combatant Status and Prisoners of War Protections’ is particularly relevant for its observations relating to the nineteenth century onwards.

¹² *Procès de condamnation et de réhabilitation de Jeanne d’Arc*, ed. J. Quichérat (5 vols, Paris, 1841-59), v, 179.

¹³ B.J.H. Rowe, ‘The Estates of Normandy under the Duke of Bedford, 1422-1435’, *ante*, xlvii (1931), pp. 551-78, at p. 564; L.A.L. Bailly-Maître, ‘Deux pièces inédites sur l’« aide » levée en 1430 pour le paiement de la rançon de Jeanne d’Arc’, *Bulletin de la Société Nationale des Antiquaires de France* (1932), pp. 101-5.

¹⁴ C.M. de Robillard de Beaurepaire, *Les états de Normandie sous la domination anglaise* (Evreux, 1859) pp. 40-1.

¹⁵ Among the most recent studies, see, for instance, L. J. Taylor, *The Virgin Warrior. The Life and Death of Joan of Arc* (New Haven and London, 2009), p. 123; J. Barker, *Conquest. The English kingdom of France, 1417-1450* (Cambridge Ms., 2012), p. 422; and the otherwise most exhaustive and erudite work of P. Contamine, O. Bouzy and X. Hélarly, *Jeanne d’Arc. Histoire et dictionnaire* (Paris, 2012), p. 220.

¹⁶ See the letters dispatched on behalf of Henry VI following her death. We will return to this matter in due course. (see no. 137).

sworn enemies, who described her as *prisonnière de guerre* before they handed her over to the justice of the Church. There are two possible ways of interpreting this. We could argue that it is proof of the deviousness of the English who denied a protection or immunity which their acknowledged prisoner of war ought to have enjoyed according to the ransom practices of the period. Such an interpretation would support traditional French historiography, according to which the English breached chivalric conventions in their handling of Joan of Arc.¹⁷ Alternatively, we may need to reconsider the status of prisoner of war. Discourse on the trial and execution of Joan of Arc has changed in recent years. Historians now largely accept that political and socio-religious factors were bound to withhold from Joan the protection normally associated with the status of prisoner of war.¹⁸ But why then the English would specifically designate Joan of Arc as a prisoner of war *at all*? The second part of this article explores the case of Joan within the context of her politico-religious position and of the concept of ‘prisoner of war’ in this period.

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The French term *prisonnier* appears in the 12th century, deriving from the Latin *prehensio* or *prensio* (for seizing, grasping, taking hold of).¹⁹ The Latin *prisonarius* is not attested before the 13th century:²⁰ it can, therefore, be reasonably assumed that it derives from the French ‘*prisonnier*’ rather than the Latin term being derived from the French. Not all *prisonniers* (and *prisonarii*) were necessarily prisoners of war. The Romans had used the Latin word *captivus* to designate a prisoner

¹⁷ See, for instance, J. Michelet, *Jeanne d’Arc* (Paris, 1937), p. 169; J-B.J. Ayroles, *La vraie Jeanne d’Arc* (5 vols., Paris, 1890-1901) v. 20; E. Bourguignon, *Sainte Jeanne D’Arc (captive et martyre)* (Liège, 1938), p. 10 ; J. Calmette, *Jeanne d’Arc* (Paris, 1946), pp. 99-100. On the origins and dissemination of ransom practice in the Middle Ages, see M. Strickland, ‘Killing or Clemency? Ransom, Chivalry and Changing Attitudes to Defeated Opponents in Britain and Northern France, 7-12th centuries’, in H.-H. Kortum, ed., *Krieg im Mittelalter* (Berlin, 2001), pp. 93-121; J. Gillingham, ‘1066 and the Introduction of Chivalry into England’, in G. Garnett and J. Hudson, eds., *Law and Government in Medieval England and Normandy. Essays in honour of sir James Holt* (Cambridge, 1994), pp. 21-55; Ambühl, *Prisoners of War*, pp. 1-18.

¹⁸ See, for instance, R. Pernoud and M.-V. Clin, *Jeanne d’Arc* (Paris, 1986), pp. 166-7, and 237; J. Imbert, ‘Résistance et collaboration : le cas Jeanne d’Arc’, *L’Histoire*, cvi (Dec. 1987), pp. 8-16, at p. 14 ; A. Curry, ‘Les Anglais face au procès’, in F. Neveux, ed., *De l’hérétique à la sainte: les procès de Jeanne d’Arc revisités. Actes du colloque international de Cerisy, 1er – 4 octobre 2009* (Caen, 2012), pp. 69-87 ; Contamine, Bouzy and Hélyary, *Jeanne d’Arc*, p. 950 ; A. Bournazel, *Jeanne d’Arc. La vérité sur un faux procès* (Paris, 2012), p. 11; F. Sarindar-Fontaine, *Jeanne d’Arc: une mission inachevée* (Paris, 2015), p. 233.

¹⁹ A. Dauzat, J. Dubois and H. Mitterand, *Dictionnaire étymologique et historique du français* (Paris, 1994), p. 617.

²⁰ J.F. Niermeyer, *Mediae latinitatis lexicon minus* (2 vols., Leiden and Boston, 2002), ii. 1111.

taken in warfare.²¹ Legal treatises in Latin from the late middle ages and beyond which drew on earlier Roman law continued, not surprisingly, to use the term *captivus*.²² Yet, the Latin form *prisonarius guerre* or *prisonarius de guerre* had started to spread in the first half of the fifteenth century. The first Latin occurrence *prisonarius guerre* so far discovered dates to 1421.²³ The Anglo-Norman form *prisoner de guerre* and the French form *prisonnier de guerre* predate the Latin term.

The first occurrences in Anglo-Norman discovered date back to the mid-fourteenth century.²⁴ All are closely related to the royal chancery of Edward III. The earliest is included in a licence delivered on 30 December 1357 by Edward III to the count of Ventadour, ‘nostre prisoner de guerre’, captured at Poitiers, which allowed him to return temporarily to France. We can find two earlier references to the Latin form ‘priso de guerra’ in Rymer’s *Foedera* but these are in the headings added by the editor and are not found in the actual texts of the documents.²⁵ Furthermore, Rymer was not over careful in his transcriptions. If we were to follow his edition, then an act of King John II of 1358 appears to include the earliest continental French occurrence of *prisonnier de guerre*. John, then a prisoner in England, issued a letter in which he acted as surety for the provisional release of another prisoner of the battle of Poitiers (1356), Bonabes de Rouger, lord of Derval.²⁶ However, checking the text of the original manuscript, Rouger was not Edward III’s ‘prisonnier de guerre’, as Rymer gave it, but the English king’s ‘prisonner’ or ‘prisouner de guerre’.²⁷ French records issued from the royal chancery in the aftermath of the battle of Poitiers have also been searched; they do not include any

²¹ M. Gueye, *Captifs et captivité dans le monde romain. Discours littéraire et iconographique (IIIe siècle av. J.-C. – IIe siècle ap. J.-C.)* (Paris, 2013), pp. 49-59.

²² See for instance, the legal treatises of Giovanni da Legnano, written in 1360, and Hugo Grotius, written some 300 years later, in 1625. Giovanni da Legnano, *Tractatus de bello, de represaliis et de duello*, ed. T. E. Holland (Washington, 1917); Hugo Grotius, *De jure belli ac pacis libri tres* (Paris, 1625).

²³ See Appendix, no. 10. The Paris *Parlement*, however, used the term *captivus* in the *arrêt* (i.e. decision) pronounced in the case between Sir William Bucton and Guillaume Derot, in 1435. This is not surprising since this case involved references to the *Digest* of Justinian’s *Corpus iuris civilis* (c.533). AN, X1a 68, fol. 212v (13 April 1435). See also n. 82.

²⁴ Appendix, no. 1 (1357), 3 (1359), 4 (1360), 5 (1361), 6 (1361), 7 (1364); 8 (1376).

²⁵ Thomas Rymer, ed., *Foedera, Conventiones, Literae* (20 vols., London, 1704-1732), v. 532 (20 November 1346), 542-3 (20 January 1347). Rymer used an older form: ‘priso’ in Latin (like *prison* in French). *Priso* or *prison* could indeed designate a prisoner, in the 12th century. Du Cange, *et al.*, *Glossarium mediae et infimae latinitatis*, ed. L. Favre (10 vols., Niort, 1883-1887), vi. col. 508b.

<http://ducange.enc.sorbonne.fr/PRISO1>

²⁶ Appendix, no. 2 (1358).

²⁷ T[he] N[ational] A[rchives], E 30/76.

occurrence of the French form *prisonnier de guerre*.²⁸ Presumably, the French king's act of 1358 was drawn up by an English clerk, perhaps in Edward III's service. Following this assumption, the current state of research suggests that the phrase originated in England in Anglo-Norman, in the particular context of the battle of Poitiers. The unprecedented number of prisoners captured and purchased by the crown may have played an important role in this genesis. To date, all known uses of the Anglo-Norman form occur in the reign of Edward III.

In the second half of the fourteenth century, we find a variant of the French phrase used occasionally: 'prisonnier de bonne guerre'. In January 1375, John Hastings, earl of Pembroke, acknowledged that he had been purchased by Bertrand Du Guesclin from the hands of King Henry II of Castile, of whom he was 'vray et loyal prisonnier de bonne guerre'.²⁹ Without going into detail here, 'bonne guerre' related to the concept of just war, which overlapped with public as opposed to private war, the latter being a circumstance in which prisoners were not supposed to be taken or ransomed.³⁰ The phrase *prisonnier de bonne guerre* continued to be used into the fifteenth century and beyond, but by then it had already been supplanted by the shorter form *prisonnier de guerre*.³¹

This French form seems to emerge in the first half of the fifteenth century. The earliest occurrences so far discovered are in the chivalric treatise *Les fais d'armes et de chevalerie* of Christine de Pizan (1410).³² Three manuscripts have survived that are more or less contemporary with the composition of the work.³³ The earliest surviving copy, preserved in the Bibliothèque Royale in Brussels, is known to have belonged to John the Fearless, duke of Burgundy (d. 1419).³⁴ It includes

²⁸ I have consulted the *registres* of the *trésor des chartes* for the years 1356-1363 (A[rchives] N[ationales], JJ 85-93), focusing on the references provided in C. Given-Wilson and F. Bériac-Lainé, *Les prisonniers de la bataille de Poitiers* (Paris, 2002), pp. 254-5.

²⁹ M.C.E. Jones, ed., *Letters, Orders and Musters of Bertrand du Guesclin, 1357-1380* (Woodbridge, 2004), p. 236.

³⁰ Keen, *The Laws of War*, pp. 79-81; F.H. Russell, *The Just War in the Middle Ages* (Cambridge, 1975), pp. 299-303.

³¹ See, for instance, AN, X1a 4791, fol. 8v-9r (2 Dec. 1415); AN, X1a 9194, fol. 144r (4 Aug. 1436); J. Vaesen and E. Charavay, eds., *Lettres de Louis XI, roi de France* (11 vols., Paris, 1883-1909), v. 386-8 (6 June 1475).

³² There is no modern published edition of the book in French. There is an English translation based on the earliest known manuscript copy. Christine de Pizan, *The Book of Deeds of Arms and Chivalry*, trans. S. Willard and C. Cannon Willard (University Park, 1999).

³³ Pizan, *The Book of Deeds*, p. 3.

³⁴ Bibliothèque Royale de Belgique (hereafter KBR), mss. 10476.

nine occurrences of ‘prisonnier(s) de guerre’.³⁵ Christine’s book did not spread widely until the end of the fifteenth century when it was printed in French by Antoine Vérard in 1488, and translated into English and printed by William Caxton in 1490.³⁶ Caxton’s translation includes the first known occurrences of the English form ‘prysoner(s) of werre’.³⁷ Giving to Christine de Pizan the credit that she deserves, it should be noted that Honorat Bovet’s *Tree of Battles* (c. 1386-89), her avowed source of inspiration, did not include any reference to the phrase ‘prisonnier de guerre’.³⁸ Evidence shows that the French form and its Latin derivatives started to become more common from the second decade of the fifteenth century. The majority of the references to *prisonniers de guerre* and its Latin derivative *prisonarius de guerra* belong to the field of administration of justice.³⁹ A comparably small number is found in royal legislation⁴⁰ and in financial records.⁴¹ From the mid-fifteenth century onwards we can see that the phrase had spread to narrative sources – the earliest so far discovered is in Jean Chartier’s *Chronique de Charles VII* (c.1455) – which could be interpreted as a significant stage in its becoming commonplace.⁴²

This attempt to capture the genesis of the phrase *prisonnier de guerre* shows the antecedence of the French (and Anglo-Norman) form over the Latin form, indicating that the emergence and diffusion of the French phrase *prisonnier de guerre* does not result from a simple French appropriation or ‘vernacularisation’ of the Latin *captivus*. The phrase arose from a need to create, or fix, a new category of prisoners during the Hundred Years War.

How then did contemporaries use and understand the status of *prisonnier de guerre*? And who were the prisoners to whom this term was applied? Those who can be identified were mainly

³⁵ Ibid., fol. 96v, 66r, 105r, 106r, 118r.

³⁶ Christine de Pizan, *The Book of Fayttes of Armes and of Chyualrye (Translated and Printed by Willam Caxton from the Original French)*, ed. A.T.P. Byles (Oxford, 1937).

³⁷ Ibid., pp. 188, 189, 220, 221, 226, 231, 236, 262.

³⁸ See Honoré Bovet, *L’arbre des batailles*, ed. E. Nys (Paris, 1883); Honoré Bonet, *The Tree of Battles*, trans. G. W. Coopland (Liverpool, 1949). I have also consulted several contemporary copies preserved in, and digitised by, the BnF (mss. fr. 587, 1263, 1267 and 1277). For the spelling of the name of this author as Honorat, see H. Biu, ‘Honorat Bovet’, *Histoire littéraire de la France*, xliii/i (2005), pp. 83-128.

³⁹ *Parlement of Paris*: Appendix, nos. 10, 11, 13, 22, 23, 25, 26, 27, 28, 34, 36, 38, 40. Royal pardons: Appendix, nos. 12, 14, 21.

⁴⁰ Appendix, nos. 15, 29.

⁴¹ Appendix, nos. 16, 17, 18, 19, 20, 31, 32, 33. Licences, contracts, power of attorney, diplomacy: Appendix, nos. 1-8, 24, 30.

⁴² Appendix, nos. 35 (<1450), 37 (1455), 39 (1460s), 41 (c.1489-90).

combatants of noble status. The most famous are David II (Bruce), king of Scotland (1359),⁴³ Charles d'Artois, son of the infamous Robert d'Artois (1361, 1364),⁴⁴ the English captain John Talbot, earl of Shrewsbury (1449),⁴⁵ and William Neville, Lord Fauconberg.⁴⁶ But we also find two members of the Brimeu,⁴⁷ a middling noble family, namely Florimont (1432)⁴⁸ and Guérart (1446).⁴⁹ This application of the term is not surprising since individuals issuing from noble or princely lineages were more likely than commoners to be spared and to leave traces in surviving records.⁵⁰ A member of the clergy who took up arms could be considered as a *homme de guerre* and treated as such.⁵¹ Gilles de Lorris, bishop of Noyon, who was captured by Anglo-Navarrese troops in August 1358 and handed over to Edward III, was ransomed by the latter as his legitimate 'prisoner de guerre'.⁵² This example illustrates that the privileges of the 'upper' order of the clergy were deemed to be on a par with those of the secular nobility. Proven non-combatants, or peasants, on the other hand, were not authorised to take up arms and fight, let alone to kill anyone, unless royal ordinances had expressly instructed them otherwise.⁵³ Naudin Vaudet, a ploughman, along with others, killed three 'companions' who had been taken as 'prisonniers de guerre' when they tried to escape. He was prosecuted by the *prévôt* of Pierrefonds for

⁴³ Appendix, no. 2 (1359).

⁴⁴ Appendix, nos. 5 (1361) and 7 (1364).

⁴⁵ Appendix, no. 37 (1455).

⁴⁶ Appendix, no. 38 (1459).

⁴⁷ On Guy de Brimeu and the Brimeu family in general, see W. Paravicini, *Guy de Brimeu: der burgundische Staat und seine adlige Führungsschicht unter Karl dem Kühnen* (Bonn, 1975).

⁴⁸ Appendix, no. 39 (1460s).

⁴⁹ Appendix, no. 33 (1446).

⁵⁰ This said, I have shown that clemency and the ransom practice could also apply to lower levels of the military hierarchy in the fifteenth century. See Ambühl, *Prisoners of War*, pp. 137-50.

⁵¹ Pizan, *The Book of Deeds*, p. 179. (Note that there is no mention of 'prisoner of war' in this passage.)

⁵² On the bishop and his capture, see A. de Sainte-Marie, *Histoire généalogique et chronologique de la maison royale de France* (9 vols., Paris, 1726-33), ii. 412-3. On his ransom, see Rymer, ed., *Foedera*, vi. 216-17 (22 Oct. 1360); Appendix, no. 6 (1361).

⁵³ 'The general call to arms, known, as the *arrière-ban*, which the French crown occasionally made to its subjects at time of great national emergency appealed to all able bodied adult male and did not exempt peasants': N. Wright, *Knights and Peasants: the Hundred Years War in the French Countryside* (Woodbridge, 1998), p. 82. For examples of French summons of the *arrière-ban* in the beginning of the fifteenth century, see P. Contamine, *Guerre, état et société à la fin du Moyen Age: études sur les armées des rois de France, 1337-1494* (Paris, 1972), pp. 219-22. The use of the *arrière-ban* in Lancastrian France was not common. For the Lancastrian period, see A. Curry, 'Le service féodal en Normandie pendant l'occupation anglaise (1417-1450)', in *La « France anglaise » au Moyen Age. Actes du 111e congrès national des sociétés savantes (Poitiers, 1986)* (Paris, 1988), pp. 233-257, at pp. 253-6.

having killed them, even though royal ordinances authorised peasants to take up arms against Dauphinists in Picardie.⁵⁴

Any 'irregular' fighters (i.e. acknowledged non-combatants who took up arms) faced criminal prosecutions since they could not enjoy the status of legitimate soldiers.⁵⁵ Yet at a time when there was no permanent army, the demarcation between the combatant and the non-combatant was not always so well defined.⁵⁶ Several occurrences of the phrase *prisonniers de guerre* are found in cases where there were questions over the status of the captured individual. The defence of Lancastrian Normandy against internal threat from the so-called 'brigands' in the 1420s initiated a reflection around the status of *homme de guerre* and prisoner of war.⁵⁷ Royal ordinances issued following a meeting of the estates of Normandy held in Caen (some time in the 1420s) established that individuals found lurking in the woods and by the roads with the intention of capturing subjects of the English crown had to be handed over to justice 'and by the said justice examined so that they could be questioned in order to ascertain whether they should be punished or reputed as soldier; if the latter, by justice, they would be handed back to those who took them'.⁵⁸ This ordinance ruled on the ways of waging war which were proper or improper for a *homme de guerre*. Lurking in the woods or by the roads were deemed improper, or at least very suspicious. On the other hand, there was no apparent reason to question the status of a *homme de guerre* who was captured while riding on a horse in good company. John Stille, esquire, gaoler of Carentan, expressed his surprise when he was told that Guillaume Leheux, the man whom he had held in his prison for five weeks and five days, had proved

⁵⁴ Appendix, no. 14 (1427).

⁵⁵ For the present day see M. Clarke, T. Glynn, and A. Rogers, 'Combatants and Prisoner of War Status', in M. Meyer, ed., *Armed Conflict and the New Law: Aspects of the 1977 Geneva Protocols and the 1981 Weapons Convention* (London, 1989), pp. 107-37, at p. 107, 109; Crawford, *The Treatment of Combatants*, pp. 49-53.

⁵⁶ I raised this question in Ambühl, *Prisoners of War*, chapter 2. This current in-depth investigation of the term '*prisonnier de guerre*' sheds new light on the matter.

⁵⁷ On English attitudes toward brigands, see R.A. Newhall, 'Henry V's Policy of Conciliation in Normandy, 1417-1422', in C.H. Taylor, ed., *Anniversary Essays in Medieval History by Students of Charles Homer Haskins* (Boston and New-York, 1929), 205-29; B. Rowe, 'John, Duke of Bedford, and the Norman "Brigands"', *ante*, xlvii (1932), pp. 583-600; C. T. Allmand, *Lancastrian Normandy. The History of a Medieval Occupation* (Oxford, 1983), pp. 230-7.

⁵⁸ '...doivent estre mis es mains de la justice et par icelle examinez pour savoir se ilz sont tels que ilz doyent emporter pugnicion ou estre reputez comme gens de guerre, ouquel cas, par la justice, ilz seroient rendus a ceulx qui les auroient prins': AN, KK 648, no. 12 (4 May 1428). It is difficult to establish the date of this meeting and the ensuing ordinances. Reference to it is made in a letter of the lieutenant of the *bailli* of Rouen and Gisors sent to the captain of Louviers on 4 May 1428. There is evidence of an assembly of the three estates in Caen in December 1423. Robillard de Beaurepaire, *Les états de Normandie*, p. 173; Rowe, 'The Estates of Normandy', p. 556.

to be a ‘brigan et larron de boys’. For Stille there was no doubt that Leheux should be regarded a ‘prisonnier de guerre’ since he had not previously sworn allegiance to Henry VI (or his father) and ‘had been captured whilst riding a horse together with enemies of the said lord (i.e. the king)’.⁵⁹ The authorities agreed with Stille. Such a loose demarcation, based on appearances, between the criminal and the regular soldier was bound to create confusion.⁶⁰ In order to make sure that he did not violate the rules, the English esquire William Godebec took his prisoner, Jean de Mathan, to the earl of Suffolk, then besieging Mayenne, ‘so as to establish whether the latter should be considered as a prisonnier de guerre or punished as a criminal... our cousin declared that he was to remain and be prisonnier de guerre of his master, and afterwards was put to ransom and finance by the said master.’⁶¹ In this effort to separate regular from irregular fighters, the title of *prisonnier de guerre* appears as an enviable and protective status which saved captives from criminal prosecutions. But it is important to note that this effort resulted from stricter governmental policy which aimed at curbing the threat to the safety of the Norman subjects and at defending the English tenure of the duchy.⁶² The purpose of this policy was less to protect the *prisonnier de guerre* than to limit the number of combatants who could wriggle out of the hands of the authorities and take up arms again after paying a ransom.

Reflecting on the subject of ‘prisonniers de guerre’, Christine de Pizan asked ‘whether a demand might be made of a prisoner for gold or silver or some other thing of value of the sort that is

⁵⁹ ‘...qu’il avoit esté prins avecquez les anemis du dit seigneur estans a cheval’: Appendix, no. 15 (1428). In short, all Normans living in territories of English obedience were obliged to take an oath of fealty. Those who chose not to swear allegiance had to leave the duchy, and their property was liable to be confiscated. Those who had sworn allegiance to Henry V or Henry VI, but decided afterwards to leave the Lancastrian obedience would be considered as traitors in the event of a capture by the English. Allmand, *Lancastrian Normandy*, pp. 15-8; S.H. Cuttler, *The Law of Treason and Treason Trials in Later Medieval France* (Cambridge, 1981), pp. 41-2.

⁶⁰ A parallel can be drawn between the status of combatant and the status of nobility. Only a man who lived nobly would be considered a noble. Only a ‘homme de guerre’ who fought like a proper ‘homme de guerre’ would be deemed a ‘homme de guerre’. This would have an impact on the lower echelons of the hierarchy. E. Dravasa, ‘« Vivre noblement » : Recherches sur la dérogeance de noblesse du XIVe au XVIe siècle’, *Revue Juridique et Economique du Sud-Ouest, Série juridique*, xvi (1965), pp. 135-93 ; xvii (1966), pp. 23-129 ; see also P. Contamine, *La noblesse au royaume de France de Philippe le Bel à Louis XII. Essai de synthèse* (Paris, 1997), pp. 207-11.

⁶¹ ‘...pour savoir s’il seroit receu comme prisonnier de guerre ou s’il seroit pugny criminellement, lequel nostre cousin declaira qu’il demouroit et seroit prisonnier de guerre a son dit maistre’: Appendix, no. 12 (1426).

⁶² Ambühl, *Prisoners of War*, p. 97.

customary in matters of war, since,' she argued, 'mercy is properly due to a prisoner'.⁶³ Her answer suggests a compromise through a sensible appeal to the master for moderation: 'care should be taken that the ransom is not so excessive that the man is ruined by it'. Most of Christine's questions relating to the issue of 'prisonniers de guerre' concern ransoms.⁶⁴ This is hardly surprising. Ransoms were a key element in defining the status of prisoner of war, as is revealed by the fact that prisoners of war and ransoms are closely linked in many of the cases in our corpus of references. In 1434, the departing captain of the garrison of Essay gave specific and detailed instructions to his attorneys regarding his 'prisonniers de guerre' who were to be ransomed in accordance to the usages of war.⁶⁵ In 1436, Pierre le Porc, a Norman knight, claimed his share of the ransom of Thomas Aulton who had been taken 'prisonarius de guerra' by two men in le Porc's company.⁶⁶ In the context of 'guerre guerriable', Guillaume Derot argued before the Parlement of Paris that prisoners of war were accustomed to be released through the payment of a ransom.⁶⁷ In our corpus there are two examples of princely contributions toward the payment of a ransom for the release of 'prisonniers de guerre'.⁶⁸ In theory, only *hommes de guerre* could be ransomed as *prisonniers de guerre* - or so a parish priest of Sucy-en-Brie argued before the court of the Parlement of Paris in 1421. He complained that he and other priests in his company had been taken, imprisoned and ransomed as prisoners of war ('prisonarii guerre'), even though they were not men of war ('homines guerre').⁶⁹ In 1433, Guérin Maucaire, a 28-year-old fisherman from Poissy who lived in the English obedience, complained to the authorities that he had been captured and ransomed by an English captain 'comme prisonnier de guerre'.⁷⁰ The use of 'comme' is revealing. It implies that ransom was a defining feature of the status of prisoner of war which was not supposed to be applied to a non-combatant and an obedient subject such as himself. In practice, however, ransoming was endemic in the Hundred Years War and affected the non-combatant

⁶³ Pizan, *The Book of Deeds*, pp. 169-71.

⁶⁴ *Ibid.*, pp. 170-9.

⁶⁵ Appendix, no. 24 (1434).

⁶⁶ Appendix, no. 28 (1436).

⁶⁷ Appendix, no. 25 (1434). For contemporaries, a 'guerre guerriable', by opposition to 'guerre mortelle' (mortal war), was a war in which prisoners were taken for ransom instead of being killed. See Philippe Contamine, *Guerre, état et société*, pp. 196-7.

⁶⁸ Appendix, nos. 32 (1445), and 33 (1446).

⁶⁹ Appendix, no. 10 (1421).

⁷⁰ Appendix, no. 21 (1433).

too, merchants and peasants alike.⁷¹ To be a *homme de guerre* was not as strong a defining feature of the status of *prisonnier de guerre* as the fact of being to be put to ransom.

It is tempting to infer, therefore, that the *prisonniers de guerre* identified in this period enjoyed a form of protection which was a guarantee to be ransomed. Joan of Arc's interrogators asked her on 14 March 1430 'whether it is a mortal sin to take someone for ransom and to put him to death as a prisoner', implying that the Church regarded it a cardinal sin to kill a man who had been taken for ransom.⁷² The case is well known. Joan of Arc had captured a Burgundian combatant called Franquet d'Arras at Lagny. Instead of a ransom, she hoped to exchange him with a Parisian lord in the hands of the English, but as she heard that this lord was dead, she handed over Franquet to the *bailli* of Senlis, who wanted this self-confessed murderer, thief and traitor to be prosecuted. The trial lasted two weeks, at the end of which Franquet d'Arras was found guilty, sentenced to death and executed. This killing did not ultimately feature in the charges that were held against Joan. Arras was not killed from Joan's hands. Indeed, he was taken for ransom in the first place, and only later on was he charged as a criminal. But this had also been the fate of Guillaume Leheux, and in all likelihood, of many other 'brigands' who fell into the hands of the English. Incriminating Joan on that account amounted to challenging English rule in Normandy.

From a broader perspective, there was a significant underlying issue to the ransoming business. What would happen to a prisoner who turned out not to be able to pay his ransom? According to Jean Régnier, writing from his prison in Beauvais in 1432, the prospects for such a man were particularly grim.⁷³ In reality, therefore, ransoms should not be seen as the prerogative of the prisoner of war but rather as the right of the master: the right to derive a profit from the captured prisoner of war. This important nuance is best illustrated by the master's choosing or being compelled to cede or transfer the right over his prisoner to a third person, usually in return for the equivalent of

⁷¹ See the studies of N.A.R. Wright, 'Ransoms of Non-Combatants during the Hundred Years War', *Journal of Medieval History*, xvii (1991), pp. 323-332; id., *Knights and Peasants*, esp. pp. 62-79.

⁷² *Procès de condamnation de Jeanne d'Arc*, ed. P. Tisset and Y. Lanhers (3 vols., Paris, 1960-1971), i. 150-1, ii. 131 (14 Mar. 1431). Translation is borrowed from D. Hobbins, trans., *The Trial of Joan of Arc* (Cambridge Ms., 2005), p. 103.

⁷³ 'Le prisonnier/Qui n'a argent/Est en dangier/Le prisonnier/Pendre ou noyer/Le fait l'argent': Jean Régnier, *Les fortunes et adversitez*, ed. Eugène Droz (Paris, 1923), p. 13.

what the ransom might have been, or for reasonable compensation. The royal right to acquire ‘great captains, princes of the royal blood and also chieftains and lieutenants empowered by the said kings’ captured by their subjects, in return for reasonable compensation features in virtually every single indenture of war between the duke of Bedford, regent of France, and his captains.⁷⁴ This royal reservation of high-ranking prisoners seems to date back to earlier in the Hundred Years War. It may have been introduced into royal indentures after the battle of Crécy.⁷⁵ The clause changed over the years, becoming more detailed and extensive.⁷⁶ As a rule, it was common practice throughout the Hundred Years War to sell prisoners to a third party within and outside military society.⁷⁷ Through these transactions, captors derived a profit while washing their hands of the fate of their captives and of the responsibility for holding them.

Ultimately, therefore, what best describes the status of the ‘prisonnier de guerre’ is not the ransom, but the (tradable) property right that the master enjoyed over him. The idea raised by such thinkers as Bovet or Pizan that all manner of prisoners and booty belonged to the crown since it paid

⁷⁴ ‘...grans cappitaines et gens du sang royal et aussi cheftaines et lieutenants aians povoir desdits roys’: this quote is extracted from an indenture between Henry VI and Sir Thomas Beaumont on 6 March 1430. B[ibliothèque] n[ationale] [de] F[rance], Nouv. Acq. Fr. 1482, no. 74. The same, or very similar, wording can be found in other indentures drawn around that time. In the same archival series, see, for instance, no. 13 (29 September 1422), no. 21 (16 September 1423), no. 52 (22 December 1428). (I would like to thank Professor Anne Curry for drawing my attention to these records and providing me with some copies.) For an English translation of a similar indenture of war between the duke of Bedford and Sir John Fastolf on 27 November 1424, see C.T. Allmand, ed., *Society at War: The Experience of England and France during the Hundred Years War* (Woodbridge, 1998), pp. 58-60.

⁷⁵ It is absent from the indenture of war between Henry of Lancaster, Earl of Derby and Edward III on 13 March 1345, which allowed the earl power to do what he wished with any prisoners taken. TNA, E 159/123, m. 254d., published in N.A. Gribbit, *Henry of Lancaster’s Expedition to Aquitaine, 1345-6. Military Service and Professionalism in the Hundred Years’ War* (Woodbridge, 2016), pp. 251-6, at p. 252. But the indenture of 10 July 1355 between Edward III and the Black Prince for the latter’s expedition to Gascony allowed the prince control of all prisoners unless they were ‘le chiefe de la guerre’, for whom the king would give the prince appropriate recompense. TNA, E 36/278, fol. 88rv; published in M.M. Madden, ‘The Indenture between Edward III and the Black Prince for the Prince’s Expedition to Gascony, 10 July 1355’, *Journal of Medieval Military History*, xii (2014), 165-171. I would like to thank again Professor Anne Curry who drew my attention to these documents and to the shift in the terms of service. This observation naturally needs further enquiry.

⁷⁶ Edward III asked for the ‘chief of war’, in 1355 (see n. 73), while Henry V required any French prince of the royal blood, as well as any king of any kingdom or his lieutenant, in 1415. Bedford’s indentures, as we have seen, added all commanders and their lieutenants (see n. 72). For 1415, see the example of the indenture between Sir Thomas Tunstall and Henry V, 29 April 1415; trans. in A. Curry, ed., *The Battle of Agincourt: Sources and Interpretations* (Woodbridge, 2000), pp. 432-3.

⁷⁷ See Timbal, *La guerre*, pp. 336-8; M.K. Jones, ‘Ransom Brokerage in the Fifteenth Century’, in P. Contamine, C. Giry-Deloison and M.H. Keen, eds., *Guerre et société en France, en Angleterre et en Bourgogne, XIVe-XVe siècles* (Villeneuve-d’Ascq, 1991), p. 221-35; Ambühl, *Prisoners of War*, pp. 150-7. See also, for instance, Appendix, no. 215. (1434).

the wages of its soldiers,⁷⁸ did not reflect reality. In 1424, the earl of Stafford, when ruling over the fate of the Norman esquire Jean de Mathan, decided that he would not be punished as a criminal but that ‘he would remain a prisoner of war of his master’.⁷⁹ The turn of phrase is striking. Before defining a status as prisoner of war (as opposed to that of a criminal), Stafford established the individual property right of the master over the ‘*prisonnier de guerre*’.⁸⁰ This property right is reflected in our corpus through the extensive use of possessive adjective preceding ‘*prisonnier de guerre*’, or the use of a possessive phrase (X who was the *prisonnier de guerre* of Y).⁸¹ The best example of such emphasis is to be found in a royal order which, paradoxically, interfered with this private business. In the late 1430s, captains and *baillis* in Normandy were ordered not to deliver safe-conducts to prisoners held by their men. The same order applied to the prisoners of the captains and *baillis* themselves: ‘se non seullement pour les propres prisonniers de guerre de eulx’.⁸² Such a property right implied that the master could dispose of the body of the prisoner as he wished. When in 1424 the English knight John Fastolf claimed Henri de Lidan and Denis Sauvage as his ‘*prisonniers de guerre*’, despite the fact that the two men were merchants belonging to the same political obedience as his own, it was because he hoped to lay his hands on them and force them to pay money they owed to him.⁸³ The court went along with the argument of the two merchants who claimed their right to remain in prison in the *Châtelet* of Paris where they had been detained as debtors or guarantors and not as ‘*prisonniers de guerre*’. The palpable fear of the merchants to be regarded as prisoners of war and handed over to Fastolf, who wished to enjoy ‘the same right over them as the enemies did’ (‘le droit sur eulz tel que avoient les ennemis’), sheds a very different light on the protection that the status of prisoner of war was supposed to confer.

⁷⁸ Bovet, *The Tree of Battles*, p. 134; Pizan, *The Books of Deeds*, pp. 166-7.

⁷⁹ ‘Il demouroit et seroit prisonnier de guerre a son dit maistre’: Appendix, no. 12 (1426).

⁸⁰ See also the text of a royal ordinance issued on 4 May 1428: ‘toutes telles personnes... doivent estre mis es mains de la justice et par icelle examinez pour savoir se ilz sont tels que ilz doient emporter pugnicion ou estre reputez comme gens de guerre, ouquel cas, par la justice, ilz seroient rendus a ceulx qui les auroient prins’. AN, KK 648, no. 12.

⁸¹ Appendix, no. 1-8, 10-14, 20, 22-25, 27, 31, 34-36 and 38.

⁸² Appendix, no. 29 (1438).

⁸³ This complicated case has been disentangled by C.A. J. Armstrong, ‘Sir John Fastolf and the Law of Arms’, in C.T. Allmand, ed., *War, Literature and Politics in the Late Middle Ages* (Liverpool, 1976), pp. 46-56. The edition of the case itself has since been included in C.T. Allmand and C.A.J. Armstrong, ed., *English Suits before the Parlement of Paris, 1420-1436* (London, 1982), p. 28.

The lawsuit which included the greatest number of occurrences – six – of the phrase *prisonnier de guerre* debates the extent of the masters' property rights. The hearings of this fascinating case between Sir William Bucton and Guillaume Derot, a Parisian master of arts, took place in 1434.⁸⁴ The two parties were vying for the precedence of their right over a French knight, Jean de la Haye; Bucton as La Haye's master and Derot as La Haye's creditor. La Haye had committed to pay 100 *saluts d'or* to Derot for the ransom of one Jean Hertaing. Bucton contested the validity of this obligation which had been made against, and indeed disregarded, the interest of himself as his master. Drawing on the Roman *postliminium*, the English knight compared his property rights over his 'prisonnier de guerre' to those of a master over his serf. Derot dismissed the legal basis of this argument as outdated and argued that, according to the usages of war, La Haie was 'a knight and a free man and the English knights and lords whom the enemies took or held prisoners [were] not slaves.'⁸⁵ The French knight, therefore, was fully entitled to enter into a commitment to pay the 100 *saluts d'or* to Derot. The court eventually acknowledged the validity of La Haye's obligation toward Derot, but did not make any explicit stance regarding the status of *prisonnier de guerre*.⁸⁶

This case emphasises the link between the emergence of the (French) phrase *prisonnier de guerre* and a correlated status. However, the content of the debates and the decision of the court show how ill-defined the status was at that time. A claim in court in 1434 that prisoners of war were slaves seem most surprising. It was unthinkable for Pizan that anyone should enslave fellow Christians in war: 'we have now abandoned the laws of the ancients that permitted to place in servitude or slaying

⁸⁴ AN, X1a 4797, fol. 214v-216v, 218r (Dec. 1434); 68, fol. 212v (Jano. 1435); 4797, 322r (Jano. 1436); 1481, fol. 115r (Feb. 1436). The case has attracted the attention of Maurice Keen, John Armstrong and Christopher Allmand. Keen makes several references to it in his *The Laws of War* (pp. 58, 104-5, 142 and 162-3), while Allmand and Armstrong compiled the references of the hearings in their *English Suits* (p. 287). I since came across the *arrêt* pronounced by the Parlement in 1435 and decided to edit and publish this fascinating case in its entirety, including the decision of the *Parlement* to transfer the prisoner from the *Conciergerie* to the *Grand Châtelet* (1481, fol. 115r), an order which had been previously been published in Clément de Fauquembergue, *Journal, 1417-1435*, ed. A. Tuetey (3 vols., Paris, 1903-15), iii. 185. See R. Ambühl, 'Le maître et son prisonnier de guerre : droit romain contre droit coutumier', *Revue du Nord* (forthcoming, 2017).

⁸⁵ '...et ne debat point l'obligacion du dit de la Haie qui est chevalier et franche personne et ne sont mie cerfs les chevaliers et seigneurs anglois que les adversaires prennent ou tiennent prisonniers': AN, X1a 4797, fol. 216r.

⁸⁶ The Latin term *captivus*, instead of 'prisonarius de guerre', is used in the text of the decision of the court. Is it an implicit acknowledgement of Roman law? The contract was apparently sealed before Bucton acquired the prisoner (Bucton did not deny this point raised by Derot). This might be the reason why the court recognised its validity.

prisoners.’⁸⁷ But then what were those captured in war? What exactly were their rights? Ultimately, the *prisonnier de guerre* was at the mercy of his *maître* (master), the official title of the holder of a prisoner in the middle ages, the vocabulary being wholly reminiscent of the relationship between the master and the slave!

In a case concerning the Borgne de Nocé, the fact that he was acknowledged a ‘*prisonnier de guerre*’ did not save his life. We know very little about de Nocé save for this case, which is found in a letter of the treasurers and general-governors of the finances of the king in France and Normandy to the *élus sur les aides de la guerre* and the *vicomte* of Caen. The letter relays an order of Henry VI to pay 600 *livres tournois* to William Herdson, an English esquire, by way of reward for the loss of his legitimate ‘*prisonnier de guerre*’, the Borgne de Nocé, in December 1438.⁸⁸ Nocé is described in this letter as ‘*chef et conditeur*’ of a company of men belonging to the enemy. He had been captured and taken to Lisieux by Herdson over the course of 1438. The seneschal of Normandy, informed of this capture and of the great harm that Nocé had caused especially in the *vicomtés* of Auge, Orbec, Pont-Audemer, Caen, Falaise and Argentan, through committing ‘innumerable oppressions to the great prejudice of us, our lordship and above mentioned subjects’ asked for the prisoner to be handed over to justice. The captors normally received a meagre reward of 6 *livres tournois*, much lower than a possible ransom.⁸⁹ But Nocé was a bigger catch: a man ‘*de grant emprinse et convaigne*’. Herdson obediently surrendered his captive to the seneschal, ‘even if by law he was his *prisonnier de guerre*’ who, according to the English esquire, had offered to pay 3,000 *saluts d’or* for his ransom. In other words, the authorities had accepted that Nocé was Herdson’s prisoner of war. Nocé, however, was found guilty by his judges and ‘for his demerits [was] sentenced to death and executed’. The English authorities agreed to make a gesture toward Herdson because he had lost a prospect of profit. A royal order was issued to grant him 600 *livres tournois* in ‘recompensacion’. The money would be levied on the inhabitants of the six *vicomtés* in which Nocé had caused so much trouble. But why might the

⁸⁷ Pizan, *The Book of Deeds*, p. 170. She followed in this respect Giovanni da Legnano (*Tractatus de Bello*, pp. 124-5) and her master Honorat Bovet.

⁸⁸ BnF, Ms. Fr. 26065, no. 3647 (20 December 1438).

⁸⁹ Concerning the usual payment of 6 *livre tournois* to the captors of individuals who were then tried as common criminals, and some exceptions to this rule, see R. Jouet, *La résistance à l’occupation Anglaise en Basse-Normandie (1418-1450)* (Caen, 1969), pp. 43-4.

English authorities specifically designate Nocé as a ‘prisonnier de guerre’ when they had already proceeded to his trial and execution as a criminal? The answer can be found by considering the case of Joan of Arc.

[LINE-SPACE]

Joan was captured on 23 May 1430 before the walls of Compiègne by men in the retinue of Jean de Luxembourg, a vassal of Philip the Good, duke of Burgundy.⁹⁰ Martin Billoré, *vicaire général* of the great Inquisitor of France and the University of Paris, already suspecting Joan of heresy, immediately summoned the duke and his vassal to surrender her to the Church.⁹¹ Initially their summons had no effect. Things changed, however, when the English king publicly interfered, offering money for the hand-over of Joan of Arc. Negotiations took place over the summer through the mediation of Pierre Cauchon in his capacity as bishop of Beauvais, in whose diocese Joan had been captured.⁹² An assembly of the three estates of Normandy gathered in Rouen sometime in August 1430 gave its consent for 10,000 *livres tournois* ‘au paiement de l’achat de Jehanne la Pucelle’, to be levied on the Norman population as one element of the total *aide* of 120,000 *livres tournois*.⁹³ Royal orders were issued to that effect in September. A letter of the University of Paris reveals that Henry VI had been placed in possession of Joan by 21 November.⁹⁴ We can therefore assume that by then the 10,000 *livres tournois* had been fully paid to the Burgundians. We know that whilst awaiting the tax to be collected, funds from the royal coffers and from the royal entourage had been used.⁹⁵ Joan was at Le Crotoy between 21 November and 9 December, reaching Rouen on 23 December 1430, where she was lodged in the castle.⁹⁶ On 3 January 1431, Henry VI ordered her gaolers that they ‘give and deliver...without raising any obstacle, the said Joan to the said Reverend Father in God [i.e. Pierre

⁹⁰ See P. Tisset, « Capture et rançon de Jeanne d’Arc, » *Revue Historique du Droit Français et Étranger*, 4th series, 46 (1968), 63-9.

⁹¹ The *instrumentum* of the trial includes two letters of the University of Paris of which one was addressed to Philip the Good and the other to Jean de Luxembourg. Both are undated. A third letter was sent by Martin Billoré to the duke of Burgundy. It is dated 26 May 1430. *Procès de condamnation de Jeanne d’Arc*, ed. Tisset and Lanhers, i. 4-9; ii. 6-10.

⁹² *Ibid.*, i. 9-11; ii. 10-13.

⁹³ *Procès de condamnation*, ed. Quichérat, v. 178-81.

⁹⁴ *Procès de condamnation*, ed. Tisset and Lanhers, i. 12-3; ii. 14-5.

⁹⁵ *Procès de condamnation*, ed. Quichérat, v. 190-2.

⁹⁶ A. Curry, ‘The Coronation Expedition and Henry VI’s Court in France 1430-32’, in J. Stratford, ed., *The Lancastrian Court* (Donington, 2003), pp. 29-52.

Cauchon], whenever they are required to do so', for the purpose of her prosecution.⁹⁷ Her trial on the charge of heresy officially began on 9 January 1431.⁹⁸

Joan of Arc is referred to as 'prisonnière de guerre' in four separate records, all relating to her purchase by the English from the hands of her Burgundian captors. On 6 December 1430, John Bruyse *garde des coffres* of Henry VI, acknowledged receipt from Pierre Surreau, *receveur général* of Normandy, of the sum of 5,249 *livres tournois* 10 *sous* 10 *denier ob.* (more than half the total sum due for the purchase of Joan) as repayment of a sum of 2,696 *nobles d'or*.⁹⁹ Following a royal order issued on 30 October 1430, this gold had been drawn from royal coffers (presumably money brought from England when the king crossed to France in April) 'pour avoir Jehanne qui se dit la Pucelle, prisonniere de guerre', as it is expressed in the document. This terminology in referring to Joan of Arc as a prisoner of war has already been noted by historians but without attracting any particular attention or comment.¹⁰⁰ The reason may lie in the fact that three other references to Joan as *prisonnière de guerre* have been largely overlooked.

As noted earlier, the 10,000 *livres tournois* for the purchase of Joan of Arc formed part of a much larger tax of 120,000 *livres tournois* granted by the estates of Normandy in August 1430.¹⁰¹ Following a normal procedure for such tax levies, the sum was apportioned between the different Norman *vicomtés*. At the beginning of September, the English knight, Thomas Blount, treasurer and general governor of the finances, and Pierre Surreau sent orders to the *vicomtes* and to the 'esleuz sur le fait des aydes' to divide the contribution of each *vicomté* or group of *vicomtés* across the different localities. Three orders relating to five *vicomtés* have survived. Their historical value lies in their reiteration of the justification for the tax, including 10,000 *livres tournois* to be spent on the purchase of Joan of Arc.

⁹⁷ '...baillent et livrent réellement et effectivement, sans refuser ni du tout y contredire, ladite Jeanne audit révérend père en Dieu [i.e. Pierre Cauchon], toutes et quantes fois qu'ils en seront requis': *Procès de condamnation*, eds. Tisset and Lanhers, i. 14-5, ii. 16-7.

⁹⁸ *Ibid.*, i. 3, ii. 4.

⁹⁹ *Procès et condamnation*, ed. Quichérat, v. 190-2.

¹⁰⁰ Pernoud and Clin, *Jeanne d'Arc*, p. 158; Contamine, Bouzy and Hélyary, *Jeanne d'Arc*, p. 222.

¹⁰¹ *Procès de condamnation*, ed. Quichérat, v. 178-81.

There is a notable discrepancy between Quichérat's edition of the letter sent to the *vicomte* of Argentan and Exmes and the other two letters which both survive as manuscript originals. As we have seen Quichérat gave the article relating to the purchase of Joan of Arc as follows: 'dix mil livres tournois ou paiement de l'achat de Jehanne la Pucelle, que l'en dit être sorcière, personne de guerre, conduisant les osts du dauphin'.¹⁰² 'Personne' was an error for 'prisonnière'. Quichérat's error is easily explained. The original of the document which he cited was no longer extant but two copies of it had been made in the eighteenth century, one of which was preserved in the *Bibliothèque d'Orléans* and the other in the *Académie des Inscriptions et Belles Lettres* in Paris. Although these copies were also lost, the historian of Orléans, Denis Lottin had made a transcript of the 'Orléans copy' before it disappeared, publishing it in the first volume of his *Recherches historiques sur la ville d'Orléans*.¹⁰³ Lottin also gave the crucial word term as 'personne', not 'prisonnière'. This error had therefore crept in either at the initial copying of the original document or when Lottin made his copy of the 'Orléans copy'. From a palaeographical point of view, the appearance of the two words *personne* and *prisonnière* is relatively close.¹⁰⁴ We know of Lottin's error because two other orders concerning other *vicomtés* survive as originals. Benedicta Rowe, using the *vidimus* of the order concerning the *vicomtés* of Neufchâtel and Gournay,¹⁰⁵ and Auguste Léon Bailly-Maître, in an edition of the order concerning the *vicomté* of Montivilliers, both give the correct text: 'dix mil livres tournois ou paiement de l'achat de Jehanne la Pucelle, que l'en dit être sorcière, prisonniere de guerre, conduisant les osts du dauphin'.¹⁰⁶

Joan of Arc was probably the first ever 'prisonnière de guerre', i.e. the first woman to be called and recorded in the sources as a 'prisoner of war' in the French feminine form of the phrase. However intriguing this may seem to us, this feminisation of the masculine form *prisonnier de guerre*

¹⁰² *Ibid.*, v. 179

¹⁰³ D. Lottin, *Recherches historiques sur la ville d'Orléans* (Orléans, 1836), i. 266.

¹⁰⁴ 'Prisonniere' is spelled out as P(abbreviation)SOIIIIIE(abbreviation) in the two archival sources. The first abbreviation stands for a 're', a 'ri' or 'ro' and not for a 'er'. There are five *jambages* between 'o' and 'e'. It is one too many for a double 'n', except if you add an 'i'. The abbreviation on the ending 'e' stands for an additional 're'.

¹⁰⁵ B[ritish] L[ibrary], Add. Ch. 10976 (*vidimus*, 13 Sep. 1430). The document was once in the French collection of the Baron Joursanvault, and acquired by the British Library at an auction in 1838. Rowe ('The Estates of Normandy', p. 564) makes no reference to Quichérat's edition.

¹⁰⁶ BnF, Nouv. Acq. Fr. 1482, no. 92 (3 Sep. 1430) : published in Bailly-Maître, 'Deux pièces inédites', pp. 103-5.

should not be over-interpreted. There was no obvious ‘masculine primacy’ in medieval French.¹⁰⁷ Professions and titles, for instance, could be found in both masculine and feminine forms. Joan of Arc, herself, before she was considered a ‘prisonnière de guerre’ by her enemies, had been regarded as a ‘chevetaine principale’ by her allies.¹⁰⁸ The French language of the medieval period was less ‘masculinised’ than it became in the nineteenth century and as it still is today.¹⁰⁹ Regardless of gender form, the use of the phrase ‘prisoner of war’ to qualify Joan of Arc and the particular context in which it was used demands an explanation.

The 10,000 *livres tournois* for the purchase of Joan of Arc had been granted by the estates of Normandy.¹¹⁰ These estates comprised a small body of representatives of the three main ‘estates’ or groups in Norman society – the church, the nobility and the *bourgeoisie* – who acted as a representative assembly of the whole duchy. Never before had the Norman estates been so regularly summoned than under the Lancastrian regime, meeting at least once a year between 1419 and 1449. They met twice in 1430.¹¹¹ The ‘revival’ of this institution resulted, at least partly, from a perpetual state of war under the Lancastrian regime. Supporting this view, Christopher Allmand observed a

¹⁰⁷ See the introduction of Thérèse Moreau in *Dictionnaire Féminin-Masculin des professions, des titres et des fonctions* (Geneva, 1991), pp. 7-21; ead., ‘Femmes, j’écris ton nom...’: *Guide d’aide à la féminisation des noms de métiers, titres, grades et fonctions* (Paris: CNRS, 1999), pp. 9-21;

<http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/994001174.pdf> (accessed 28 Apr. 2016).

¹⁰⁸ *Chevetaine* is the feminisation of *chef*. F. Michaud-Fréjaville, ‘Jeanne d’Arc, *dux*, chef de guerre. Les points de vue en faveur de la Pucelle’, in J. Paviot and J. Verger, eds., *Guerre, pouvoir et noblesse au Moyen Âge. Mélanges en l’honneur de Philippe Contamine* (Paris, 2000), pp. 523-531, at p. 523 (see also the remark in [note 2](#)).

¹⁰⁹ In giving the title *Un prisonnier de guerre nommé Jeanne d’Arc* (Paris, 1982) to his book retracing the captivity of Joan of Arc, Pierre Rocolle applies the French modern concept of ‘masculine supremacy’, which did not belong to the late Middle Ages which, on the issue of language and gender was apparently more flexible and open-minded. The same masculine form to refer to Joan of Arc as prisoner of war is used by Alain Bournazel (*Jeanne d’Arc*, p. 11): ‘Le 23 mai 1430, Jeanne est donc devenue prisonnier de guerre’. Neither Bournazel, nor Rocolle came across the contemporary references of Joan of Arc as ‘prisonnière de guerre’. In using the masculine form, however, these two authors seem to make implicitly a point. Normally, a woman was not, and could not be a prisoner of war. The apparent flexibility of the late medieval approach to ‘noun gender’, however, should not be taken too far. This flexibility in the language did not necessarily reflect in contemporary attitudes toward women. In particular, Joan of Arc’s assumption of a male role, of his attributes and clothing was difficult to accept, or strongly disapproved. M. Warner, *Joan of Arc: the image of female heroism* (London, 1981), pp. 139-58; V.R. Hotchkiss, ‘Tranvestism on trial: the case of Jeanne d’Arc’, in *Clothes make the man. Female cross-dressing in medieval Europe* (New York, 1996), pp. 49-68.; S. Schibanoff, ‘True Lies: Transvestism and Idolatory in the Trial of Joan of Arc’ in B. Wheeler and C.T. Wood, eds., *Fresh verdicts on Joan of Arc* (New York, 1996), pp. 31-60; S. Crane, ‘Clothing and Gender Definition: Joan of Arc’, *Journal of Medieval and Early Modern Studies*, 26 (1996), 297-320; ead., *The Performance of Self: Ritual, Clothing and Identity during the Hundred Years War* (Philadelphia, 2002), pp. 73-106.

¹¹⁰ On the estates of Normandy, see Robillard de Beaurepaire, *Les états de Normandie*; Henri Prentout, *Les états provinciaux de Normandie* (3 vols., Caen, 1925-7); Rowe, ‘The Estates of Normandy’, 551-78; Allmand, *Lancastrian Normandy*, pp. 171-86.

¹¹¹ Robillard de Beaurepaire, *Les états de Normandie*, pp. 40-1; Prentout, *Les états provinciaux*, ii. 13.

close parallel between the meetings of the estates and the ‘events, all too often the crises, of the moment’.¹¹² The authorities needed the estates to vote taxation for the defence of the duchy and, albeit more rarely, to pursue the war effort outside its confines. Why then would they agree to a tax for the purchase of Joan of Arc from the Burgundians?

As a general rule, Norman towns and the Norman elite (which included in their ranks Englishmen who had been granted confiscated lands or who had purchased property)¹¹³ were favourable to the Lancastrian government.¹¹⁴ The capital, Rouen, where the estates gathered in August 1430, was no exception. After the initial damages caused by the conquest of Normandy, Henry V and, especially, John duke of Bedford tried to restore peace and stability in the duchy and to bring prosperity to it. Buoyed by its trading activity, Rouen experienced an economic renewal from 1425 up until at least 1436.¹¹⁵ The Lancastrian regime had secured the loyalty and support of the clergy of the duchy as well as its urban aristocracy, who made a profit from this situation.¹¹⁶ At a time when it may have looked like the danger of war was receding or moving far away from Normandy, the actions of Joan of Arc were bound to raise fear among the Rouennais and, more generally, among the Normans as a whole.¹¹⁷ As a matter of fact, a large number of members of the chapter of Rouen, including the future archbishop of Rouen, Raoul Roussel, turned out to play a part – a significant part indeed, in the opinion of the historian Albert Sarrazin – in the trial and execution of Joan of Arc.¹¹⁸ There was another major incentive for the Rouennais at this point. The presence of Henry VI in the Norman

¹¹² Allmand, *Lancastrian Normandy*, pp. 175-82.

¹¹³ C.T. Allmand, ‘The Lancastrian Land Settlement in Normandy, 1417-1450’, *Economic History Review*, xxi (1968), 461-79; R.A. Massey, ‘The Land Settlement in Lancastrian Normandy’, in A.J. Pollard, ed., *Property and Politics: Essays in later Medieval English History* (Gloucester, 1984), pp. 76-96.

¹¹⁴ Allmand, *Lancastrian Normandy*, pp. 218-24; A. Curry, ‘Towns at War: Relations between the Towns of Normandy and their English Rulers, 1417-1450’, in J.A.F. Thomson, ed., *Towns and Townspeople in the Fifteenth Century* (Gloucester, 1988), pp. 148-72; ead., ‘The Impact of War and Occupation on Urban Life in Normandy, 1417-1450’, *French History*, 1 (1987), 157-81.

¹¹⁵ M. Mollat, *Le commerce maritime normand à la fin du Moyen âge* (Paris, 1952), pp. 26-31; Idem, *Histoire de Rouen* (Toulouse, 1979), pp. 141, 290-2; A. Sadourny, ‘Rouennais au temps de Jeanne d’Arc’, in J. Maurice and D. Couty, eds., *Images de Jeanne d’Arc. Actes du Colloque de Rouen, 25-26-27 mai 1999* (Paris, 2000), pp. 29-34, at p. 30; idem, ‘Rouen au temps du procès de Jeanne d’Arc (1431-1456)’, in *De l’hérétique à la sainte*, pp. 40-8, at p. 40.

¹¹⁶ Allmand, *Lancastrian Normandy*, pp. 218-22; Sadourny, *Rouennais au temps*, pp. 33-4; Idem ‘Rouen au temps’, pp. 40-3.

¹¹⁷ P. Contamine, ‘Jeanne d’Arc, Rouen, la Normandie’, *Etudes Normandes*, 44e année, i (1995), pp. 9-27, at p. 14.

¹¹⁸ ‘C’est ainsi que le Chapitre de Rouen va se trouver, en masse, responsable de la mort de Jeanne d’Arc’: A. Sarrazin, *Jeanne d’Arc et la Normandie au XVe siècle* (Rouen, 1896), pp. 167-71, 229. The author provides short biographies for twenty-one canons of the Chapter who participated in the trial (pp. 229-56).

capital from July 1430 was bound to stir up demonstrations of loyalty.¹¹⁹ According to Guillaume Manchon, a notary who took part in the trial of condemnation and who testified at the trial of rehabilitation in 1456, Joan of Arc ‘was led to the town of Rouen, and not to Paris, because, so he believed, the king of England was present in Rouen, with the leading men of his council.’¹²⁰ The presence of the king in Rouen during the whole trial is likely to have served a well-defined purpose. As Anne Curry puts it, ‘what better challenge to the Maid and the king she stood for than to maintain the source of royal authority in the very place where she was being tried and humiliated’.¹²¹

The English needed the financial assistance of the Normans. Joan of Arc, who was a French subject causing trouble in France, could not be purchased with money raised from English taxpayers in England.¹²² For their part, the Normans, who had a vested interest in a *status quo* in Normandy, were willing to lift the threat that Joan of Arc represented. Rouen was a safe place where to hold the trial, arguably safer than Paris. At the same time, trying Joan in the capital of the duchy could justify the financial contribution of the Norman population for her purchase. Unfortunately, the debates which took place between the representatives and the English authorities during the meeting of the estates have left no trace. However, it is possible to extrapolate the outline of the English justification for the 10,000 *livres tournois* to be spent on the purchase of Joan of Arc from the surviving orders to the *vicomtes* for collection of the tax. As we have seen, it was specified in these orders that: ‘Dix mille livres tournois ou paiement de l’achat de Jehanne la Pucelle, que l’en dit estre sorciere, prisonniere de guerre, conduisant les ostz du daulphin’. These descriptions were not randomly attributed to Joan of Arc. They were meaningful and deserve close scrutiny.

The accusation of sorcery comes first. In their letters to the Burgundians in the aftermath of Joan’s capture (May-July 1430), the University of Paris, the vicar of the great inquisitor of France and Pierre Cauchon, the bishop of Beauvais, demanded that Joan of Arc be handed over to the justice of the Church because of the great offences that she had committed against God, the Church and the holy

¹¹⁹ Curry, ‘The Coronation Expedition’, pp. 40-1.

¹²⁰ C. Taylor, ed., *Joan of Arc. La Pucelle* (Manchester, 2006), p. 228; see also Contamine, ‘Jeanne d’Arc, Rouen’, p. 18.

¹²¹ Curry, ‘The Coronation Expedition’, p. 41.

¹²² Curry, ‘Les Anglais’, p. 84.

faith. More particularly, she was held responsible for the spread of ‘ydolatries, erreurs, mauvaises doctrines et autres maux et inconveniens inestimables’ within the kingdom of France.¹²³ The suspected crime was heresy, in a broad sense. In his letter, however, the bishop of Beauvais added two more specific charges: ‘sortileges’ and ‘invocacions d’ennemis’ (i.e. demons), which related more closely to sorcery.¹²⁴ This is perhaps evidence of the political alignment of the bishop with his English masters. Cauchon was also *conseiller ecclésiastique* of the duke of Bedford and *maîtres des requêtes de l’hôtel* of Henry VI.¹²⁵ It can be suggested that the suspicion of heresy was replaced by, or perhaps boosted by, that of sorcery in the discourse to the Norman estates at the meeting of August 1430 in order to emphasise the gravity of Joan’s offences to a public and largely non-clerical audience.

The interrogation during her trial suggests that her judges did indeed contemplate the idea of charging Joan of Arc with sorcery – they asked her questions on that topic – but they eventually dropped it for lack of sufficient evidence.¹²⁶ The words ‘heretica, relapsa, apostata, idolater’ could be read on the mitre she wore on her way to the stake.¹²⁷ These were the crimes of which she was found guilty. Sorcery was not included. Arguably, the image of sorceress was more evocative and inspired more fear than that of heretic.¹²⁸ For Philippe Contamine, the English may have considered Joan of Arc as an authentic sorceress, because otherwise their defeat would have been inexplicable.¹²⁹ Three years after her execution, in June 1434, the duke of Bedford described Joan of Arc as a ‘disciple and leme of the fende called the Pucelle that used fals enchantement and sorcerie’.¹³⁰ In terms of legal procedure, the difference between sorcery and heresy mattered little. Both crimes fell within the

¹²³ *Procès de condamnation*, eds. Tisset and Lanhers, i. 5-8; ii. 6-10.

¹²⁴ *Ibid.*, i. 9; ii. 11.

¹²⁵ On the political career of Pierre Cauchon, see F. Neveux, *L’évêque Pierre Cauchon* (Paris, 1987), pp. 67-101.

¹²⁶ See, for instance, M. Warner, *Joan of Arc*, pp. 96-116; K. Sullivan, *The Interrogation of Joan of Arc* (Minneapolis and London, 1999), pp. 18-23; C. Beaune, *Jeanne d’Arc* (Paris, 2004), 427-39.

¹²⁷ Fauquembergue, *Journal*, iii. 13-14; translated in Taylor, ed., *Joan of Arc*, p. 228.

¹²⁸ On ‘Witchcraft and the Medieval Mind’, see J.B. Russell, *Witchcraft in the Middle Ages* (Ithaca and London, 1972), pp. 265-89.

¹²⁹ ‘Sans doute l’opinion anglaise était-elle la plus persuadée de se trouver en face d’une authentique sorcière (peu importe ici le terme), sans quoi la défaite était inexplicable’: Contamine, Bouzy and Hélyar, *Jeanne d’Arc*, p. 988.

¹³⁰ *Proceedings and Ordinances of the Privy Council of England*, ed. N.H. Nicolas (7 vols., London, 1834-7), iv. 223; Curry, ‘Les Anglais’, p. 70 (June 1434).

jurisdiction of the Inquisition in the late Middle Ages.¹³¹ In using these words, it was made clear by the Lancastrian administration – whether or not this was debated in the meeting of the estates – that she would be prosecuted by a tribunal of Inquisition.

It may seem surprising, or even contradictory, to regard Joan of Arc as both a *prisonnière de guerre* and someone who was about to be tried on charge of sorcery. In the opinion of Cauchon, in his letters to the duke of Burgundy and Jean de Luxembourg in July 1430, Joan of Arc was not to be considered ‘prise de guerre’ (taken in war), given the suspicions of heresy that hung over her.¹³² His objection had less to do with any protective status than with the fact that money was to be spent on her acquisition. It was the duty of any Christian to denounce heretical behaviours, and a Church offence to stand in the way of the inquisitorial procedure: anyone who gave comfort or protection to heretics, or who released them from prison without the consent of the bishop or the inquisitor, or else who prevented the holding of their trial, was punishable with excommunication.¹³³ Such a threat, however, was never made against the Burgundians who were openly violating canon law in turning a deaf ear to the summons of the University of Paris and the French Inquisition. Politics prevailed in this instance: the dukes of Burgundy and Jean de Luxembourg, the two most powerful allies of Henry VI, could not literally be forced into surrendering their captive.

To the great dismay of the bishop, the captors who seized Joan of Arc, in arms and in war, regarded their captive as a legitimate prisoner of war from whom they could hope to derive a substantial profit, and not as a suspected heretic who should be handed over to the justice of the Church. The fear of having Joan of Arc released through the payment of a ransom was explicitly stated in the letters of the University of Paris prior to Cauchon’s intervention; after expressing praise for her capture, the letter continued ‘this would be an intolerable offence against the divine majesty if

¹³¹ R. Kieckhefer, *European Witch Trials. Their Foundations in Popular and Learned Culture, 1300-1500* (Berkeley and Los Angeles, 1976), pp. 18-26; B. Hamilton, *The Medieval Inquisition* (Bungay, 1981), 94-9.

¹³² *Procès de condamnation*, ed. Tisset and Lanhers, i. 9.

¹³³ For statements on those who assisted heretics, see the relevant chapter in the late fourteenth century *Directorium inquisitorium* or *Manuel des inquisiteurs* (1376) of Nicolau Eymerich (c.1320-1399). Nicolau Eymerich and Francisco Peña, *Le manuel des inquisiteurs*, trans. Louis Sala-Molins (Paris, 2001), pp. 120-4. For an earlier example of the excommunication of a protector of heretics, see the case of Raymond VI of Toulouse, in 1209. C. Taylor, *Heresy in Medieval France: Dualism in Aquitaine and the Agenais, 1200-1249* (Woodbridge, 2005), pp. 187-224.

this affair remained as it is [i.e. that Joan of Arc was not handed over to the justice of the Church] or if it turned out that this woman was, by any means, released or escaped, something that some of our enemies are said to be actively working on, or, what is even worse, by way of finance or ransom'.¹³⁴ The Church did not, and could not, buy heretics, but secular authorities could certainly buy prisoners. The official involvement of the English crown eventually solved this issue.

We have seen how English indentures of war bound any captains and their men to hand over their 'important' captives to the crown in return for reasonable compensation. The Burgundians were seemingly not held by such terms. Or so, at least, the indenture of war between Philip the Good and Henry VI negotiated with Cardinal Beaufort on 12 February 1430 suggests.¹³⁵ The duke undertook to serve for three months with a contingent of 1,500 men-at-arms and the same number of *gens de trait*, but the contract did not include any details regarding the capture of prisoners.¹³⁶ This is the reason why the Lancastrian government (through Cauchon) had to come up with a different deal which made no mention of any commitments concerning prisoners arising out of indentured service. The deal included two options, although the second was to be put forward only if the first was rejected.¹³⁷ In the first option, the authorities were prepared to pay, by way of remuneration for 'those' who held Joan, a sum of 6,000 *francs* on top of an annuity of 200 or 300 *livres* for the Bâtard of Wandonne who had actually captured her.¹³⁸ The alternative option was not necessarily more generous but involved more cash and was therefore less convenient for the English, although it explicitly emphasised the authority of Henry VI as king of France. If the first offer was declined, Cauchon would invoke 'le droit, usage et coutume de France' according to which the king could acquire any higher ranking

¹³⁴ '...ce serait une intolérable offense contre la majesté divine, si cette affaire demeurait en ce point ou s'il advenait que cette femme fut délivrée ou nous échappât, comme on dit que certains de nos adversaires veulent s'efforcer de faire et appliquent à cela toute leur intelligence, par toutes voies de choix, et, qui pis est, par argent ou rançon'; *Procès de condamnation*, eds. Tisset and Lanhers, i. 5 and 7.

¹³⁵ A. Lobanov, 'The Indenture of Philip the Good, Duke of Burgundy, of 12 February 1430 and the Lancastrian Kingdom of France', *ante*, cxxx (2015), 302-17.

¹³⁶ *Ibid.*, 310-1, 314-7.

¹³⁷ *Procès de condamnation*, eds. Tisset and Lanhers, i. 10.

¹³⁸ Philippe Contamine estimates that this annuity represents a capital of 4,000 to 6,000 *livres*. Contamine, Bouzy and Hélaré, *Jeanne d'Arc*, p. 220. The duke of Burgundy negotiated contracts for the purchase of prisoners in the hands of his men. One such contract regarding the acquisition of Jean de Rodemack after the battle of Bulgnéville, in 1432, may suggest that the acquisition of important prisoners was not a ducal right. This could explain why Wandonne may have kept property rights over Joan. B. Schnerb, *Bulgnéville (1431): l'état bourguignon prend pied en Lorraine* (Paris, 1993), pp. 99-100.

prisoner of great public standing, such as a king, a Dauphin or any other prince, in return for a maximum of 10,000 *francs*. Any rebuttal from the Burgundians to the second suggestion could be perceived as an overt challenge to the authority of Henry VI as king of France. This pressure exerted on the Burgundians further substantiates the danger, to which the University of Paris referred, that Joan of Arc might be released through the payment of a ransom.

The invocation of this French ‘droit, usage et coutume’ is intriguing. Its origins are relatively obscure. There is evidence of prisoners before Joan whose ransoms were fixed at 10,000 francs. Such was the case of Guillaume de Gravelle in 1364,¹³⁹ or John Devereux in 1373.¹⁴⁰ Maurice Keen also drew attention to a contract between Jean d’Armagnac and Ramonet de Sort in the late 1380s by which d’Armagnac would only be entitled to a portion of booty and ransoms equivalent to, or exceeding, 10,000 *francs d’or*.¹⁴¹ More revealingly, an English indenture of war between John of Gaunt, duke of Lancaster, and Sir Thomas Percy in 1386 explicitly stipulated that the duke would have all prisoners worth over 10,000 *francs d’or* in ransom on payment of that same sum to the captor.¹⁴² If we follow Christine de Pizan, writing in 1410, this rule was widespread within Christendom:¹⁴³

So it was formerly, although by grace at the present time, through long custom in France and elsewhere, what they conquer may be left to warriors if what they capture is not of such great value that it surpasses the sum of ten thousand francs. In this case, whether it is a prisoner or some object, it is turned over to the king, who is obliged to give to the soldier in question, whoever he may be, the amount of ten thousand francs.

Interestingly, however, her source of inspiration, Honorat Bovet’s *Tree of Battles* (c.1386-1389), makes no mention of this custom. The closest we come to it is in his chapter on the treatment

¹³⁹ Contamine, ‘Un contrôle’, p. 207.

¹⁴⁰ Jones, ed., *Letters, Orders and Musters*, pp. 214-5 (no. 577), 223 (no. 597), 226 (no. 608), 262-3 (no. 709), 265 (no. 715). Anne Curry also mentions a ransom of £1,000 (more or less the equivalent of 10,000 *francs*) which the French paid for the release of La Hire. TNA, E 101/408/3; cited in Curry, ‘Les Anglais’, p. 82.

¹⁴¹ BnF, Coll. Doat, vol. 203, fol. 287vo; cited in Keen, *The Laws of War*, p. 147, no. 5.

¹⁴² TNA, E 101/68/10, no. 250; cited in S. Walker, *The Lancastrian Affinity, 1361-1399* (Oxford, 1990), p. 71.

¹⁴³ Pizan, *The Book of Deeds*, p. 169-71.

of prisoners where Bovet claimed that a prisoner, fearing for his life, could always ransom himself for 10,000 *francs d'or*.¹⁴⁴

In short, 'le droit, usage et coutume de France' invoked by Cauchon in 1430 must have existed in France – the reference to the *franc* may suggest that it originated in the reign of Charles V when the gold *franc* was first struck – and had not disappeared even three decades into the fifteenth century. That said, clear mentions of the custom, or even vague allusions to it, remain scarce. A comment in a military treatise written in 1454 suggests that if it had been once relevant, this had not been the case for some time.¹⁴⁵ There is no explicit evidence of its enforcement by the French crown during the whole of the Hundred Years War apart from in the case of Joan. All this gives the impression that Cauchon and the English had tried hard to find a way of leaving no option for the Burgundians but to hand over Joan.

The justification for the purchase of Joan of Arc, as recorded in the orders dispatched to the Norman *vicomtés*, summarises the situation well. In highlighting the suspicion of sorcery ('que l'en dit estre sorciere'), the authorities justified the need to make Joan face the justice of the Church. In presenting her as a 'prisonniere de guerre', they justified her purchase from the Burgundians. In placing her at the head of the French army, 'conduisant les ostz du daulphin', they justified the application of the old French custom and therefore the payment of 10,000 francs (or, in this instance, *livres tournois*).¹⁴⁶

Since Joan of Arc was bought by Henry VI with the money of his Norman subjects, whom he ruled as king of France, she belonged to him. The point was clearly expressed in royal letters issued on 3 January 1431 by which the bishop of Beauvais was authorised to take Joan out of prison as he

¹⁴⁴ Bonet, *The Tree of Battles*, pp. 153-4.

¹⁴⁵ 'Traité à l'usage des rois d'armes, composé sous Charles VII après 1454, vraisemblablement par Merlin de Cordeboeuf' (BnF, MS. FR. 5241, fol. 32r) : 'Item l'on dit communement que, quant aucun prent prisonnier anglois en bataille ou autrement, si le prisonnier vault plus de dix mille frans monseigneur le connestable peus prendre pour le roy affin que le roy en paiant les dix mil frans a celuy qui l'a prins ait le surplus de la finance mais de ce on ne scet comment on en a usé puis aucun temps.'

¹⁴⁶ *Francs* and *livres tournois* in this instance were the same. 'The word franc, however, became an alternative term for the livre tournois, not only when gold francs, of a different, higher, value were actually in circulation, but for long after 1385 when gold francs ceased to be struck, and gradually ceased to circulate'. P. Spufford, *Handbook of Medieval Exchange* (Bury St Edmunds, 1986), p. 191.

pleased during the time of the trial, but that ‘it is our intention (i.e. the king’s) to reclaim the said Joan, if it happened that she was not found guilty of the charges... relating to our said faith’.¹⁴⁷ The king asserted his entitlement to do with her what he wished if she was not found guilty by the Church. We find a similar line in letters sent on Henry VI’s behalf to the duke of Burgundy in June 1431 following Joan’s execution. If she had not been found guilty of ‘crimes of divine les-majesty’ (i.e. heresy) by the church court, the king claimed that she would have had to face the secular justice of his officers, ‘for it is legitimate, given the great damages and inconveniencies, the horrible homicides and despicable cruelties against our lordship and our loyal and obedient people’.¹⁴⁸ As we can see, in English eyes, the status of *prisonnière de guerre* did not confer on Joan of Arc any form of protection. Nowhere in the letters which Henry sent to the emperor, the clergy and the *bonne villes* of France after her death, did he try to explain or apologise for a hypothetical breach of the protection that this status was supposed to confer.¹⁴⁹

[LINE-SPACE]

As we have seen, seven years later a similar situation occurred with the Borgne de Nocé. The English authorities acknowledged the need to pay a reward for the capture of this ‘malfaiteur’. If they highlighted the fact that he was the legitimate ‘prisonnier de guerre’ of William Herdson, it was only to justify the levy of the exact amount of the reward on the Norman *vicomtés* affected by de Nocé’s criminal activities. In both this case and that of Joan, the recognised status of *prisonnier de guerre* highlighted the property rights of the master and that these rights could be sold for money. Following this logic, it was not impossible to be a prisoner of war and tried as a common criminal, like Nocé, or

¹⁴⁷ ‘...c’est nostre entencion de ravoire et reprendre pardevers nous icelle Jehanne, se ainsi estoit qu’elle ne fust convaincue ou actainte des cas dessusdiz ou d’aucun d’eulx ou d’autre touchans ou regardans nostre dicte foy’ : *Procès de condamnation*, eds. Tisset and Lanhers, i. 15.

¹⁴⁸ ‘... ainsi que faire nous estoit raisonnablement licite, attendu les grans dommages et inconveniens, les horribles homicides et détestables cruautés à l’encontre de nostre seigneurie et loyal peuple obéissant’. The content of the letter addressed to the duke of Burgundy, on 28 June 1431, was copied *verbatim* by Burgundian chroniclers. See for instance, Enguerrand de Monstrelet, *Chronique*, ed. L.-C. Douët-D’Arcq (6 vols., Paris, 1857-62), iv. 442-7. The document is cited and discussed in P. Contamine, ‘Après le bûcher : la campagne de propagande de la royauté franco-anglaise au sujet de Jeanne d’Arc, en juin 1431’, in B. Dumézil and L. Vissière, eds., *Epistolaire politique, I : Gouverner par les lettres* (Paris, 2014), pp. 215-225, at p. 221. On Henry’s intention to try her on another count if she happened not to be condemned as a heretic, see Curry, ‘Les Anglais’, pp. 84-5.

¹⁴⁹ Contamine, ‘Après le bûcher’, pp. 215-25.

as a heretic, like Joan of Arc. Once a prisoner fell into royal hands, the crown had the choice of ransoming its *prisonniers de guerre*, keeping them in prison or trying them on any charge.¹⁵⁰ The unique trial for heresy of a *prisonnière de guerre* was the result of the most unusual profile of Joan of Arc: a prophet and a female warrior who fought relentlessly for the cause of the enemy. The lengthy process of royal acquisition of the prisoner, throughout which the Joan of Arc was called a *prisonnière de guerre*, demonstrates, in a most striking way, the full significance of the private rights that masters enjoyed over their *prisonniers de guerre*. Since the Burgundian captors were not officially bound by the terms of any war indenture to hand over Joan of Arc, the English authorities had to revive a half-forgotten French custom to this effect. Not only did this custom test the authority of Henry VI as king of France, but its application also necessitated the payment of a huge 10,000 francs to the Burgundians. The need to raise this money on the Norman subjects and to justify this expense ultimately secured her the status of *prisonnier de guerre*. But what sort of status was this?

Some fifty years have passed since Maurice Keen carefully attempted to reconstruct the legal framework in which late medieval wars were fought. This very ambitious study, witness of an immense erudition, both dispelled the myth of unrestrained savagery in medieval warfare and laid the foundation of future research in the field of pre-modern ethics of war. Two main theses lay at the core of Keen's study: first, chivalry or chivalrous obligations became formalised in a law, which was referred to as *droit des armes*, *jus armorum* or the law of arms in the late Middle Ages; secondly, this law of arms bridges the gap between the Roman *jus gentium* and modern international laws of war. The first thesis is epitomised by the notion of a close chivalrous bond – itself close to the bond of vassalage even if in some ways stricter – to describe the relation between the prisoner and the master. However, the close examination of the emergence of the phrase 'prisoner of war', which I have presently carried out, tells a different story, which largely ignores the recommendations of chivalric treatises to which Keen had perhaps given too much consideration and significance.¹⁵¹

¹⁵⁰ For another example of *prisonnier de guerre* acquired by the crown, but subsequently released (against the payment of a ransom?), see Appendix, no. 20 (1432).

¹⁵¹ Maurice Keen's interpretation of such chivalric treatise as Bovey's *Tree of Battles* as a practical handbook for soldiers has come under severe criticism in N.A.R. Wright, 'The *Tree of Battles* of Honoré Bovey and the Laws of War', in *War, Literature and Politics in the Late Middle Ages*, pp. 12-31.

In many respects, the attribution of the status of *prisonnier de guerre* to Joan fits the general picture drawn by our corpus of references. It does more, in fact, since it highlights in a most vivid way the brutal reality of what contemporaries understood by *prisonniers de guerre*. The late medieval *prisonnier de guerre* was not first and foremost a combatant whose life ought to be spared, but rather an individual who could be traded (like a slave), either ransomed, exchanged or sold, and for whom even the crown had to pay the master. The *prisonnier de guerre* was primarily defined by their economic value which derived from the manifest property rights of the master in the prisoner. That said, the corpus also shows that there were debates around the status of *prisonniers de guerre* which went beyond this strictly economic perspective. Yet Christine de Pizan's call for mercy did not reach or permeate governmental policies, or indeed the world of the combatants. Against all expectations, William Bucton could still maintain in court in 1434 that his *prisonnier de guerre* was nothing but a slave who was in no position to do anything without the express consent of his master. We can ultimately conclude that the late medieval emergence of the French phrase *prisonnier de guerre* did indeed correlate with a specific status, but it was the status of the master rather than that of his prisoner of war.

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Appendix

List of references to *prisonniers de guerre* and its Latin derivatives (14th and 15th c.)

| | DATE | PHRASE | DOCUMENT | REFERENCE |
|-----|----------------------------|-------------------------------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | 1357, XII.30 | prisoner de guerre | Licence | Rymer, ed., <i>Foedera</i> , vi. 74 |
| 2. | 1358, VII.7 | prisonnier de guerre | Contract | TNA, E 30/76; published in Rymer, ed., <i>Foedera</i> , vi. 95 |
| 3. | 1359, II.21 | prisoner de guerre | Licence | TNA, E 39/96/6; published in Rymer, ed., <i>Foedera</i> , vi. 117-9 |
| 4. | 1360, X.2 | prisoner de guerre | Licence | Rymer, ed., <i>Foedera</i> , vi. 214-5 |
| 5. | 1361, III.10 | prisoner de guerre | Diplomatic correspondence | P. Chaplais, ed., 'Some documents regarding the fulfilment and interpretation of the treaty of Brétigny (1361-1369)', <i>Camden Miscellany</i> , xix (1952), p. 11. |
| 6. | 1361, XI.15 | prisoner de guerre | Contract | J.-J. Champollion-Figéac, ed., <i>Lettres de rois et reines et autres personnages des cours de France et d'Angleterre</i> (2vols., Paris, 1839-47), i. 133-4. |
| 7. | 1364, XI.20 | prisoner de guerre | Diplomatic correspondence | Rymer, ed., <i>Foedera</i> , vi. 456 |
| 8. | 1376, VIII.9 | prisoner de guerre | Contract | Rymer, ed., <i>Foedera</i> , vii. 121-2 |
| 9. | <i>1410</i> ¹⁵² | Prisonnier(s) de guerre (9x) ¹⁵³ | Chivalric treatise | KBR, mss. 10476, fol. 66r, 96v, 105r, 106r, 118r |
| 10. | 1421, XII.6 | prisonarius guerre/prisonarios suos guerre (2x) | Court record | AN, X2a 16, fol. 428-31, 451-2 |
| 11. | 1424, II.28, V.4 | prisonnier de guerre (3x) | Court record | AN, X1a 4793, fol. 384v, 397r; published in <i>English suits</i> , pp. 29 and 33 |
| 12. | 1426, V | prisonnier de guerre (2x) | Royal pardon | AN, JJ 173, no. 538 ; published in <i>Chronique du Mont-Saint-Michel (1294-1376)</i> , ed. S. Luce (2 vols., Paris, 1879-83), i. 244 |

¹⁵² Approximate date of the completion of the work in which the references can be found are in italics.

¹⁵³ Number of occurrences is specified in brackets when it exceeds one.

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|-----|---------------|-------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 13. | 1426, VII.27 | prisonarius de guerra | Court record | AN, X1a 9191, fol. 34v |
| 14. | 1427, VII | prisonnier de guerre | Royal pardon | AN, JJ 173, no. 700 |
| 15. | 1428, IV.24 | prisonnier de guerre | Order | BL, Add. Ch. 3622 |
| 16. | 1430, IX.3 | prisonniere de guerre | Order | BL, Add. Ch. 10976 |
| 17. | 1430, IX.3 | prisonniere de guerre | Order | BnF, Nouv. Acq. Fr. 1482, no. 94 |
| 18. | 1430, IX.3 | prisonniere de guerre | Order | <i>Procès de condamnation</i> , ed. Quichérat, v. 178-80 |
| 19. | 1430, XII.6 | prisonniere de guerre | Receipt | <i>Procès de condamnation</i> , ed. Quichérat, v. 190-2 |
| 20. | 1432, VIII.5 | prisonnier de guerre | Receipt | BnF, P.O., 929, Cressy, no. 2 |
| 21. | 1433, III.23 | prisonnier de guerre | Royal Pardon | AN, JJ 175, no. 230 |
| 22. | 1434, IV.15 | prisonnier de guerre (2x) | Court record | AN, X1a 4797, fol. 156v-157r, 162r |
| 23. | 1434, VII, 21 | guerre presioneriis/ guerre prisionerii/ prisionerios guerre/ guerre prisionerios (4x) | Court record | AN, X2a 20, fol. 72r-73r |
| 24. | 1434, IX.17 | prisonniers de guerre | Power of attorney | BnF, Ms. Fr. 26058, no. 2352 |
| 25. | 1434, XII. 22 | prisonnier de guerre (6x) | Court record | AN, X1a 4797, fol. 215ro-216ro (see also no.) |
| 26. | 1436, VII.7 | prisonarii de guerra | Court record | AN, X1a 9193, fol. 146r |
| 27. | 1436, VIII.4 | prisionarium de guerra | Court record | AN, X1a 9193, fol. 156v-157r |
| 28. | 1436, IX.28 | prisonarius de guerra | Court record | AN, X1a 9193, fol. 177rv |
| 29. | 1438, II. 18 | prisonniers de guerre (2x) | Mandement | BnF, Ms. Fr. 26064, no. 3412. |
| 30. | 1438, XII.20 | prisonniers de guerre | Truce agreement | BL, Add. mss. 11542, fol. 90 et sq. ; published in <i>Documents inédits pour servir à l'histoire de la guerre de Cent Ans dans le Maine de 1424 à 1452</i> , ed. André Joubert (Mamers : G. Fleury et A. Dangin, 1889), pp. 31-8 (at p. 34) |
| 31. | 1438, XII. 20 | prisonnier de guerre | Mandement | BnF, Ms. Fr. 26065, no. 3647 |
| 32. | 1445, V.18 | prisonnier de guerre | Receipt | ADN, B 1988, fol. 172v |
| 33. | 1446, III.20 | prisonnier de guerre | Receipt | ADN, B 1988, fol. 202v |
| 34. | 1449, IX.6 | prisonarius guerre | Court record | AN, X1a 78, fol. 271r-272r. |
| 35. | <1450 | prisonnier de guerre | Narrative | <i>Histoire de Charles VI</i> , ed. J.A.C. |

- Buchon (Paris, 1836), p. 565.
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|-----|--------------|----------------------------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 36. | 1454, I. 22 | prisonniers de guerre (3x) | Court record | AN, X1a 4804, fol. 178r |
| 37. | 1455 | prisonniers de guerre (3x) | Narrative | Jean Chartier, <i>Chronique de Charles VII, Roi de France</i> , ed. A. Vallet de Viriville (3 vols., Paris, 1858), ii. 87, 92 and 172 |
| 38. | 1459, VII.7 | prisionarius de guerra | Court record | AN, X1a 88, fol. 75-7v; published in R. C. van Caenegem, ed., <i>Les arrêts et jugés du Parlement de Paris sur appels flamands, conservés dans les registres du Parlement 1320-1351</i> (Brussels, 1966-77), ii. 145, no. 397. |
| 39. | 1460s | prisonniers de guerre | Narrative | Jean le Fèvre de Saint-Rémy, <i>Chronique</i> , ed. F. Morand (2 vols., Paris, 1876-81), ii. 267 |
| 40. | 1477, IX. 27 | prisonniers de guerre (2x) | Court record | Archives Générales du Royaume, <i>Grote Raad van Mechelen</i> , reg. 796, no. 2, pp. 2-6 ; published in Robert Van Auswaarden, ed., <i>Portugais devant le Grand Conseil des Pays-Bas (1460-1580)</i> (Paris, 1991), pp. 125-136 |
| 41. | 1489 | prisonnier de guerre (2x) | Narrative | Philippe de Commynes, <i>Mémoires</i> , ed. B. Mandrot (2 vols., Paris, 1903), ii. 79 |