Lisieux, Bayeux, and Avranches, among others unnamed, that 'celebratum est divortium'.[1] This statement, which is placed under the year 1199, does not help us to date the event, but it makes it look as though John's case came before two different groups of bishops, who gave independent decisions upon the validity of his union with Isabelle. Diceto, however, is plainly inaccurate in other details, for he states that the marriage had taken place under Henry II, by permission of the church of Rome, and that for this reason Innocent III was greatly incensed at a judgement 'contra leges et canones'. Now, whatever we are to make of these strange statements, Diceto, like Howden, would seem to imply that there was a trial before judges delegate. The practice was for these to be named by the plaintiff, who would not, of course, choose judges likely to be hostile to his cause, though a suspicion of undue partiality might mean that, if they proceeded to judgement, the defendant would have an adverse decision quashed on this ground alone. If two groups of judges really were concerned, then it is possible either that the first commission was revoked or that the first judgement was set aside on a technicality. What seems certain is that there was no appeal to the Roman curia on a point of substantive law. Before, however, we give the reason for this conclusion, we should glance at the only other contemporary chronicler who appears to mention the divorce. Ralf of Coggeshall states that the marriage was dissolved 'per mandatum domini papae',[2] and this, in itself, suggests a trial before judges delegate, *mandatum* being the usual term for the commission under which such judges acted.

Now, though chroniclers in England might, not unnaturally, be uncertain both upon the date and details of a process which, to all seeming, was heard in France and was of no great concern at the time to anyone but the count of Mortain, who for some years

[1] Diceto, *Opera*, ii. 166–7.

[2] R. de Coggeshale, *Chron.* p. 103. It is of interest to compare the statement of Isabelle's elder sister Amice as recorded on the Bench plea roll of Trinity term 1200: 'Comitissa dicit quod ipsa, cum per lineam consanguinitatis per preceptum summi pontificis separata fuit a comite de Clare, viro suo . . .' (*Curia Regis Rolls*, i. 186). The circumstances of this separation are unknown, but it was doubtless by legal process. It seems unquestionable that the marriage was invalidated, for not only is Amice called 'Amicia que fuit comitissa de Clare' (*ibid.* p. 249), but she was evidently *sui juris* and, as such, is found later suing and being sued (*ibid.* iv. 13, 15, 139, 172; vii. 66; cf. *Complete Peerage* (3rd edn.), vi. 503 n.). Nevertheless she continued to be styled the countess of Clare and her issue by Richard de Clare was regarded as legitimate. The case has an important bearing on the evolution of the English law of marriage and legitimacy, for it establishes that the nullification of a marriage on the ground of consanguinity did not necessarily affect the legitimacy of the offspring. This is assumed in an action in 1227, but the point is not decided (*Bedfordshire Hist. Record Soc.* iii. 70–1, no. 192). Bracton, fo. 63, is in accord, though he relies, not on decided cases, but on Raymond of Peñafort. It is to be noted, however, that any issue of John's union with Isabelle of Gloucester would not have been legitimate since both parties were aware of the impediment.