Women in the Star Chamber, 1558-1603

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Abstract

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This thesis systematically samples Star Chamber files for litigation undertaken between 1558 and 1603. It uses these sources to examine women's relationship with the court as litigants and witnesses, and also to demonstrate that this was informed by cultural narratives outside of courtrooms. Changing narrative tactics in pleadings, new statutory provisions, and quantitative and qualitative changes in women's crime, demonstrate that the intersection of culture, theology, and law creates and reinstates gender and its performance. It examines how 'the letter of' common and substantive law, its 'real life' application, an increasingly reflexive judicial apparatus, and the political concerns of elites worked together so that 'will, rather than right' was increasingly shored up by the law. Litigant narratives became increasingly concerned with what plaintiffs 'did', according to pleadings, and what they had intended to do – which invited gendered assumptions about personal actions to inform pleadings. These assumptions were gleaned from a Protestant culture which was deeply interested in biblical stories like the Genesis, and spiritual authenticity and hypocrisy. Ultimately the thesis calls for a reassessment of scholarship which has regarded this court's concerns as being primarily the machinations of over-mighty or disorderly subjects at either end of the social scale. It is shown to be a broadly criminal court which spoke directly and indirectly to the social and religious issues of the period. As such, it heeds Joan W. Scott's call to use the analytical category of gender to reassess existing historical understanding of institutions.

Long Abstract

This thesis systematically samples Star Chamber files for litigation undertaken between 1558 and 1603. It uses these sources to examine women's relationship with the court as litigants and witnesses, and also to demonstrate that this was informed by cultural narratives outside of courtrooms. Changing narrative tactics in pleadings, new statutory provisions, and quantitative and qualitative changes in women's crime, demonstrate that the intersection of culture, theology, and law creates and reinstates gender and its performance. It examines how 'the letter of' common and substantive law, its 'real life' application, an increasingly reflexive judicial apparatus, and the political concerns of elites worked together so that 'will, rather than right' was increasingly shored up by the law. Litigant narratives became increasingly concerned with what plaintiffs 'did', according to pleadings, and what they had intended to do – which invited gendered assumptions about personal actions to inform pleadings. These assumptions were gleaned from a Protestant culture which was deeply interested in biblical stories like the Genesis, and spiritual authenticity and hypocrisy. Ultimately the thesis calls for a reassessment of scholarship which has regarded this court's concerns as being primarily the machinations of over-mighty or disorderly subjects at either end of the social scale. It is shown to be a broadly criminal court which spoke directly and indirectly to the social and religious issues of the period. As such, it heeds Joan W. Scott's call to use the analytical category of gender to reassess existing historical understanding of institutions.

Simultaneously it seeks to improve accessibility to a record class (STAC 5) containing 39,993 case files, which suffers from poor eighteenth-century cataloguing. Based at Westminster and founded in an early form by Henry VII, the Star Chamber operated according to equity law procedure until its abolition by the Long Parliament in 1641. Much of the court's business was alike to that at common law courts, but it was 'extraordinary' in its development of new offences, sometimes broadening the scope of statute in a judgement. Very broadly, it heard civil property-related lawsuits and criminal matters. Pleadings thus

detail everyday life and common disputes in testimonies which remain largely uncollated by scholars. The sample collected and read closely for this thesis represents 1,040 different lawsuits contained in 1,370 casefiles. This amounts to 5.16 percent of all Star Chamber suits under Elizabeth I, and 3.43 percent of its casefiles. Suits involving women either suing alone or with at least one other, as either complainants or defendants, were randomly sampled from within a single regnal year at five-yearly intervals. This was supplemented by more cases involving women randomly selected from throughout the reign. The sampling shows that the presence of women in the Star Chamber aligns with previous estimates; but also that comprehensive archival analysis – reading pleadings rather than only the catalogue – would likely inflate the proportion of female litigants from five percent.

The second chapter establishes in broad terms who litigated in the Elizabethan Star Chamber and what for. It uses 180 sampled lawsuits, as well as contemporary commentaries on the court, and statutes, to build up this profile. Despite the Star Chamber's reputation as 'gentlemen's business, first and foremost', court records show that litigants were more likely to lack gentry status than to have it. The proportion of complainants from the gentry orders in my current sample declines drastically, from 56.3 percent by 1575, to 29 percent by 1596. These findings challenge conceptions of a judicial apparatus frequently conceived as tyrannical. Historiography has undervalued the potential of the court to social and gender histories because it has underappreciated Star Chamber's relationship to statute; acts against forgery, perjury, and fraud passed under Elizabeth specifically referred wrongdoers to the court. These charges often arrived as part of will and other possession disputes. Plaintiffs keen to exploit the court to settle title would simultaneously complain of substantive criminal activity by their opponent. Suits with a statutory basis increased from 21 to around 70 percent of business between the beginning and end of Elizabeth's reign.

This substantive criminal law explains the appearance of 49 wives in the sampled sources against whom the court proceeded as if they were *femes sole*. Women could be fined cash for perjury, but more pertinently the Star Chamber might award damages to litigants. Additionally, due to little-noticed exceptions in the legal device of *couverture* – which subsumed a woman's legal (and financial) personhood into her husband's – wives might retain land in their own name during marriage. Therefore for forging wills of dying family members wives as well as other defendants could forfeit the contested property. The most interesting reverberations of this finding pertain to wives' relationship with the burgeoning state; they were increasingly answerable to it as subject-citizens, rather than only their husbands and other male householders. Most radically, these reveal an erosion of the 'little commonweal', the integrity and power of which is axiomatic in early modern studies.

Chapter three demonstrates that proprietorship did not, though, wholly displace the importance of gender in securing one's visibility to the law. It uses 180 sampled suits which were brought against wives either with or without their husbands in order to analyse what behaviours by women were comprehendible and excusable, and which were not. The chapter also shows *how* prosecutions could be affected, even if disabilities like coverture made prosecution at the common law difficult. In this court, common law *couverture* was not helping women to evade the law: women could be fined just as their husbands might be – a punishment which was likely regarded as being visited upon the whole household as a single economic unit. Sometimes wives and husbands both might be fined. Fine rolls kept by the Exchequer will be used to show that fines of convicted wives were equally likely to be paid to the crown than those of convicted men.

Testamentary and probate disputes are at the focus of chapter four, disputes which provide a case-study with which to examine the 'real life', gendered, application of statute. While widows in the earlier Tudor period were likely to receive a widow's dower inflexibly

apportioned by common or custom law, the Statute of Wills meant that property-by-will became the increasingly normal system of inheritance (particularly for 'middling sorts'). This invited opportunity for disputes between stepmothers and stepchildren in the aftermath of the death of family patriarchs, which comprise the centrepiece of this chapter. Later title disputes in the Star Chamber suits increasingly centred will-making instead of forcible ejectments. English common-law legalities such as the legitimacy of nuncupative wills, and *couverture*, facilitated and heightened disputes even whilst they had been relocated into an equity court. Probate courts saw widows defend the validity of their husbands' wills, only to have frustrated parties claim that the submitted will was forged, and their stepmother's account of deathbed events perjurious. This compelled retrospective analysis of events in the Star Chamber which laboured over the actions, motivations, and characters of litigants – meaning that the court continued to be a repository for contemporary, gendered, cultural assumptions. Women's sexuality effectively functioned in many narratives as the 'flattery' required to satisfy the legal understanding of 'undue influence' over testators.

In many cases inextricable from widows' inheritance were the terms of their marriage settlements, and these are explored in the chapter's middle section. Inherently gendered property sanctions against adulteresses meant that morality had long informed the Elizabethan landed economy, but jointures could offer a technical means of support for oneself if a marriage had proved a failure. However, although these contractual obligations technically applied without regard for gender, they were drawn up by people who reinscribed onto them gendered values. Jointures were not often written by brides themselves, but served the purposes of patriarchal estates, both in women's families of origins and husbands' own families.

Chapter five explains important trends discovered in chapter four: having remained fairly equivalent beforehand, from Elizabeth's 21st year (1579-80), women defendants

outnumbering women complainants with increasing regularity. By Elizabeth's 37th year (1595-6), 56 women complained while 148 defended. Chapter five uses these findings to throw new light on historiography which has long debated mechanisms behind 'the decline of violence' and has also regarded women's criminality as negligible. Star Chamber crimes of 'cunning' rather than 'force' were perceived products of moral weakness, and they could easier accommodate conceptions of femininity than crimes predicated upon physical strength. This grew directly out of a Protestant intellectual inheritance which regarded Eve's daughters as culpable for the corruption of godly men. This was shared by Star Chamber judges, counsel, and litigants alike. Pleadings drew too on adjacent ideas that women were faithless and inconstant, easily forced and flattered to other's bidding, and likely to affect their desires with manipulation: that they were 'both tempted and tempters'. Anxieties to 'discover' deception (including corruption, although not treated here) proliferated within Star Chamber cases, mirroring concern about hypocrisy and the established church in England. Star Chamber stories exhibited a similar discomfort within suits alleging fraud, counterfeiting, and even impersonations.

Chapter six uses abduction, or 'bridenapping', suits to push further the argument that pleadings were inflected by the religious beliefs and culture of their authors. The chapter uses 66 lawsuits comprising 100 records to demonstrate that, despite scholarly reticence on abduction during the later Tudor period, the kidnapping and forcible marriage of 'maidens' under the age of sixteen did not infrequently occur. *Couverture* motivated abductors to obtain the wealth of young heiresses, and the device stymied attempts of girls' parents and guardians to prove that victims had not eloped. Proving women's *willing* consent or lack thereof was essential. Unlike those in medieval suits which turned on the words of marriage, Star Chamber maidens were consistently described as having a 'will' – a conscience – which often was at odds with their eventual (forced) consent to wed. These disputes stirred up prevalent

fears about the authenticity of clerical leadership, the necessity of obedience to family, church, and state, and sincere interpretation of God's Word.

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Abbreviations, Acronyms, and Notes on the Text

AJLH	*The American Journal of Legal History*
BL	The British Library, London
CC	*Continuity and Change*
CSP Dom.	*Calendar of State Papers, Domestic Series, of the Reigns of Edward VI., Mary, Elizabeth and James I, 1547-1625 Preserved in the State Paper Department of Her Majesty's Public Record Office*, ed. M. E. Green (12 vols, London, 1856-72)
Harl. MS	BL Harl. MS: Harleian Manuscripts at the British Library, London
Add. MS	BL Add. MS: Additional Manuscripts at the British Library, London
HJ	*The Historical Journal*
HWJ	*History Workshop Journal*
JBS	*Journal of British Studies*
OED	Oxford English Dictionary
P&P	*Past & Present*
SHC	Surrey History Centre, Woking
STAC	TNA STAC: Records of the Star Chamber at The National Archives, Kew
TNA	The National Archives

Files in the STAC 5 record series have been abbreviated by document-type where relevant: 'B' for bill of complaint; 'A' for answer; 'Dr' for demurral; 'Rn' for replication; 'Rr' for rejoinder; 'I' for interrogatories; and 'D' for depositions.

Transcripts and quotations from manuscripts have retained original spelling. To improve fluency, the phrase 'the said' which frequently precede nouns in original Star Chamber records have been omitted. Square brackets have also been used to expand abbreviations. They indicate too interline insertions by the original text, '[^for example]'.

Chapter one

Introduction

This thesis finds litigating Elizabethan women in perhaps the last place historians would expect. This might be because it is the last place in which historians have looked. The Star Chamber was a lawcourt at Westminster officialised by Henry VII's second Parliament, having sat for some decades already.[1] It was born, '[i]n essence,' as 'the king's Council sitting as a court'.[2] But, its personnel and business expanded during the life it enjoyed before reducing its private business after 1630, then being abolished entirely by the Long Parliament in 1641.[3] Broadly, it heard petitions concerning real property, but many others dealt with breaches of the peace (such as riot, assault, and trespass) and perversions of justice (such as corruption and perjury).[4] The 'court most associated with the royal prerogative', political and public order cases (and, mighty subjects) found themselves before King, Queen and Council; it was 'a natural political instrument of repression'.[5] The court exemplifies negotiations of early modern power, having defined who held onto power, and in what conditions. 'Politics was men's

[1] 'An Acte geving the Court of Starchamber Authority to punnyshe dyvers Mysdemeanors', Hen. VII 3 c. 1. See C. L. Scofield, *A study of the Court of Star Chamber* (1900, 2nd edn., 1969), pp. 37-41 for speculation about the Star Chamber's origins.
[2] G. R. Elton, *Star Chamber Stories* (London, 1958), p. 12.
[3] T. G. Barnes, 'Star Chamber and the sophistication of criminal law', *Criminal Law Review* (1977), 320.
[4] T. G. Barnes, 'William Hudson', in A. D. Boyer (ed.), *Shaping the Common Law: From Glanvill to Hale, 1188-1688* (Stanford, CA, 2008), pp. 152-6; J. A. Guy, *The cardinal's court: the impact of Thomas Wolsey in Star Chamber* (London, 1987), p. 15.
[5] H. Mares, 'Criminal informations of the Attorneys-General in the King's Bench from Egerton to North', in M. Dyson and D. Ibbetson (eds), *Law and legal process: Substantive law and procedure in English legal history* (Cambridge, 2013), p. 167; D. Purkiss, *The English Civil War: a people's history* (London, 2006), p. 22.

business', so in the Star Chamber '[w]omen had no history.'[6] However, in Tudor-Stuart reality, the nature of power was changing for everybody.

The 1560s woodcut map *Civitas Londinum* labels a long pitched roof, clinging to the river in the leafy suburb 'Westmynster', the 'Starre Chamber'. More precisely, the *Camera Stellata* was in 'a small upper chamber' at Westminster Hall overlooking the New Palace Yard.[7] This was where the councillors, judges, and attorneys discussed cases privately, with an adjoining outer room equipped with chairs for the public hearings.[8] The map has Westminster Hall's dock teeming with boats (presumably) ferrying clerks, lawyers, and litigants, while a sword-carrying man and wide-skirted woman stand disproportionately gigantic in the courtyard.[9] What business, though, would bring women into the Star Chamber, if assumptions about their lives are correct? Women had less social and economic capital than men. Married, 'a woman was brought into subjection, under the government of a husband'.[10] These *femes covert* suffered an 'incapacity to own property on [their] own account' by virtue of a legal device known as *couverture*, which subsumed their legal persona into their husband's.[11] The same disability made wives' 'independent action almost impossible' in the eyes of the law and meant that when they rioted, their husbands were punished as procurers.[12] Generally, given the 'little commonwealth' axiomatic to the Tudor polity, what required women to answer not to husbands, fathers, or masters, but 'this most prayseworthie Courte… whose aucthoritie' was

[6] Quote in P. Crawford, 'The Challenges to Patriarchalism: How did the Revolution affect Women?', in J. S. Morrill (ed.), *Revolution and restoration: England in the 1650s* (London, 1992), p. 112. See, for example, L. Stone, *The Family, Sex and Marriage in England 1500–1800* (London, 1977), p. 201.
[7] J. F. Baldwin, *The King's Council in England during the Middle Ages* (London, 1913), p. 355.
[8] J. A. Guy, *The court of Star Chamber and its records to the reign of Elizabeth I* (London, 1984), p. 1.
[9] The Agas Map of Early Modern London, https://mapoflondon.uvic.ca/agas.htm (Accessed 23 September 2023).
[10] P. Crawford, 'Public Duty, Conscience, and Women in Early Modern England', in J. Morrill, P. Slack, and D. Woolf (eds), *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G.E. Aylmer* (Oxford, 1993), pp. 59-60.
[11] W. Holdsworth, *A history of English Law*, 2nd edn. (17 vols, London, 1923; repr. 1992), iii, p. 533, and J. H. Baker, *An Introduction to English Legal History*, 5th edn. (Oxford, 2019), p. 529.
[12] T. Stretton, 'The legal identity of married women in England and Europe 1500-1700', in A. Bauer and K. Welker (eds), *Europa und seine Regionen: 2000 Jahre Rechtsgeschichte* (Cologne, 2007), p. 312; R. Manning, *Village Revolts: Social protest and popular disturbances in England 1509-1640* (Oxford, 1988), p. 97.

over ‘all other the Courtes of Lawe and Justice’?[13] Especially as we know that while ‘the Reformation consolidated monarchy, it riveted home patriarchy.’[14]

i. The historiographical approach

Gender and women’s history has proliferated over the last three decades and has challenged the truth of some of the limitations supposedly corseting early modern women. Women had the capacity and motivation to litigate because economically they had ‘far more leverage than historians… formerly thought’; they occupied or possessed leases or freeholds, they earned money and were embedded in credit networks.[15] And they *did* litigate. Laura Gowing’s research in the 1990s saw women suing regularly for defamation by the last quarter of the sixteenth century. Consistory courts as well as local courts have proved reliable sources of women’s participation in legal disputes; but Krista Kesselring and Tim Stretton’s new study proposes that a focus on church courts when looking for marital litigation eclipses important material.[16] Women chased alimony to central tribunals, and they initiated other ‘complicated legal cases’ there too.[17] Women also defended against civil and criminal causes, but the bountiful literature which exists about women as petitioners or victims has not yet been matched.[18] Early interest

[13] S. D. Amussen, *An Ordered Society: Gender and Class In Early Modern England* (New York, 1993); BL, Add. MS 24926, ‘A Discourse of the Courte called the Starre Chamber made the xxth daie of Marche 1585’, fo. 32.
[14] P. Collinson, *The Birthpangs of Protestant England* (Basingstoke, 1988), p. 62.
[15] C. Churches, ‘Women and property in early modern England: A case-study’, *Social History*, 23/2 (1998), 170; J. Whittle, ‘Inheritance, marriage, widowhood and remarriage: a comparative perspective on women and landholding in north-east Norfolk, 1440-1580’, *CC*, 13/1 (1998), 38; L. Gowing, *Ingenious trade: women and work in seventeenth century London* (Cambridge, 2022); A. Shepard, ‘Crediting Women in the Early Modern English Economy’, *HWJ*, 79/79 (2015).
[16] L. Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (London, 1998); Amussen, *An Ordered Society*, ch. 4; K. Kesselring and T. Stretton, *Marriage, Separation, and Divorce in England, 1500-1700* (Oxford, 2022).
[17] A. L. Erickson, *Women and Property in Early Modern England* (London, 1993), p. 114; B. Hanawalt, *The Wealth of Wives: Women, Law and the Economy in Late Medieval London* (Oxford, 2007), p. 98.
[18] T. Stretton, *Women waging law in Elizabethan England* (Cambridge, 1998); E. Hawkes, ‘“[S]he will ... protect and defend her rights boldly by law and reason ...”: Women’s Knowledge of Common Law and Equity Courts in Late-Medieval England’, in N. J. Menuge (ed.), *Medieval Women and the Law* (Woodbridge, 2000); G. Walker, ‘Everyman or a Monster? The Rapist in Early Modern England, c.1600–1750’, *HWJ*, 76 (2013).

in women's criminal involvement was focussed upon riots, followed by crimes conceptualised as being (perhaps necessarily) feminine; most notably, scolding, infanticide, and petty treason.[19] Pathbreaking research into women who instigated 'ungendered' crimes – previously presumed to be exceptional – has Garthine Walker's 2003 monograph at the helm, followed by her later work into trespass.[20] Scholarship has also matured past Peter Spierenburg's 1997 conviction that premodern women's violence constituted only 'a few scratches, a slap in the face' and some 'hair-pulling'.[21] Physical violence among women 'precariously balanced between prosperity and ruin' has been brought to light.[22] It is hard to contend that lawcourts were not attended by women.

When dealing with dispute stemming from social rather than material objectives, there is more need and opportunity to recover *mentalités*. In doing so historians have learnt that plenty of women litigated over 'verbal violence'.[23] This project finds Star Chamber complaints against talking 'violentlie' as well as 'stryking violentlie'.[24] Early modern attitudes to women's capacity for crime are understood to have been much less absolute – more human – than legal prescriptions once led historians to understand. Deborah Youngs finds husbands and wives co-defending in the early Tudor Star Chamber, suggesting that 'they were considered two

[19] R. Houlbrooke, 'Women's social life and common action in England from the fifteenth century to the eve of the civil war', *CC,* 1/2 (1986); D. Underdown, 'The Taming of the Scold: The Enforcement of Patriarchal Authority in Early Modern England', in A. Fletcher (ed.), *Order and Disorder in Early Modern England* (Cambridge, 1985); L. Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', *P&P,* 156/1 (1997); F. Dolan, *Dangerous familiars: representations of domestic crime in England, 1550-1700* (Ithaca, 1994).
[20] G. Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003); G. Walker, 'Keeping it in the Family: Crime and the early modern household' in H. Berry and E. Foyster (eds), *The Family in Early Modern England* (Cambridge, 2007). Also see T. Reinke-Williams, 'Women's clothes and female honour in early modern London', *CC,* 26 (2011).
[21] P. Spierenburg. 'How violent were women? Court cases in Amsterdam, 1650-1810', *Crime, History and Societies*, 1 (1997). See C. Z. Weiner, 'Sex roles and crime in late Elizabethan Hertfordshire', *Journal of Social History*, 8/4 (1975) for a more thoughtful approach with some similar results. Still, J. Sharpe's *A fiery & furious people: a history of violence in England* (London, 2016) dedicates only four out of seven hundred pages to women.
[22] A. Kilday, *Women and Violent Crime in Enlightenment Scotland* (New York, 2007), p. 149.
[23] L. Gowing, *Domestic Dangers,* p. 55. See also K. Stavreva, *Words like Daggers: Violent Female Speech in Early Modern England* (Lincoln, NE, 2015).
[24] STAC 2/29/179.

persons'.[25] Walker found that '[f]requently' even if 'only husbands or fathers, as the household's public face, were held formally accountable', witness depositions and even Justices' warrants detail women's involvement in the crimes they allege.[26] Elsewhere her study of seventeenth-century common law case studies undermines the notion that *couverture* applied in many property offences.[27] It is increasingly implausible for historians to regard early modern English women as written away by the letter of the law.

In another corner of history, 'the definitive book on star chamber remains to be written'.[28] Although 'Star Chamber stories' have offered piecemeal support to wider social and political histories, and were recently reproduced in an edited volume of case-studies, many remain in darkness.[29] The underuse of Star Chamber material has been despite such scholarly treatments of other Westminster courts – the King's Bench, Chancery, Court of Requests, and Common Pleas.[30] Elfreda Skelton researched Star Chamber procedure in depth for a master's thesis, while John Guy produced a monograph on Wolsey's tenure in the court. However, the latter study is growing old and the former even older.[31] No parallel study exists for the Elizabeth period, although Skelton sampled material in Elizabeth's first and forty-fourth regnal year, and

[25] D. Youngs, '"A Besy Woman … and Full of Lawe": Female Litigants in Early Tudor Star Chamber', *The JBS*, 58/4 (2019), 746.
[26] Walker, *Crime, Gender and Social Order*, p. 12. See also pp. 76-7, 111, *et passim*.
[27] Walker, 'Keeping it in the Family'; See too M. Caswell, 'Coverture and the criminal law in England, 1640-1760', in K. Kesselring and T. Stretton (eds), *Married Women and the Law: Coverture in England and the Common Law World* (London, 2013).
[28] J. McGovern, 'Review of *Star Chamber Matters*', *Parliamentary History*, 41/2 (2022), 372.
[29] T. G. Barnes, 'A Cheshire seductress, precedent, and a 'sore blow' to Star Chamber', in A. Green and S. White (eds), *On the Laws and Customs of England: Essays in Honor of Samuel E. Thorne* (Chapel Hill, NC, 1981), pp. 316-26; G. R. Elton, *Star Chamber Stories* (London, 1958); J. P. Kenyon, *The Stuart Constitution, 1603–1688* (Cambridge, 1988); I. Archer, *The pursuit of stability: social relations in Elizabethan London* (Cambridge, 1991), ch. 4; M. MacDonald and T. R. Murphy, *Sleepless souls: suicide in early modern England* (Oxford, 1990), ch. 2; P. Sherlock, *Monuments and memory in early modern England* (London, 2016), ch. 6; The recent edited collection is K. Kesselring and N. Mears (eds), *Star Chamber Matters* (London, 2021).
[30] M. Blatcher, *The Court of King's Bench, 1450–1550: A Study In Self-Help* (London, 1978); T. S. Haskett, 'Conscience, Justice and Authority in the Late-Medieval English Court of Chancery', in A. Musson (ed.) *Expectations of the Law in the Middle Ages*, (Woodbridge, 2001); W. J. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967); M. Hastings, *The Court of Common Pleas in Fifteenth Century England: A Study of Legal Administration and Procedure* (Ithaca, NY, 1947); C. Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 1986).
[31] E. Skelton, 'The Court of Star Chamber in the Reign of Queen Elizabeth' (MA thesis, University of London, 1930); Guy, *The cardinal's court*.

others have projected case-types and litigant status using small samples and catalogues.[32] While social histories have capitalised on the court's potential in increments, gender histories have often ignored the Star Chamber (albeit Youngs has recently provided an overview of women using the court under Henry VIII).[33] Acknowledged long ago to be full of untapped information 'about the everyday life and common disputes of ordinary Englishmen', the court has not seemed a natural wellspring of evidence about Englishwomen.[34] Chancery was long-ago shown by Maria Cioni to have protected married women's interests since the 1536 Statute of Uses.[35] Stretton's study of Requests is a great help to researchers of women in central and equity courts.[36] These studies are contributions to an ongoing conversation over 'the relative roles that equity and common law have played in women's history'.[37] Even though Amy L. Erickson tells us that 'the curtailment of ecclesiastical jurisdiction' of trusts in marriage settlements likely 'channelled female litigants into fast-developing equity courts', Star Chamber material has only last year been seriously used to source such cases.[38]

Seminal studies of legal disputes in early modern England have either looked at their institutional or social history – seeing when, where, and how different categories of offence or dispute were prosecuted in one lawcourt or one area. Mid-twentieth-century scholars working within the terms of institutional history later popularised most by Geoffrey Elton understood

[32] T. Stretton, *Women waging law*, p. 40; E. Skelton, 'The Court of Star Chamber'. Guy collates Skelton's count of over 800 suits in his *The court of Star Chamber*, pp. 57-60. Although he has applied a new classification system, the 'basic patterns… clearly established' by Skelton remain (footnote 31).
[33] M. Stevens, 'London's married women, debt litigation and coverture in the Court of Common Pleas', in M. Stevens and C. Beattie (eds), *Married Women and the Law in Premodern Northwest Europe* (London, 2013); Stretton, 'Marriage, separation and the common law', and T. Stretton, 'Written Obligations, Litigation and Neighbourliness, 1580–1680', in S. Hindle, A. Shepard and J. Walter (eds), *Remaking English society: social relations and social change in early modern England* (Woodbridge, 2013), p. 195; Erickson, *Women and Property*, p. 115; D. Youngs, '"A Besy Woman'.
[34] S. E. Lehmberg, 'Star Chamber: 1485-1509', *Huntington Library Quarterly*, 24 (May 1961), 189-214., p. 214.
[35] M. Cioni, *Women and Law in Elizabethan England, with Particular Reference to the Court of Chancery* (New York, 1985).
[36] T. Stretton, *Women waging law*.
[37] E. Spring, *Law, Land, & Family: Aristocratic Inheritance in England, 1300 to 1800* (Chapel Hill, NC, 1993), p. 112.
[38] Erickson, *Women and Property*, pp. 115-6; Kesselring and Stretton, *Marriage, Separation, and Divorce*.

legal apparatus in terms of its architects.[39] Single-court studies of this type include Thomas G. Barnes's and John Guy's work on the Star Chamber undertaken in the 1970s.[40] Their guides on technical process remain a natural entry point for researchers, but keep readers firmly shut in the court's private study and away from the litigants – and so too, women.[41] Barnes's work in particular is a legal history – not a history of the law. More recent single-court studies of other central Tudor courts have explicated arcane legal systems but also grouped the types of litigant brought before judges, reimagining central courts therefore as a point of contact between rulers and ruled.[42] Christopher Brooks, an early proponent of this approach, ploughed Common Pleas and King's Bench material into a vigorously quantitative study which recommended understanding early modern law as highly participatory. He finds that between 70 and 80 percent of Bench 'users' were not from the gentry class.[43] Louis Knafla's 'Kent at Law' project is a county-wide study (one volume of which includes a useful collation of Star Chamber transcriptions) of all jurisdictions in 1602.[44] These projects comprehend 'institutions' as entities shaped by their clients as much as their personnel. The focus of the majority of these foundational works is the internal environment of courts, not their interaction with culture outside of it – the 'what' rather than the 'why'.

Intersecting with these methodological choices are hypotheses as to the function of law. In the opening years of the sixteenth century, the crown 'assumed greater responsibility for the supervision of justice within its domain'. [45] Why legal institutions gained so much ground

[39] G. R. Elton, *The Tudor Revolution in Government: Administrative Changes in the Reign of Henry VIII* (Cambridge, 1953) For example see Brooks, *Pettyfoggers and Vipers*, and W. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967), and Guy, *The cardinal's court*.
[40] Guy, *The court of Star Chamber* and his *The cardinal's court*.
[41] J. A. Guy, 'Wolsey's star chamber: A study in archival reconstruction', *Journal of the Society of Archivists,* 5/3 (1975).
[42] Stretton, *Women waging* law; C. Brooks, *Pettyfoggers and Vipers*; L. Flannigan, 'Litigants in the English Court of Poor Men's Causes, or Court of Requests, 1515-25', *Law and History Review,* 38/2 (2020).
[43] Brooks, *Pettyfoggers and Vipers*, p. 60.
[44] L. A. Knafla, *Kent at Law 1602: Star Chamber, Vol. III* (London, 2012); See for another example of a county study using the Star Chamber R. Turvey, 'Pembrokeshire and the Court of Star Chamber in the reign of Elizabeth I', *The Journal of the Pembrokeshire Historical Society*, 23/1 (2014).
[45] P. Cavill, 'Perjury in Early Tudor England', *Studies in Church History,* 56 (2020), 208.

during the early modern era is fundamental to understanding a reign regarded variously as 'golden' and despotic.[46] Did legal judgements 'deepen' the 'legitimacy of the ruling instruments of the early modern state', used to restrain popular political power?[47] Certainly in the twentieth century, 'the political world of the Tudors was understood to be a very top-down place'.[48] A scholarly groundswell from the 1990s, however, impresses that the law was 'a resource, and a tool that could be manipulated, even for those of fairly humble status'.[49] If this is so, omitted litigant experiences take half the court's history with them. In Steve Hindle's 2000 monograph, the Star Chamber enjoys a rare appearance as a 'tool' – of private litigants seeking dispute resolution, but, incidentally and more abstractedly, of state-building. This was government which developed power 'organically', power which Michael Braddick sees too as 'collective' rather than 'distributive'.[50] This and similar theses regard the very dispensation of royal justice as a collaborative project between the bottom and the top of a budding state.[51]

An alternative methodological approach includes a more definitive focus on the meanings litigants made of the law by examining how one social issue or entity was experienced through its handling by a particular court.[52] Rather than debating whether 'compliance depended as much on consent as coercion', a question easily lost within subjectivities, this thesis suggests taking a step back to contextualise early modern legal

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[46] D. Ibbetson, *Common law and "ius commune": Selden Society lecture delivered in the Old Hall of Lincoln's Inn July 20th, 2000* (London, 2001), p. 4 *contra* J. Hurstfield, 'Was there a Tudor Despotism after all?', *Transactions of the Royal Historical Society*, 17 (1967).

[47] A. Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013), p. 33.

[48] N. Jones, *Governing by Virtue: Lord Burghley and the Management of Elizabethan England* (Oxford, 2015), p. 1.

[49] M. J. Braddick, *State Formation in Early Modern England, c. 1550-1700* (Cambridge, 2000), p. 164.

[50] S. Hindle, *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke, 2000) and Braddick, *State Formation*, p. 93.

[51] C. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987).

[52] J. Healey, 'The Political Culture of the English Commons, c.1550-1650', *Agricultural History Review*, 60/2 (2012); K. Kesselring, 'Consent and coercion, force and fraud: marriages in Star Chamber', in Kesselring and Mears, *Star Chamber Matters*, pp. 97-114; H. Taylor, 'The price of the poor's words: Social relations and the economics of deposing for one's 'betters' in early modern England', *Economic History Review*, 72/3 (2019); G. Walker, ''Strange kind of stealing': abduction in early modern Wales', in S. Clarke and M. Roberts (eds), *Women and Gender in Early Modern Wales* (Cardiff, 2000)

experience in culture.[53] Other pursuits of 'something close to popular mentalities' have relied on intensive but fruitful picking-over of witness testimony, rather than administrative notes and treatises.[54] These pickings have undermined now-vintage 'denials that a real peasant consciousness ever existed', while sometimes painting a picture of court-litigant relations which are more adversarial than those Hindle imagines.[55] Andy Wood detects dissonance between 'plebeian' '[s]enses of order and justice' on the one hand, and the aims and encroachments of the mid-Tudor regime on the other.[56] The fault lines in all this historiography run, then, between the incorporation or exclusion of subjects from political power.

This subject is symbiotic with that of economic change. A recognition that 'the long, drawn-out history of enclosure' (for example) exposes more complex, localised, distributions of power, or 'intra-popular struggles', sits within the long durée of the decline of feudalism and rise of commercialism.[57] This, says one prominent historical narrative, was also the driving force behind women being 'increasingly relegated to the 'private sphere' of the home'.[58] Whereas in the deeper premodern era women worked and traded in crafts, by the nineteenth century those who were middle class were confined to domestic chores.[59] The adjacent question of a woman's own place in Elizabethan political culture has been circumscribed by the importance of the 'politically self-conscious' household unit.[60] A miniature of the monarch's own kingdom, headed by a miniature patriarch, the 'little commonwealth' was a protean part

[53] A. Wall, *Power and Protest in England 1525-1640* (London, 2000), p. 112.
[54] Healey, 'The Political Culture', 271.
[55] A. Wood, 'The Deep Roots of Albion's Fatal Tree: The Tudor State and the Monopoly of Violence', *History*, 99/336 (2014), 403; J. Sharpe, *A Social History of Early Modern England, 1550-1760* (London, 1987), p. 139; R. Manning, *Village Revolts*.
[56] Wood, *The Memory of the People*; A. Wood, '"A lyttull worde ys tresson": loyalty, denunciation and popular politics in Tudor England', *JBS*, 48/4 (2009); Manning, *Village Revolts*.
[57] A. Vickery, 'Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History', *HJ*, 36/2 (1993), 404.
[58] N. Tadmor, 'Where was Mrs Turner? Governance and Gender in an Eighteenth-Century Village', in Hindle, Shepard, and Walter, *Remaking English Society*, p. 92.
[59] Vickery, 'Golden Age to Separate Spheres?', 402; A. Clark's *Working life of women in the seventeenth century* (London, 1919) pioneered these arguments.
[60] M. Gaskill, 'Little Commonwealths II', in (ed.) K. Wrightson, *A Social History of England, 1500–1750* (Cambridge, 2017), p. 99.

of (self-)governance which 'naturally extended from polis to house'.[61] In this view, women are always subsidiaries of the household. This has stimulated research which recognises her an agent of *shared* economic and 'political' interests.[62] But it has also left each woman more subjected than subject, as her relationship with royal government was precluded by that with her master. Or, admittedly, her parish, as occasionally magistrates superseded the family patriarch's authority – only, though, to ultimately reiterate the ideal of patriarchal power.[63] Broadly, women would have to wait until Locke reimagined 'appropriate relationship between individuals' and authority before they could become citizens.[64]

'The analogy between the household and the state' was 'an analogy, however, not an equation.'[65] Alternative propositions have been made regarding women's participation in local (civic) politics, paying attention to women's exercise of 'soft power' in 'public conversations and associations of everyday sociability'.[66] The Star Chamber's own remit – which included official corruption and the abstract promise to represent oppressed individuals against social superiors – centralised local and civil powers.[67] The axis of power lying along gendered lines was also reorientating towards the 'centre'. Questions about differentiation made by earlier scholarship between 'female' and 'male' crimes are presently occupying gender-informed scholarship.[68] The work this reacts against was informed by 'that interlocking network of' analogous commonwealths which therefore girdled possible manifestations of women's disorder. When the wider patriarchal order was threatened with rebellion, women were

[61] P. Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge, 2005), p. 215.
[62] Walker, 'Keeping it in the Family', and M. Caswell, 'Coverture and the criminal'.
[63] P. Crawford, *Women and Religion in England: 1500 to 1720* (London, 1993), pp. 50-1.
[64] J. Thomas, 'Women and Capitalism: Oppression or Emancipation? A Review Article', *Comparative Studies in Society and History*, 30/3 (1988), 543.
[65] Amussen, *An Ordered Society*, p. 37.
[66] Withington, *The Politics of Commonwealth,* p. 229.
[67] C. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2009), pp. 402-3 and K. Kesselring, 'Law, Status, and the Lash: Judicial Whipping in Early Modern England', *JBS*, 60/3 (2021), 15-17.
[68] L. A. Eastwood, 'A Tribe of Roaring Girls: Crime and Gender in Early Modern England', *Explorations in Renaissance culture*, 44/2 (2018).

punished as scolds.[69] Up-to-date studies have further abstracted and overlaid traditional domestic and political orders upon one another.[70] These studies all pivot on political moments, rather than changes vested in central institutions. Matthew Lockwood's history of women and crime argues differently; that the decline of petty treason prosecutions 'during the early decades of the seventeenth century' reflects a general 'improvement in gendered legal parity'. The abeyance of gendered crime was accompanied by other suggestive decisions such as extending benefit of the clergy to women in 1624. He tentatively suggests that 'the mid-seventeenth century saw the beginning of a trend towards a conception of women and men as indistinct in the eyes of the law.[71] This surely bisected webs of patriarchal power with a unidimensional Queen/subject relationship. These ideas will resurface later in this chapter, but they must be tied to the Star Chamber first.

Even aside from the identity of litigants, the very function of the Star Chamber during Elizabeth I's reign is not universally agreed upon. This thesis takes the position that it would not be most accurate to describe the court as an 'equity lawcourt'. Sir Edward Coke, Solicitor-General in 1592 and Attorney-General from 1594 – whose notes and orders can be found on Star Chamber bills and interrogatories – 'used the doctrine of 'equity' sparingly' himself, preferring to discuss legislative will.[72] It would be wrong to take at face value the anonymous writer of *An inquiry into the history and abolition of the Court of Star-Chamber*: 'If the Law require my good Behaviour, [the judges'] *Discretion* makes me close Prisoner; if the Law sets

[69] Underdown, 'The Taming of the Scold', p. 116; For a criticism of Underdown's periodisation see L. Roper, 'Was there a Crisis in Gender Relations in Sixteenth-Century Germany?', in *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (London, 1994).
[70] A. Becker, 'Gender in the history of early-modern political thought', *HJ*, 60 (2017) and F. Dolan, *Dangerous familiars*.
[71] M. Lockwood, 'From Treason to Homicide: Changing Conceptions of the Law of Petty Treason in Early Modern England', *The Journal of Legal History*, 34/1 (2013), 43-4.
[72] S. Thorne, *Discourse upon the Exposicion & Understandinge of Statutes with Sir Thomas Egerton's Additions*, ed. S. Thorne (San Marino, 1942), introduction, p. 65.

me upon the Pillory, this *Discretion* orders me to leave my Ears there.'[73] This pamphlet followed, and was written in the spirit of, the court's abolition in 1641. The court is better characterised (at least during the later sixteenth century) as behaving as ordinary courts did, although its procedure via '*subpoena*, English bill, written proofs, and the compelling power of the injunction' gave it the form of an equity court.[74] It was also 'extraordinary' in its development of new offences, sometimes broadening the scope of statute in a judgement.[75] Increasingly under Elizabeth, it 'punished criminally, as a publike offence done to the Commonwealth' rather than civil (i.e. private) disputes.[76] In 1585 one manuscript treatise noted confidently that, 'all the causes of this Courte bee (in theire owne nature) criminall and not civill'.[77] Its interest in misdemeanours (either substantive transgressions or trespasses) rather than felonious crimes was steadfast. As a type of writ, trespass was designed 'to provide monetary compensation for loss suffered through wrongdoing', rather than correcting injustice *per se*. It was 'a broad enough category to embrace at various times felony, criminal misdemeanour, and disseisin' – any of which might be acts antithetical to local peace.[78] This sat closely to the statutory definition of riot, upon which the Star Chamber was originally founded: subjects 'gathered together to doe any unlawfull act… [that] they being together, doe breed disturbance of the Peace, either by signification of speech, shew of Armour, turbulent gesture, or actuall and expresse violence'.[79] A constant refrain in complaints was thus that a 'riottous trespass' was committed. Conversely to trespasses, statutory transgressions surged

[73] Quote from *An inquiry into the history and abolition of the Court of Star-Chamber: Upon the principles of law, and the constitution, particularly as it relates to proscecutions for libels* (London, n.d.), p. 88; For an aligning interpretation see Scofield, *A study of the Court,* p. 40
[74] Jones, *The Elizabethan Court,* p. 418.
[75] Barnes, 'Star Chamber and the sophistication'; for an example of statute interpretation by the court see K. Kesselring, 'Consent and coercion', pp. 102-3.
[76] R. Crompton, *Star-Chamber Cases: Shewing What Causes Properly Belong to the Cognizance of That Court* (London, 1630), p. 4.
[77] BL Add. MS 24926, fo. 22.
[78] Baker, *An Introduction*, pp. 350; 67-8.
[79] 'An Acte geving the Court of Starchamber Authority to punnyshe dyvers Mydemeanors', 3 Hen VII c. 1, quoted as restated in Crompton, *Star-Chamber Cases*, p. 1, 3.

into Westminster Hall as the Elizabethan age progressed. These 'threatened the peace through disobedience but were not necessarily violent.'[80] This distinction and shift is the structure around which this thesis grows.

Broadly though, this all suggests that the primary mover of Star Chamber litigation was legislation, 'the knowledge of' which 'during this period is all too limited'. Brooks thought 'technical innovation' an unlikely cause of the 'massive rise' in royal court business from the mid-Tudor period, but Francis Bacon, when Attorney-General, himself blamed the rise on legislation.[81] His praise for the 'sundry excellent statutes made in your Majesty's time, more in number, and more politick in provision, than in any your Majesty's predecessor's times' feels a little back-handed. [82] Conflict eventually arose in the court as to whether it was a forum *exclusively* for statutory offences.[83] Coke and Bacon, despite their (vast, personal) differences 'agreed on the necessity for systematization of the law'.[84] The Star Chamber carefully substantiated statute with its rulings, attorneys regurgitating excerpts of acts verbatim within the bills themselves.[85] The 1559 abduction of Agnes Bigland from the care of her yeoman uncle John Smith in 'Alderhollow', Suffolk, merited the defence from her abductors that Philip and Mary's 1557 abduction statute 'was nether openly publisshed nor yet ymprynted' when they did the deed. Moreover, the statute 'was ambyguous & doubtfull to dyvers lerned in the lawes of this Realme whiether the def[endant]s by their former acte had done contrary to the meanyng of the Statute or noo'.[86] Legislative imprecision could stay a cause, and so could its imprecise interpretation.

[80] C. Herrup, *The Common Peace*, p. 3.
[81] Brooks, *Pettyfoggers and Vipers*, p. 111; 93.
[82] Francis Bacon, 'Maxims of the Law', in *Works of Francis Bacon, Baron of Verulam, Viscount St. Alban, and Lord High Chancellor of England* (10 vols, London, 1803), iv, p. 7.
[83] W. Lambarde, *Archeion*, eds C. H. McIllwain and P. L. Ward (Cambridge, MA, 1957), p. 96.
[84] C. Hill, *Intellectual Origins of the English Revolution - Revisited* (Oxford, 1997), p. 206.
[85] For a typical example, STAC 5/N9/28, B. repeats the Act Against Fraudulent Conveyances, which had been re-stated in Parliament the year before (27 Eliz 1 c. 4).
[86] STAC 5/S62/1, A.

103 offences which could result in fines were created during Elizabeth's reign, many more than under other Tudors, in 'an attempt to regulate more and more areas of life'.[87] A 'wise man', one Jacobean playwright contended, 'speaks statutes and husbandry well'.[88] Many of these laws sought to provide and refine the dispensation of fair justice. The 1487 'Acte geving the Court of Starchamber Authority to punnyshe dyvers Mydemeanors' entrusted all offences against the 'polacye and good rule of this realme' to its jurisdiction.[89] Successive statutes during Elizabeth's reign defined such offences in specific terms. The court prosecuted contempt of court, bribery, escaping imprisonment, perjury, subornation, forgery of official documents, maintenance, and champerty (among others).[90] Sir John Baker, whose 2021 comparative work is the most recent legal history of the Star Chamber, credits the court with a practical and 'effective' realisation of 'a new legal creed' that all 'under the Crown were subject to the law and accountable in the courts for their actions.'[91] Aiding this development was the realisation that obstacles to centralising judicial authority could be circumvented by constructing legislation.[92] Even if legislation did remain static for long stretches of the Tudor era, there were frequent requests (and lectures) which common-law judges received that they adapt and apply old legislation to current social issues.[93] 'By the time of the outbreak of civil war,' all this has persuaded historians, 'the key features of a new, statutory system of social regulation were in place.'[94]

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[87] K. J. Kesselring, *Mercy and Authority in the Tudor State* (Cambridge, 2003), p. 26

[88] *A wife now the widdow of Sir Thomas Overburye . . . whereunto are added many witty characters* (1614), sig. E4., quoted in A. Cromartie, *The Constitutionalist Revolution: An Essay on the History of England, 1450–1642* (Cambridge, 2006), p. 180.

[89] 3 Hen VII c. 1.

[90] For tabulations of prosecutable crimes see J. A. Guy, *The court of Star* Chamber, pp. 58-9 and ed. T. G. Barnes, *List and Index to the Proceedings in Star Chamber for the Reign of James I (1603–1625)* (3 vols, Chicago, 1975), i, pp. 33-36.

[91] J. H. Baker, *English Law Under Two Elizabeths: The Late Tudor Legal World and the Present* (Cambridge, 2021), pp. 50-1.

[92] Brooks, *Law, Politics and Society*, p. 418.

[93] S. Hindle, *On the Parish? The Micro-Politics of Poor Relief in Rural England c.1550-1750* (Oxford, 2004), p. 13; Brooks, *Law, Politics and Society*, p. 400.

[94] M. Braddick, 'State Formation and the Historiography of Early Modern England', *History Compass*, 2 (2004), 4.

Other historians have assumed vexatious litigation the primary cause of massive rises in court business by the second half of Elizabeth's reign. The surge was not confined to the Star Chamber, which saw litigation double during the time that it increased six-fold in the Queen's Bench and Common Pleas.[95] Barnes thought the Elizabethan Star Chamber broadly upper-class and a 'pawn to the demands of the private' litigant. This supports enduring conceptions in generalist studies that the court was a 'weapon in faction-fighting among the elite'.[96] In Guy's imagining too, the average litigant was wealthy enough to launch collateral legal attacks in the form of 'shoring-up' and cross -suits (designed to stay court process by the same adversaries elsewhere) 'in furtherance of a wider strategy of litigation undertaken in several courts at once'.[97] These studies impress that vexatiousness was the driver of litigation's rise – at least, in the Star Chamber. Guy's work was undertaken primarily on Henry VIII's and James's Star Chamber, either side of Elizabeth's. The court under Henry he describes as 'saturated' with 'dilatoriness and… abuses'.[98] The 'cardinal's court' was bloated 'by the dishonesty of litigants' and 'the chancellor's own naivety'.[99] Discussing medieval British law, John Beckerman has observed that seemingly muted penalties exacted by crime's victims 'appear strange or naive' to historians not sufficiently appreciating the contemporary power of personal honour and reputation.[100] Historians of the sixteenth century have swung far in the other direction – assuming litigants to have been mostly vexatious and mercenary, with tactical misuse of the legal system as default. At its extreme, this has justified caricature-isations of

[95] Brooks, *Pettyfoggers and Vipers*, p. 93.
[96] T. G. Barnes, 'The archives and archival problems of the Elizabethan and early Stuart star chamber', *Journal of the Society of Archivists*, 2/8 (1963), 357; Wall, *Power and Protest*, p. 149.
[97] Guy, *The court of Star Chamber*, p. 26. These lawsuits were launched in order to stay one's opponent's proceedings which were ongoing in some other court. For example STAC 5/C25/30 (1584).
[98] Ibid., p. 65.
[99] Guy, *The cardinal's court*, p. 122.
[100] J. S. Beckerman, 'Adding Insult to Iniuria: Affronts to Honor and the Origins of Trespass', in Green and White, *On the Laws and Customs*, p. 159.

Star Chamber pleadings as Tudor 'columns of the News of the World'.[101] From a view across both eras, the contrast is jarring.

In explaining rising Star Chamber business, Manning meanwhile has pointed to external causes as economic depression and inflation pinched the kingdom hardest during the 1590s. This is a function of his own reconstruction of the court as a site of conflict between social elites and the much-poorer.[102] Ironically, Coke put the lawcourts' popularity down not to economic want but 'the advent of peace and plenty'.[103] There is good reason to think that Coke makes a more convincing argument than Manning. Good harvests occurred in the years 1582-4, and 1591-3, congruent with (especially 1594's) jumps in Star Chamber litigation. One might therefore speculate that relative prosperity, not poverty, stimulated property disputes. Historians writing more recently than Manning have stressed that the spread of writs of ejectment in a competitive land-based market stimulated 'steadily' increasing demands for equity-law remedies 'from all sides'.[104] However, the current project cannot make definitive statements as to the relationship between kingdom-wide prosperity and litigation, as clearly this would require the extensive use of sources external to the court. Like any single-court study focussing on central justice, its direct view cannot be of socio-economic conditions in the localities – although it might see litigants make discursive use of these conditions. Star Chamber pleadings are better at indicating English economic conditions insofar as they relate to credit networks; debt, and the commercial market – of land and sometimes goods. The court as a whole heard plenty of debt litigation, generated by higher rates of lending and investment between households. This observation should also be situated within the debate over Tudor law-waging: whether debt and contract litigation was 'a sign of eroding personal relations' or

[101] R. W. Hoyle, 'Review of *Village Revolts*', *The Agricultural History Review*, 37/1 (1989), 103.
[102] Manning, *Village Revolts,* p. 36.
[103] C. Brooks, *Lawyers, Litigation and English Society Since 1450* (London, 1998), p. 14.
[104] A. Fox, *Oral and Literate Culture in England 1500-1700* (2000), p. 272. Although he, too, omits to mention the Star Chamber alone of all equity courts: p. 273.

simply ‘a measure of the heat generated by a robust economy’.[105] While James Sharpe has regarded the former to be a very notable consequence of the latter, Martin Ingram is mindful that ‘well-established mechanisms of arbitration… helped to limit and resolve conflict’.[106] However, a robust economy might help the better-off navigate their wealth while simultaneously enlarging societal inequalities. There is not enough space here to draw conclusions about whether this is true too of the gender divide. What can be said for Elizabeth I’s Star Chamber is that women did not seem to litigate about the same things at the same rates as did men, as will be discussed further in the next chapter.

Barnes did acknowledge that by the closing decades of Elizabeth’s reign, substantive criminal allegations constituted most of the court’s dealings, although caveating that ‘essentially civil ends, albeit in criminal raiment’ were what litigants could expect.[107] Statute, of course, required Parliament. Sir Thomas Egerton (under James I, Lord Ellesmere), who succeeded as Attorney General in 1592, Master of the Rolls in 1594, and Lord Keeper of the Great Seal in 1596, regarded Parliament ‘the greatest and highest lawmaking entity’. The role of Parliament in Elizabeth’s reign, including the extent of its (and her) prerogative, has been the subject of energetic academic interest given the momentous shakeup of the seventeenth century.[108] Having hashed over whether the ‘state’ was autonomous enough to grow a new head, so to speak, if Elizabeth should die heirless – and, if Parliament or the common law checked the power of the queen (or the inverse) – a consensus that rule came from a ‘common law-regulated and statute-bound mixed monarchy’ rather than a republic has seemed relatively

[105] J. A. Sharpe, ‘Such Disagreement betyx Neighbours’: Litigation and Human Relations in Early Modern England’, in J. Bossy (ed.), *Disputes and settlements: law and human relations in the West* (Cambridge, 1983); Quotes from Stretton, ‘Written Obligations, Litigation’, p. 192.
[106] M. Ingram, ‘Communities and Courts: Law and Disorder in Early-Seventeenth-Century Wiltshire’, in J. S. Cockburn (ed.), *Crime in England 1550-1800* (London, 1977), p. 134.
[107] T. G. Barnes, ‘Star Chamber litigants and their counsel 1596-1641’, in J. H. Baker (ed.), *Legal Records and the Historian: Papers Presented to the Cambridge Legal History Conference, 7-10 July 1975, and in Lincoln's Inn Old Hall on 3 July 1974* (London, 1978), p. 13.
[108] P. Collinson, ‘The Monarchical Republic of Queen Elizabeth I’, in P. Collinson, *Elizabethan Essays* (London, 1994), pp. 31–58, P. Lake, ‘The “Political Thought” of the “Monarchical Republic Of Elizabeth I,” Discovered and Anatomized’, *JBS*, 54/2 (2015) and Cromartie, *The Constitutionalist Revolution*.

safe.[109] That 'the constitutionalist mode of thinking' was 'so dominant' by the 1640s should not eclipse the fact that '[t]here was a great deal of monarchy and very little republicanism in Elizabeth's state'.[110]

The people in the middle of these triangulated sovereign institutions were, with hindsight's benefit, 'citizens … concealed within subjects'.[111] Where, or what, were women? Questions about female experiences of central authority have been asked and answered best by Patricia Crawford.[112] Women could, and several did, actually vote in Parliamentary elections in the late sixteenth and early seventeenth centuries. James I's parliament debated removing property-holding women's ability to vote, then declined to do so. This has been regarded as a '[p]articularly puzzling' deviation from narrative arcs of 'women's progress'.[113] It would be less puzzling if woman's relationship to institutions of governance – rather than only social institutions 'that evolve with such conservative lethargy' – had its own story.[114] In order to begin writing one, then, chapters two and three of this thesis will ask more particularly whether 'subjects' were 'concealed' within wives; in other words, what tensions existed between women's subordination to their husbands on the one hand, and their Queen on the other. While singlewomen were also part of institutions of governance – household and otherwise – they were not legally subordinated to another subject-citizen to the extent that wives were. There is a practical as well as theoretical consideration informing chapter two and three's focus on

[109] A. D. Orr, *Treason and the State: Law, Politics and Ideology in the English Civil War* (Cambridge, 2002), p. 47; Cromartie, *The Constitutionalist Revolution*, p. 191; P. Lake, 'The "Political Thought"', 286.
[110] P. Cavill and A. Gajda, 'Introduction', in P. Cavill and A. Gajda (eds), *Writing the History of Parliament in Tudor and Early Stuart England*, (Manchester, 2018), p. 27; N. Jones, *Governing by Virtue: Lord Burghley and the Management of Elizabethan England* (Oxford, 2015), p. 1.
[111] For discussion of sovereignty and law see ed. S. Thorne, *Discourse upon the Exposicion*, introduction, pp. 11-12; J. Walter, *Covenanting Citizens: The Protestation Oath and Popular Political Culture in the English Revolution* (Oxford, 2016), p. 2, referring to Collinson in 'De Republica Anglorum: Or, History with the Politics Put Back', in his *Elizabethan Essays* (London, 1994), p. 24.
[112] P. Crawford, ''The poorest she': women and citizenship in early modern England', in M. Mendle (ed.), *The Putney debates of 1647: the army, the Levellers, and the English state* (Cambridge, 2001), her 'Public Duty, Conscience', and her 'The Challenges to Patriarchalism'. Also, S. Mendelson and P. Crawford, *Women in Early Modern England 1550–1720* (Oxford, 1998).
[113] A. Wilson, *Ritual and Conflict: the Social Relations of Childbirth in Early Modern England* (Farnham, 2013), p. 131.
[114] C. Beattie, and M. Stevens, 'Introduction', in Beattie and Stevens, *Married Women and the Law*, p. 4.

wives, which is that fewer than one percent of all sampled litigants are identified as singlewomen. As discussed later on in this chapter, this is substantially true too of other courts albeit to a lesser extent than in the Star Chamber.[115] The somewhat higher value of causes coming before this court is a likely explanation for the relative paucity in the Star Chamber of singlewomen, who tended to be poorer.[116]

Historians have already researched women's political participation in the localities. Peter Clark, Patricia Crawford and Sara Mendelson, John Walter, and Keith Wrightson have all done recovery work on women's involvement in 'subsistence' and enclosure riots during the Tudor and Stuart periods. These studies have tended to use riots earmarked in judges' own notes and court decrees to gauge the verity of early modern belief of wives' immunity to prosecution.[117] While most have taken the view that riots 'legitimated rather than challenged the structures of authority' as their starting point, their frames of reference for what constituted a challenge has varied.[118] Clark contrasts 'primitive levellerism by isolated individuals' during riots against the revolutions of the civil war.[119] Walter, and Crawford and Mendelson afford the rioters more self-consciousness – in order to suggest that women's participation was an overt 'attempt to license… political agency' by playing into legal ambiguities, a risk which merited 'serious calculation'.[120] In this view, the mechanism of revolt constituted a challenge to authority standing apart from any conservatism of its ends.

'[T]he queen-in-parliament's legislative authority' over affairs which, pre-Reformation, had been the church's domain has also piqued historians.[121] By the mid-century, common-law

[115] Stretton, *Women waging law*, p. 129.
[116] A. Shepard, 'Poverty, Labour and the Language of Social Description in Early Modern England', *P&P*, 201/1 (2008), 70.
[117] E. P. Thompson, 'The Moral Economy of the English Crowd in the Eighteenth Century', *P&P*, 50/1 (1971).
[118] Crawford and Mendelson, *Women in Early Modern England*, pp. 384-5.
[119] P. Clark, 'Popular Protest and Disturbance in Kent, 1558-1640', *The Economic History Review*, 29/3 (1976), 380.
[120] Crawford and Mendelson, *Women in Early Modern England*, p. 385; J. Walter, 'Faces in the crowd: Gender and age in the early modern English crowd', in Berry and Foyster, *The Family*, p. 97.
[121] A. Gajda, 'The Elizabethan Church and parliament', in Cavill and Gajda, *Writing the History*, p. 87.

jurists were busy appropriating canon lawyers' business with the help of statute and writs of prohibition, bringing under their wing causes ranging from usury to witchcraft.[122] The latter was not an express part of Star Chamber jurisdiction, but more disputes over church property, orderliness in church, and failure to take communion were heard.[123] Of greater interest here is the theory behind these jurisdictional changes. Peter Lake has argued that debates over Elizabethan sovereignty summarised above do not take sufficient account of

> [t]he impact of the Protestant doctrine of callings on classical notions of active citizenship; the infusion of the central notion of the commonweal, of the public interest to be defended, with explicitly Protestant values; with the need to defend true religion against sin and irreligion; the consequent duty to pursue, both locally and nationally, the cause of further reformation[.][124]

Post-Reformation, 'the morality of the prince's duty to preserve and protect his subjects' in (and from) a heretical Europe had a Davidic scope.[125] 'For the King', said Egerton, 'is the Substitute of god ymediatelie.'[126] Meanwhile the uncertain subjugation of canonical authority to Parliament or the Queen was the cause of much 'Puritan agitation'.[127] Egerton, Knafla observes, identified with MPs fighting 'for a new Protestant society through the reform of church, government, and social values.' Societal reform was necessary because the doctrine of Providence, preached and discussed by theologians 'in exhaustive detail and with wearisome frequency', forewarned that sinners would be 'extirpated by a plague' visited upon the whole

[122] Cavill, 'Perjury in Early Tudor England', 208; A. Gajda and G. Southcombe, 'The English Witchcraft Statute of 1563 Revisited' (unpublished paper, delivered 13 October 2022, Early Modern Britain Seminar, Oxford University).
[123] See ed. T. G. Barnes, *List and Index to the Proceedings in Star Chamber*, p. 34.
[124] P. Lake, 'The Monarchical Republic of Queen Elizabeth I' (and the Fall of Archbishop Grindal) Revisited', in J. F. McDiarmid and P. Collinson (eds), *The Monarchical Republic of Early Modern England: Essays in Response to Patrick Collinson* (Aldershot, 2007), pp. 135-6. Also noted by J. Scott, 'What were commonwealth principles?', *HJ*, 47/3 (2004), 595.
[125] E. Vallance, *Revolutionary England and the National Covenant: State Oaths, Protestantism, and the Political Nation, 1553-1682* (Woodbridge, 2005), p. 14. See too D. Smith, *Sir Edward Coke and the Reformation of the Laws: Religion, Politics and Jurisprudence, 1578–1616* (Cambridge, 2014), p. 9.
[126] T. Egerton, 'A Coppie of a Wrytten Discourse by the Lord Chauncellor Elsemore Concerning the Royall Prerogatiue' (1604), in L. Knafla, *Law and politics in Jacobean England: The tracts of Lord Chancellor Ellesmere* (Cambridge, 1977), pp. 197-8.
[127] A. Gajda, 'The Parliament of England and the Reformation: 1547-1571', (unpublished paper, delivered 27 April 2023, Religion in the British Isles 1400-1700 Seminar, Oxford University).

kingdom.[128] After a Catholic upbringing Egerton had had 'a full and genuine conversion to the Protestant faith', filling 'the flyleaves of legal texts' in his personal library with notes from biblical authorities.[129] Exactly how these men's Protestant 'state'-building impulses related to the disposition of justice deserves serious consideration elsewhere. But it is certain that equity courts were appropriating religious causes. Although David Ibbetson places bets on Chancery as the 'serious candidate' for doing so, because 'Thomas Egerton and Francis Bacon were themselves capable civilians', it should be remembered that they were Star Chamber men too.[130]

Protestant theology itself was the centrepiece of some pioneering work in early modern women's history. This work questioned how far the Reformation improved wives' experiences and practical status in early modern England – before resolving against the motion.[131] The hypothesis is informed by contemporary Protestant ideas that 'before God all men — and women — were equal.' There was an unresolved dissonance between these prescriptions and daily life for women. Marriage conduct literature tried 'to define an unequal partnership between spiritual equals'.[132] Fresh scholarship about the civil war period has emphasised 'sectarian women's insistence upon… their enactment of spiritual equality for all'. For Quaker women in the mid-seventeenth century, apparently the notion that all souls were equal was vigorous enough to hold up their unorthodox philosophy for female political participation.[133] Locke's sovereign individualism, when it arrived, also had a divine basis.[134] A world which

[128] A. Walsham, *Providence in Early Modern England* (Oxford, 2001), p. 9, 295.
[129] L. A. Knafla, 'The "country" chancellor: the patronage of Sir Thomas Egerton, baron Ellesmere', in F. R. Fogle and L. A. Knafla (eds), *Patronage in Late Renaissance England: papers read at a Clark Library seminar 14 May 1977*, (Los Angeles, 1983), p. 73; 39.
[130] Ibbetson, *Common law and "ius commune"*, p. 19.
[131] For example M. Walzer, *The Revolution of the Saints* (New York, 1972), p. 188 and Stone, *The Family, Sex and Marriage*, as against M. Todd, *Christian Humanism and the Puritan Social Order* (Cambridge, 1988), ch. 4, and R. Radford Ruether, 'The Liberation of Christology from Patriarchy', in A. Loades (ed.), *Feminist Theology: A Reader* (London, 1990).
[132] Amussen, *An Ordered Society*, p. 46.
[133] Crawford, 'Public Duty, Conscience', pp. 72-4.
[134] Gillespie, *Domesticity and Dissent*, p. 30.

understood the self's worthiness in relation to God requires a multidisciplinary approach to a history of subject-hood.

Adrian Wilson has pointed out that there is a difference between *couverture* (sovereignty of *baron* over *feme*) and obedience (owed by women to husbands), in spite of contemporary truisms conflating the two. The first was a common law doctrine, and the second 'only' a religious doctrine.[135] Common law was under the protection of the queen-in-Parliament. Moreover, this same body had enacted the Protestant queen's Supremacy over the church. The Reformation did not change women's earthly subjection to husbands in common law. As for theological imperatives to wives' obedience, Protestant wives were still daughters of Eve. However, both facets of subjection now flowed from the queen's authority as head of the church. The Reformation thus had legislative consequences for gender. In a 2013 piece about Jacobean women's marriage to aliens, Barbara Todd is one of few scholars to sit with the 'acknowledgment that all women, including wives, bore personal allegiance to their sovereign under common law'.[136] She cites as evidence for this notion Coke's *Institutes*, in which he 'emphatically articulated the principle' that the allegiance of 'subjects of what quality, profession, or sex soever' is 'written by the finger of the law in every one of their hearts.'[137] This echoes the language of Elizabethan statutes which referred perpetrators of substantive crimes against property specifically to 'the starr chamber' at Westminster: that is, 'any person or persons whatsoeuer'.[138] Obedience to the Queen now had 'formal juridicial backing'.[139]

[135] Notions of 'Church and State as working in harmony to sustain a closed and stable marital order… [were] illusory.' A. Wilson, *Ritual and Conflict: the Social Relations of Childbirth in Early Modern England* (Farnham, 2013), p. 92.
[136] B. Todd, 'Written in Her Heart: Married Women's Separate Allegiance in English Law', in Kesselring and Stretton, *Married Women and the Law*, p. 164.
[137] Coke, *The Second part of the Institutes of the Laws of England: Containing the exposition of many ancient and other statutes* (London, 1609; repr. London, 1809), p. 121.
[138] STAC 5/S79/33, B; STAC 5/D27/22, which repeats words in Acts 5 Eliz I c. 5, c. 9 and 13 Eliz I c. 5 against 'p[er]son or p[er]sons of what Estate Degree or Condicon soeuer'.
[139] Wilson, *Ritual and Conflict*, p. 98.

One way to test whether there was, in fact, fallout – whether legal theory led to an inclusion of women into the 'privileges' of subjecthood – is by tallying presentments and prosecutions for these substantive common law crimes. Punished offences and their prevalence tell on a society's professed values; expressed most basically, a society which provides for members to be indicted for violent assault values bodily autonomy. A society which indicts many more men than women for violent assault thinks that men are responsible for more (or worse) violence. Whether this is because it thinks men are more able to be violent, or women less frequently compelled to be violent, or any other reason, might be explained in legal records themselves. After all, courtroom testimonies knit together common cultural reference points in order to convey meanings as precisely as possible. The more relatable – mundane, even – litigant stories are, the greater leverage they offer their tellers. On the other hand, cultural assumptions surrounding (mis)behaviour might seem self-evident enough to litigators to not require rearticulation in indictments. The logic of these disputes might therefore seem invisible, peculiar to the legal system or the individual litigant. In order for history to reclaim them as socio-cultural artefacts, it is necessary to find resonances in contemporary culture of litigants' own narratives; characterisations of adversaries as well as of misbehaviour itself. The thesis follows Walker's lead in asking

> questions about… how certain discourses hindered and facilitated complaints and justifications of [criminal] acts, how these discourses operated differently for women and for men, with practical repercussions, and how they changed over time.[140]

To bring this back to early modern England: Wilson found that 'the authority by which men sought to justify' male hegemony was flimsy.[141] Reviewing his analysis, Bernard Capp wonders how far this mattered, given that 'social and cultural pressure provided powerful reinforcement' for male authority anyway.[142] Religious requisite for appropriate behaviour was

[140] Walker, *Crime, Gender and Social Order*, p. 22. She focusses on 'violent' rather than just 'criminal' actions.
[141] Wilson, *Ritual and Conflict*, p. 98.
[142] B. Capp, 'Review of *Ritual and Conflict*', *Journal of Family History*, 40/1 (2015), 126.

there even if Elizabethan substantive law was gender-blind, and even without 'formal juridicial backing' it exerted softer power.[143] One question asked by this thesis will be how religious culture informed the manner in which law, in itself gender-blind, was applied to women. Naturally, early modern gendered tropes surrounding power, disempowerment, ability, and capacity figure in plenty of lawsuits. Historians have shown litigant narratives by women (and men) participating in a gendered moral economy.[144] There have also been some successful landmarks projects demonstrating symbiosis between religion and judicial cultures in early modern England. Craig Muldrew marries credit relations and covenant theology in his project, and Paul Cavill has more recently shown 'where social practice, religious doctrine and legal structure intersected' in early Tudor oath- making and breaking.[145] Few efforts have been made to interweave these with gender (for England).[146] A handful of studies have charted how genders of the accused and convicted to a particular crime shifted over the course of the period, offering possible explanations.[147] This is an aim of the present project. Kesselring shows that women were 'disproportionately represented' as 'cold-blooded killers' in early modern courts, therefore benefitting much less from mitigations from murder to manslaughter.[148] This, Lockwood noted a few years before, 'made sense' in an intellectual universe informed by humoural theory, and which heard Bacon observe that 'law hath made a more subtle distinction between… manslaughter in heat and murder upon prepensed malice or cold blood'.[149] Rather than making this (elegant) connection, and given post-Reformation influences on state

[143] Wilson, *Ritual and Conflict*, p. 136. Not that it felt soft: M. Ingram, *Carnal knowledge: Regulating sex in England, 1470-1600* (Cambridge, 2017), ch. 10.
[144] For example, Gowing, *Domestic Dangers* and Stretton, *Women waging law*.
[145] Muldrew, 'The culture of reconciliation', 921; Cavill, 'Perjury in Early Tudor England', p. 185.
[146] But see L. Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford, 1989).
[147] For example K. Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England, c.1500-1680', *Gender & History*, 27/2 (2015), and 'No Greater Provocation? Adultery and the Mitigation of Murder in English Law', *Law and History Review*, 34/1 (2016); J. P. Eigen, 'Criminal Lunacy in Early Modern England: Did Gender Make a Difference?', *International Journal of Law and Psychiatry*, 21(1998).
[148] Kesselring, 'Bodies of Evidence', 253.
[149] Lockwood, 'From Treason to Homicide', 31.

apparatus described above, Star Chamber prosecutions merit analysis based in theology and religious culture.

In undertaking to do so, the present thesis finds other ways to use legal sources than 'for more than merely analysing legal issues', instead 'exploring the assumptions and motivations of those involved'. 'Those involved', however, are not limited to plaintiffs – clearly, what was done, said and felt in individual cases is not definitively recoverable – but denote all people whose society and culture had an indirect hand in formulating pleadings. It joins Malcolm Gaskill's search for 'a history of social meanings' by parsing pleading narratives. Unlike him it accepts gender as integral to the construction of crimes and sins from which these meanings first derive.[150] In order to better 'enculturate' litigant experiences, some have sought 'a deeply contextualised case study' of individuals reacting to highly personal circumstances in central and peripheral court documents.[151] This study is cognisant that 'the assumptions and motivations' of early modern litigants were drawn from wide cultural and intellectual contexts, so seeks early modern attitudes to personal conduct using 'a bird's-eye' lens rather than through microhistory.[152] This methodology is also obviously congruent with the thesis's premise that the prevalence of disputes or offences is evidence for their relative cultural significance. The court not yet being 'the focus of a large-scale effort at reconstruction and analysis', this project systematically samples preserved Star Chamber suits for litigation undertaken between 1558 and 1603.[153] The resultant sample contains 1,370 files constituting 1,040 suits.

Before describing this sample, it is helpful to sketch out its analytic limits. As described earlier, this thesis is concerned throughout with the Star Chamber's shift from prosecuting

[150] M. Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), p. 4 *et passim*.
[151] J. Peacey, *The Madman and the Churchrobber: Law and Conflict in Early Modern England* (Oxford, 2022), p. 3, 17; L. Poos, *Love, Hate, and the Law in Tudor England: The Three Wives of Ralph Rishton* (Oxford, 2022).
[152] Healey, 'The Political Culture', 271.
[153] K. Kesselring, 'Introduction: Star Chamber matters', in Kesselring and Mears, *Star Chamber Matters*, p. 5.

violent trespasses to statutory transgressions. The latter were 'not necessarily violent.'[154] In fact, this thesis shows, many of the new crimes against justice were *not* violent. There is a substantial historiography concerning the 'decline of violence' over the long durée, which fascinates itself with the question of whether recent periods see more or less interpersonal violence than the premodern.[155] A gendered perspective is offered by Robert Shoemaker, who shows how changing social construction of masculinities impacted upon violent crime in the eighteenth century.[156] Spierenburg's underestimation of women's violence mentioned at this chapter's top, meanwhile, is likely owed to his methodological heritage.[157] His work grows directly out of Norbert Elias's famous thesis that duelling declined in proportion to the rising culture of manners, thus Spierenburg replicates Elias's focus upon the performance of masculinity.[158] Rather than calibrating itself using traditional masculinity, this project seeks to find what femininity was likely to find *itself* guilty of, taking notice too of attendant changes in prosecution rates for multiple offences. But it can only participate in the debate around 'real' incidences of violence insofar as it is credulous of litigant narratives.

Early modern litigants have, since historians have desired to pay attention to 'the authentic voice of the people', usually been regarded as pretty law-literate.[159] The degree to which they possessed a knowledge of their rights rather than, for instance, jurisdictional peculiarities, or the technicalities of legal procedure, has been a less decided issue.[160] The

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[154] C. Herrup, *The Common Peace,* p. 3. See too S. Lidman, 'Violence or justice? Gender-specific structures and strategies in early modern Europe', *The history of the family,* 18 (2013).
[155] L. Stone, 'Interpersonal Violence in English Society, 1300-1980', *P&P,* 101 (1983); A. Finch, 'The Nature of Violence in the Middle Ages: An Alternative Perspective', *Historical Research,* 70 (1997).
[156] R. Shoemaker, 'Male Honour and the Decline of Public Violence in Eighteenth-Century London', *Social History*, 26 (2001). See too J. Hardwick, 'Early Modern Perspectives on the Long History of Domestic Violence: The Case of Seventeenth-Century France', *The Journal of Modern History*, 78 (2006).
[157] P. Spierenburg, 'How violent were women?'.
[158] N. Elias, *The civilizing process: sociogenetic and psychogenetic investigations* (2 vols, Oxford, 1982), ii.
[159] Quote from Wood, *The Memory of the People*.
[160] See N. Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Cambridge, 1987); J. Walter, ''Law-mindedness': Crowds, Courts and Popular Knowledge of the Law in Early Modern England', in J. Begiato, A. Green and M. Lobban (eds), *Law, lawyers and litigants in early modern England: essays in memory of Christopher W. Brooks* (Cambridge, 2019); Barnes did 'believe that the litigants, not the lawyers, were the real determinant of the substantive law and, to a lesser extent, the procedural law': 'Star Chamber litigants', p. 8.

natural assumption is that if litigants lacked legal knowledge, they would rely on their counsel to do the talking for them. Some cursory species of English legal sources render this point moot. There is agreement that direct quotations in narrative pleadings or, most enthrallingly, deposition-books, feel like a thin part of the veil which separates 'then' from 'now'. Although there has been an understandable reluctance to accept that even these words are unmediated, evidence found during this project suggests that the most extreme caution is unwarranted. Clerks taking Star Chamber examinations regularly crossed deponents' words out and added new ones in, even occasionally when the deponents' meaning seems completely unchanged. This is suggestive of a desire to protect the integrity of oral statements. Henry Barkeley 'de Bruton, Som[erset], knight' was fined 200 marks by the Star Chamber in 1589 for loitering 'in the chambr with the said Comissioners, while' they examined an adversary in Devon, 'wherby Interrogatories might not be administered effectually'.[161] Nevertheless, this project somewhat side-steps the issue of 'authenticity' because it seeks cultural, more than personal, 'truths' – the gendered meanings society made of violence. The prevalence of presentments and even indictments does not reliably show how frequently violence was wielded between individuals, so much as something about the relative cultural significance of violence. It is also mindful that it is a single-court study informed by elite Parliamentary politics; and so, while it regards litigation as a negotiation between rulers and ruled, in analysing court pleadings it ultimately provides a clearer 'top-down' view than one 'bottom-up'.

Each chapter will provide a view into women's interactions as litigants with the Star Chamber throughout Elizabeth's reign. The chapter following this one maps out the sort of litigation which was coming to the Star Chamber and shows that much of it concerned substantive crime. It then demonstrates how this brought wives, specifically, into the court. The third chapter continues to explore the interaction between married women and the state but

[161] E159/3981; STAC 5/R27/17, I.

speaks to the historiography of common law *couverture*, instead of new substantive transgressions. The fourth chapter analyses women litigants' disputes during their lives either side of marriage, pivoting upon changes in substantive property law which offered more autonomy in disposing of property. While some of these changes seem equitable between genders, the way in which they were narrativized in the Star Chamber 're'-gendered the experience of them. The chapter also brings attention to early modern conceptions of 'fraud'. This theme, discussion of which is new despite the post-Reformation's notability 'for its cultural fascination with ideas of hypocrisy' and dissimulation, is treated fully by chapter five.[162] The 'festering problem for several generations of English Protestant divines and moralists' – of women's simultaneous spiritual equality and earthly subjection – lay under the surface of women's interactions with inheritance, property law, and criminal justice explored by this thesis.[163] Such issues are exemplified neatly by abduction (kid- and bride- napping) suits, which are explored in chapter six. The chapter thus ties together many of the themes already raised and anchors them with the Protestant culture identified too in chapter five.

ii. Sampling the archive

Star Chamber proceedings under Elizabeth I comprise the whole of 39,993-strong record class STAC 5 at The National Archives in Kew, London, 'by far the largest STAC series' out of

[162] L. Dixon, 'William Perkins, "Atheisme," and the Crises of England's Long Reformation', *JBS*, 50/4 (2011), 791.
[163] T. S. Freeman, 'The Good Ministrye of Godlye and Vertuouse Women': The Elizabethan Martyrologists and the Female Supporters of the Marian Martyrs', *JBS*, 39/1 (2000), 32. For a classic discussion of spiritual equality see K. Thomas, 'Women and the Civil War Sects', *P&P*, 13 (1958).

nine.[164] This study has been facilitated by an Edexcel database of Elizabethan Star Chamber records compiled by archivists Amanda Bevan and Helen Good.[165] This makes use of the four-volume catalogue created in the 1740s, which capitalised on the Elizabethan procedure of dating bills on their dorse. It indexes each document or collection of documents (in other words, one record, called here a 'file') under a 'short title' (plaintiff v defendant) and unique identification number, as well as the regnal year in which the relevant bill of complaint was filed by clerks. 39,993 files are recorded in the database. During research for this thesis, some presumed misreading of the files' dates by eighteenth-century indexers have become apparent.[166] Meanwhile, 502 STAC 5 files are undated. In some of these, this study uses internal evidence to suggest the year in which a complaint was lodged with Star Chamber clerks.[167] A substantial portion of files belong to the same lawsuits, but these different portions are not attached together; rather, files are organised alphabetically by complainant's surname. The class is divided into 982 bundles homed in 1,205 boxes.[168]

The archival database allows files to be searchable by full name of either plaintiffs or defendants, Julian calendar year, and sometimes a short code which acts as a descriptor for some sorts of plaintiffs. The database codes utilised most by this study are sole female plaintiff ('SFP'), and in a handful of cases, joint female plaintiffs ('JFP'). The calendar years start in the second part of the regnal year, which runs from 17th November-16th November; most of the first regnal year falls in 1559. The 'short title' function goes a small way in allowing the researcher to circumvent the lack of unique identification numbers for suits (rather than files). Accordingly, the database finds and attaches 20,157 lawsuits from the 39,993 casefiles.

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[164] D. Gosling, 'The records of the court of Star Chamber at The National Archives and elsewhere', in Kesselring and Mears, *Star Chamber Matters*, p. 26.
[165] A. Bevan and H. Good, 'Hidden Archives STAC 5 and 7' Excel file produced at The National Archives. This incorporates work done by Helen Good that is now available via 'The Elizabethan Star Chamber project' website <https://waalt.uh.edu/index.php/Elizabethan_ Star_Chamber_Project> (Accessed 29 July 2022).
[166] STAC 5/H48/24.
[167] STAC 5/W2/30 is misdated at 1597 rather than 1587 like the other files in the suit. Ditto STAC 5/S6/36, misdated 1591 rather than 1561.
[168] My thanks to Amanda Bevan at The National Archives for this count.

The files themselves constitute documents which are mainly pleadings and proofs, sometimes certificates by commissions of *dedimus potestatem,* and, 'the most fortuitous survival', a few orders and decrees by presiding councillors.[169] Presiding were usually between sixteen and twenty personnel, 'the Lord Chancellor and the Lords and other of the Privy Council, so many as will, and other Lords and Barons… and the judges of England, specially the two chief judges'.[170] Cases were brought by litigants, known as complainants or 'plts' (the usual abbreviation of plaintiff), on 'bills of complaint' – parchments engrossed and addressed to the Queen and her council alleging wrongdoing by a named adversary. A writ of subpoena was issued to summon the defendant, who would appear with their written 'bill of answer', or alternatively a demurrer, which would be accepted or overruled by a presiding common-law judge. If going ahead, these pleadings might have been joined by bills of replication and then rejoinder, which similarly sought to bring litigants to the point at issue. Over the next few weeks and months, the plaintiff's counsel would craft a set of questions ('interrogatories') corresponding to the bill's grievances. The defendant would then be interrogated under oath by an impartial examiner, to produce notoriously crabbed 'depositions' written into paper 'books' and signed by the examinants. If not in London, examinations of both parties might be done in the country by a local lord – a commissioner. By the 1590s two official examiners had been charged with generating these and the next two sets of interrogatories, which were put by either side to their witnesses. In the final moment before the open-court hearing, the depositions were 'published', meaning both parties could finally read all relevant depositions and gain insight into their adversary's case.[171]

[169] J. A. Guy, 'Wolsey's star chamber: A study in archival reconstruction', *Journal of the Society of Archivists,* 5/3 (1975), 171.
[170] T. Smith, *The commonwealth of England,* ed. 1589, ii, chps 2-4, in G. W. Prothero (ed.), *Select Statutes and Other Constitutional Documents Illustrative of the Reigns of Elizabeth and James I* (Oxford, 1894), p. 180.
[171] Guy, *The court of Star Chamber*, p. 13.

The books of decrees which detailed the verdicts are lost. Court notes, personal and parliamentary records, and law books have however preserved more fragments of Star Chamber process.[172] Most prominent amongst these are Harleian MS 2143 and Ellesmere MS 2652, the latter collating abstracts of more than six hundred order and decree books drawn up between 1552 and 1596.[173] The Ellesmere MS is housed at the Huntington Library along with other collections of Egerton.[174] These and scattered surviving fine roll entries tell us that

> [t]he punnishments most usuall in this Court bee fyne, Imprisonment, losse of eares, nayling to ye pillory, slitting of ye nose, branding of ye forehead, whipping, wearing of papers in publique places to declare ye ofence[.][175]

This thesis has also made use of rolls recording memoranda made in the Exchequer. Copies of some Star Chamber fines and decrees were entered into these, although coverage is spotty.

Although arbitration was encouraged in order to stymie litigation, complete suits survive.[176] Scholars have extrapolated backwards from the incompleteness of Jacobean Star Chamber material, and the loss of the Elizabethan order and decree books, to infer that STAC 5 is also deficient. Guy's 1985 assertion that STAC record classes 1 to 4 hold less than 'half of the original archive' reverberated as his parallel silence about STAC 5's survival would not.[177] Research for this project did not find support for the 'missing archive' theory; for instance, no documents referred to already-taken pleadings which cannot be located in the archive. It is true

[172] Gosling, 'The records of the court', pp. 21-22, 31-39; For Star Chamber in legal treatises, see I. Williams, 'Learning the 'New Law of the Star Chamber': Legal Education and Legal Literature in Early-Stuart England', *The Journal of Legal History*, 43/3 (2022).
[173] Published as K. Kesselring, *Star chamber reports: BL Harley MS 2143* (Kew, 2018); Guy, 'Wolsey's star chamber', 177.
[174] Ibid., 177.
[175] BL Harl. MS 6448, 'A new Discovery of the singuler Jurisdiccon of the high Courte of starre Chamber, and of all matters apperteyning therunto, the Eminent Judges of ye Court and the Officers thereof', as transcribed in Skelton, 'The Court of Star Chamber', appx 1, lviii.
[176] Guy, *The cardinal's* court, p. 104; For a rare example of direct evidence of arbitration's failure see STAC 5/W14/30.
[177] Quoting Guy, *The court of Star Chamber*, p. 23. Guy, 'Wolsey's star chamber', 174. Guy's *The court of Star Chamber*, pp. 22-4 include no discussion of STAC 5's survival.

that each file does not contain one complete lawsuit, but patterns are discernible which further repudiate random archival survival.

For instance, the numbers drawn from the whole of STAC 5 show that a suit became successively less likely to be continued beyond each document filed. 18,518 files in STAC 5 contain one (or more) bills, and 14,757 files contain one (or more) answers. 5,706 replications and 2,138 rejoinders are extant. This gives the illusion that suits rarely progressed to the final stage, examinations. However, the actual proportion of suits which got this far is obscured by the fact that files need not contain one type of document. In many cases, depositions from various examinants were scattered through several files. 22,561 out of 39,993 files contain either, or both, of interrogatories and depositions.[178] Therefore that 4,742 files contain only a bill is not a reliable indicator that 4,742 suits stop there, because other files may contain later stages of the same suit. This is, though, true of some of them. If a plea was not 'to the jurisdiction of the' Star Chamber, or the case irrelevant or answers insufficient, it would not be heard in open court. Adversaries might agree to settle at any stage, and were heartily encouraged to do so.[179] Writing under James about the court's history, William Hudson does not quantify the suits truncated for these reasons; but Barnes thinks double the number did so under James than Elizabeth.[180] Using 'short titles' to match the pieces would be a time-consuming way to discern how large a proportion of Star Chamber suits contain the gamut of possible document-types – and how many suits never reached hearing.

However, the thesis's sample is used to form projections about incomplete suits throughout the record class. Predictions based on the numbers of 'full' versus 'incomplete' sampled suits do suggest that officials vetted more scrupulously for vexatious and improper

[178] Counted using A. Bevan and A. Good, 'Hidden Archives STAC 5 and 7' Excel file <https://waalt.uh.edu/index.php/Elizabethan_ Star_Chamber_Project> (Accessed 29 July 2022).
[179] Guy, *The cardinal's court,* p. 102
[180] W. Hudson, *A Treatise on the Court of Star Chamber*, 2nd edn, ed. T G. Barnes (New York, 1986), p. 20; see also the introduction by T. G. Barnes, 'Mr Hudson's Star Chamber', p. x.

suits when the Star Chamber was overwrought. The busiest years of 1595 and 1596 saw a drop from 82.0 percent to 75.7 percent of suits reaching examinations (and so heard in open court) rather than being forced into settlement or referred elsewhere. It was in 1596 that Egerton assumed office, and immediately introduced measures to reduce vexatious litigation.[181] That these reforms aimed to root out suits anyway not usually proceeding beyond a bill (and maybe an answer) accounts for the relative rise in 'complete' suits thereafter. This may also be accounted for by ordinances published in December 1597 which allowed complainants to easily renew their pleadings when waiting on a reluctant defendant. The consistency, though, with which the court humoured examination-taking was permanently disturbed by Egerton's instatement as Lord Keeper.

To return to counting archived suits, another complication to note is that some proceedings, called *ore tenus*, occurred without any written bill – despite contemporaries' objections that cases should proceed at least upon an information.[182] There is evidence that written examinations were produced for *ore tenus* cases; but they may not have necessarily been required in place of merely oral examinations.[183] Anyway it is not obvious how many of the 2,647 examination files with no corresponding bill in STAC 5 represent these proceedings. But it may be telling, given that the Attorney General was one frequently proceeding *ore tenus*, that while 7.8 percent of unpaired files are brought by the crown (Attorney General or the Queen's Almoner) the equivalent proportion for all the rest of the files is only 3.4 percent.[184] The presupposition that 'bill-less' suits are *ore tenus* proceedings (as well that they represent suits with other parts misplaced outside of the archive) is undermined by the fact that many such files can simply be reassigned to existing bills. One bill, answer, and certificate are filed

[181] Knafla, *Kent at Law,* p. xvii.
[182] Lambarde, *Archeion,* pp. 93-6, cited by Kesselring, 'Introduction: Star Chamber matters', p. 7.
[183] For example J. Hawarde, *Les Reportes Del Cases in Camera Stellata, 1593 to* 1609, ed. W. Baildon (London, 1894), pp. 131-2 and 205-10.
[184] Kesselring, 'Introduction: Star Chamber matters', p. 14; Interestingly but impressionistically only, many fewer of these files appear to involve a woman litigant.

as *Anthony v Lewis.*[185] The same case continues with a replication filed elsewhere under *Harrison v Lewis*, and so, the piece can be reassigned to its appropriate bill.[186] Other times a defendant has been incorrectly catalogued as a plaintiff, and an examinant as a defendant, so shifting the file's 'short title' away from that of its parent case. When this time-consuming exercise can be undertaken by researchers, Star Chamber suits will be further consolidated and their overall number reduced. What has been easier to do for this project is to pair up files *within* this bill-less class which appear to come from the same suit. This reduces their number from 2,647 to 2,257.

Twenty-six percent of suits in this thesis's 1,040-strong sample did *not* eventually progress to depositions. An in-built margin for error is suggested by Knafla's finding that from 1600, depositions might be taken *before* an answer was drawn up.[187] This was the case in *Gibson v Kent,* for which proofs were supplied in 1600 and pleadings in 1601.[188] As early as 1572, however, Hugh Ellyot's replication pleaded that he needn't 'confesse yt he had not the goodwill of' complainant Luke Spratling to marry Luke's ward, because he had already done so in his 'deposicons… takken in this honourable Courte'.[189] Hence, the appearance of depositions may not necessarily indicate a 'completed' suit. Nonetheless, the sample does imply that a majority of STAC 5 litigants originating those 18,518 bills, or 2,257 *ore tenus* proceedings, saw their suit progress to examinations or beyond. Applying the sample's numbers to the whole class can only provide a rough estimate due to this thesis's sampling methods (below). But if about 74 percent of suits in the whole class included examinations, presiding councillors and judges were faced with sitting down to 15,373 cases across the reign, or a mean of 341.6 suits per regnal year in the starred room at Westminster. With thirty-four

[185] STAC 5/A53/29.
[186] STAC 5/H26/37.
[187] Knafla, *Kent at Law,* p. xviii.
[188] STAC 5/G4/21; see also STAC 5/C20/5 in which depositions were taken one year before pleadings.
[189] STAC 5/S72/14, Rn.

term-time days set aside for Star Chamber hearings, this is ten on each day – many more than the three per day which would have been required by their caseload in 1563, or the five apparent in Sir Julius Caesar's notes when he presided as councillor in 1608/9.[190]

Baker has observed that even though 'it was common to sit beyond sunset', assize trials could not have 'lasted more than half an hour on average'.[191] The Star Chamber seems to have operated a similarly claustrophobic timetable, although it is hard to discern using annual litigation rates. As already mentioned, the court did take measures to reduce its litigation from an untenable peak in 1595 – which (if calculated using the factors above) would have tendered eighteen hearings a day, which was surely impossible. A pamphlet published after the court's abolition provided a much more conservative report: that the Star Chamber 'could not sit for hearing of Causes under the Number of eight at the least.'[192] As already mentioned, though, there were means for the court to cull this projected caseload (even after witnesses had been interrogated). Therefore, not all of the cases containing depositions would actually be heard by councillors. A 'published' suit would remain unheard if: the plaintiff did not enter into 'the general book of hearing'; they did not satisfy all necessary fees; the lord keeper found the cause not 'fitting for the dignity of that court'; or should both parties 'intreat that they may end the cause'. The collective judgement by a hearing of many wise men together was goodlier and godlier than that of 'some one man' – a full hearing was a superior form of justice.[193] But when eighteen suits were listed in the docket, suits promising 'relief of the suitor who is in greatest want of justice' simply had to be prioritised over others whose cases were left unheard.[194]

Of these suits which were not, in the end, heard, 44.7 percent in the sample stopped as soon as they began. In other words, only a bill of complaint survives. Probably, many of these

[190] Kesselring, 'Introduction: Star Chamber matters', p. 10; A number which checks out with Guy's in *The court of Star Chamber*, p. 9; Kesselring, 'Introduction: Star Chamber matters', p. 11.
[191] Baker, *English Law Under Two Elizabeths*, p. 7.
[192] *An inquiry into the history*, p. 80.
[193] Hudson, *A Treatise on the Court*, pp. 216-7; 19-20.
[194] It was attorneys who chose which. Ibid., p. 216.

were referred to other courts. Meanwhile another 36.2 percent of suits stopped after defendants submitted their answer. However, in suits which both these milestones were passed, they likely moved through replication and rejoinder and thus all the way to examinations (only 6.3 percent of suits were dropped instead after a replication had been drawn up). Before witnesses were examined, though, interrogatories had to be compiled – and 8.4 percent of plaintiffs stopped here, short of actually administering them. These suits therefore leave lists of questions directed at adversaries, but no accompanying paper books of their answers.

This is all relevant here because a rough profile can be drawn of litigants' status in dropped cases. Suitors who dropped their cases tended towards the lower end of the social scale. Whereas the proportion of complainants identified as husbandmen or wage-labourers only rose from less than two percent in the 1590s (more on this in chapter one), eight percent of suits not reaching depositions were brought by such individuals. So, the poorest suitors dropped their cases disproportionately often comparative to the frequency with which they used the court. The 'higher up' the social scale, the proportionally more likely litigants were to see interrogatories administered. Sitting just above husbandmen and labourers in terms of socio-economic status, tradespeople were responsible for bringing sixteen percent of those suits which were dropped before examinations – seemingly, therefore, they were even less successful than the poorest sorts in bringing cases to hearing. However, about nine percent of litigants were tradespeople; they were in turn less likely to pursue cases to examinations than their (yeomen) betters. About nine percent of litigants were tradespeople, while 19.3 percent were yeomen – yet the latter brought only twelve percent of those dropped suits. Broadly, plaintiffs' energy to pursue suits accorded with their financial abilities. That poorer litigants would pursue cases less rigorously is observed in samples of Requests litigation too.[195] A poorer litigant was incentivised to settle a claim early rather than paying another pound to reach

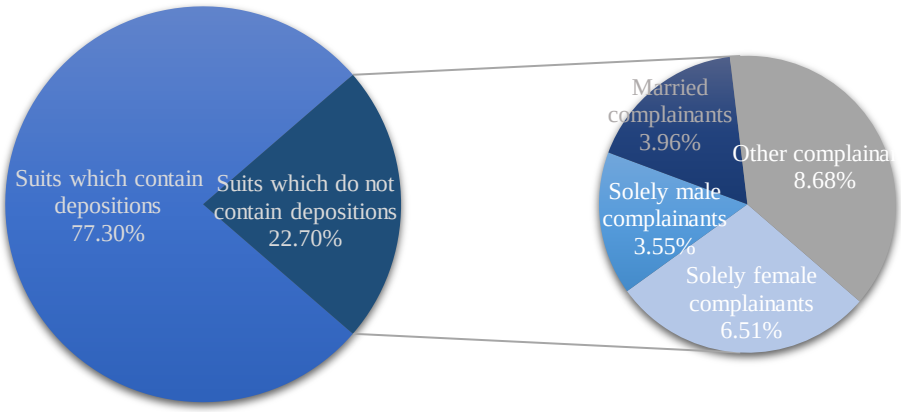
[195] L. Flannigan, *Justice in the Court of Requests, 1483-1538* (PhD thesis, Cambridge University, 2020), p. 128.

court hearing. Anne James's opponents in a 1580 ejection case, she said, knowing her to be 'a lone woman and not having where withall to defend suche sutes in the lawe', anticipated that they could cause Alice

> by these Chargeable and wrongfull sutes… to geve over the possession of the premisses or att the least reather to take some triffell in money for her Right and interest in the same than to travell and be att charge in the defence and recoveringe thereof[.][196]

Her Star Chamber adversaries sought to pressure her into a raw deal. It is hard to tell if court officials treated poorer litigants' causes with ambivalence; but richer litigants did more frequently reach hearing.

Chart 1: (Projected) STAC 5 suits which did not progress to depositions, broken down by complainant status

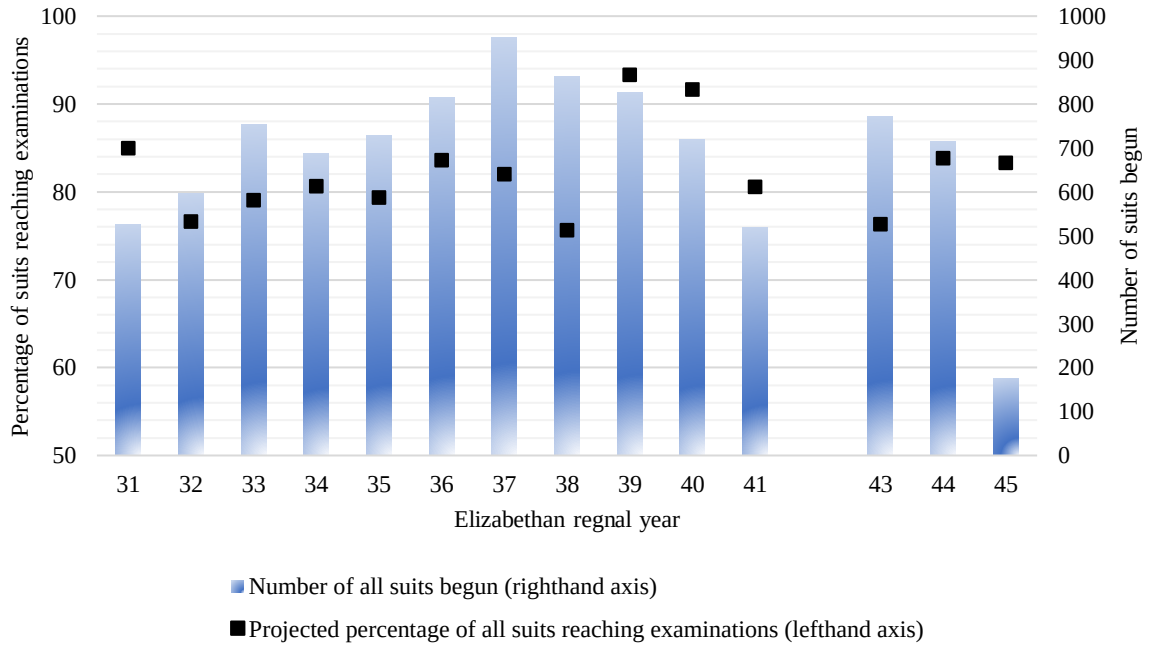


As Alice James's experience implies, the life-expectancy of women's suits suffered. 19.9 percent of sampled suits which were brought by men *only* did not reach examinations. On the other hand, 25.4 percent of suits brought by only female litigants in the thesis's sample did not reach hearing. As for married couples, 16.2 percent completed the examination stage (and so were possibly heard in open court too). Chart 1 shows this breakdown as a proportion of all sampled suitors. Simultaneously, whereas 31.1 percent of suits *defended* by men did not progress as far as taking depositions, the figure for those defended by women alone is 21.3 percent. Taken altogether, then, suits least likely to be heard in open court were brought by

[196] STAC 5/J22/30, B.

women against men (given that very few *femes sole* sued between themselves), whereas those most likely to get so far were brought by men against women. The reasons for this are not obvious. Possibly, men were more likely to be able to afford paying an extrajudicial settlement than a woman or group of women. As for the relative failure of female complainants to reach hearing, Egerton once shared with the court his wish to exclude women from being 'a suitor in any Court in her own person'.[197] Although 3.7 percent of suits were brought by at least one female complainant in all five years before Egerton's arrival, when he took his post in 1594 the proportion had drooped slightly to 3.3, and four years later it was 2.8 percent. This is a slight but suggestive change which cannot suggest whether the erosion of demographic groups within the court resulted from internal or external forces. Overall, though, it is certain that a broad spectrum of people persisted in litigating there.

Chart 2: Estimated percentage of Star Chamber suits which reached examinations per regnal year (Eliz.), compared to the number of all suits begun in that regnal year (nb: insufficient sampled suits for reg. 42).



Erickson has used samples from manuscript calendars of Chancery proceedings to estimate that a quarter of all suits commenced under Elizabeth saw women appearing as

[197] Stretton, *Women waging law*, p. 52 quoting Egerton as reported by Hawarde, *Les Reportes*, p. 161.

defendant or plaintiff (the proportion of these women *commencing* suits, either as *femes sole* or alongside others, was seventeen percent during the reign).[198] Stretton finds that in the Court of Requests, women were litigants in almost thirty-two percent of Elizabethan cases, being about twenty-five percent more likely to appear as a plaintiff than defendant. He notes that the proportion of women in Requests rose at a more modest rate than in Chancery, from making up 12.4 percent of litigants in 1562 to 13.6 percent in 1603.[199] Elsewhere, Stretton uses a sample of calendar entries for 346 suits to argue that 'even in the central court with the smallest female presence, Star Chamber, women took part in just over 10 per cent of actions in Elizabeth's reign… [although they] made up less than 5 per cent of all litigants listed'.[200] This project finds that women took part in 13.7 percent of suits (2,742 out of 20,156) across the whole reign. However, as discussed, the original 1740s index does not consistently list all litigants appearing in the pleadings. Extrapolating to the whole of STAC 5 the fact that apparently all-male suits in this thesis's sample actually involve women litigants, these numbers would substantially increase – but until historians have read all the pleadings, the extent of women's participation in the court remains hazy. Stretton's suggestion that five percent of individual litigants are women has been harder to test using the database. A rough count of all individuals in the database has been attempted, which suggests that 3.41 percent of 61,707 defendants in 20,157 suits are women, and the rest men. A plaintiff is almost twice as likely as a defendant to be female, women making up 6.58 percent of 27,315 complainants. Across all suits, there was a mean of 1.3 plaintiffs; but those sued out by women had an average of 2.4 plaintiffs, sustaining Youngs's findings for Henry VIII's reign that women were less

[198] A. L. Erickson, 'Common law versus common practice: the use of marriage settlements in early modern England', *The Economic history review*, 43/1 (1990), 28; Prest, 'Law and women's rights', *The seventeenth century*, 6/2 (1991), 182.
[199] Stretton, *Women waging law*, p. 39.
[200] He uses the unpublished PRO calendar at Kew, *Star Chamber Proceedings Elizabeth I* (vol. 4); Stretton, *Women waging law*, p. 40.

likely to bring complaints alone.[201] Counting all individuals appearing in the court's database together, five percent of them are indeed women, affirming Stretton's suspicion that comparative to other courts the proportion of women plaintiffs was fairly low in the Star Chamber.

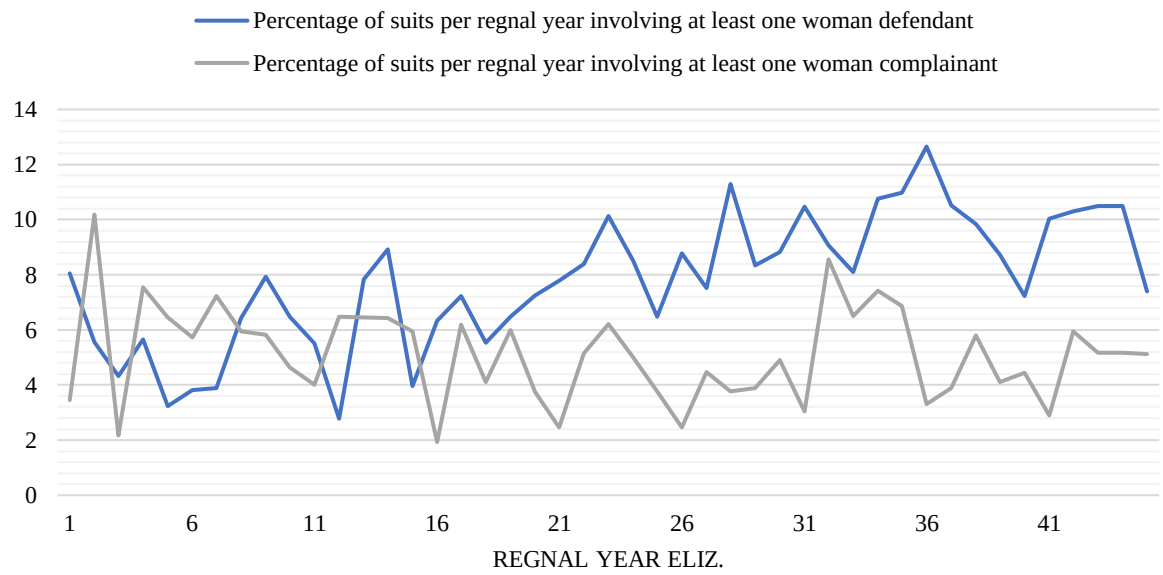
The database allows for a rough outline to be made of the marital statuses of these women. A conservative reckoning of married women in Star Chamber stands at 1646, or 42.3 percent of all women appearing in Star Chamber. It is easy enough to count married women appearing in the formulation '[male name] and wife', but about two-fifths (representing 773 out of 1904 apparently or explicitly non-single women) of these records listed a man and woman sharing a surname. Conjugality has been extrapolated from these database entries, with some caveats. Pleadings reveal that a suspected minority (in the thesis's sample, around a third) of such records in fact describe other family relationships. Thus, 258 presumed wives are removed to reach a final evaluation of 1,646 apparently or explicitly married women acting in Star Chamber (42.3 percent). 45.9 percent of female defendants were married, although only 37.9 percent of women complainants were.

Just shy of 58 percent of women appearing in Star Chamber were acting, as either plaintiffs or defendants, without husbands. This is unsurprising, given that about three-quarters of the adult population in early modern England were or had been married.[202] In broad terms, this maps onto women's status in other equity courts. In Chancery, for instance, catalogue analysis shows that 54 percent of women acted as *femes sole*. The Star Chamber numbers almost invert Stretton's findings in the Court of Requests, where wives outnumbered widows and singlewomen combined, although the differences are small.[203] My number includes roughly 996 'sole' female plaintiffs; here meaning that these women arrived not only without

[201] Youngs, '"A Besy Woman', 746.
[202] E. A. Wrigley and R. S. Schofield, *The Population History of England, 1541–1871: A Reconstruction* (Cambridge, 1989), 260.
[203] Stretton, *Women waging law*, p. 129.

husbands but with nobody else at all. This amounts to twenty-six percent of all women appearing in Star Chamber throughout Elizabeth's reign. For comparison, in Chancery Erickson sees that seven percent of the cases which were brought by women, were brought by women unaccompanied by husbands.[204] In the Star Chamber, *femes sole* were just as likely to complain as to defend themselves: 967 suits in the Elizabethan Star Chamber (4.8 percent of them) were brought by a sole female plaintiff – this is almost the same as the proportion of suits defended by a woman alone (4.9 percent). 736 suits brought by women alone were found databased under the 'code' SFP (sole female plaintiff). To this number other cases have been added which were brought by sole female plaintiffs but which for whatever reason have not been categorised as such in the database, although their names are listed alone.

Chart 3: Proportion of suits in the 'Hidden Archives STAC 5 and 7' Excel database involving women plaintiffs , by plaintiff type



The STAC 5 sample collected and read closely for this thesis represents 1040 different lawsuits contained in 1,370 casefiles. This amounts to 5.16 percent of all Star Chamber suits under Elizabeth I, and 3.43 percent of its casefiles. When an especially interesting suit was

[204] Erickson, 'Common law versus common practice', p. 29.

found, or understanding begged more detail, its corresponding files were also sought out using the 'short title' function and added to the sample. When researching court records which are under-treated by existing historiography, sampling methods relying on the catalogue require flexibility as patterns in case-type and cataloguing become increasingly apparent to the researcher. Limitations are exacerbated by that on time when faced with so many records.

Accordingly, the selection of suits was informed by a few sampling methods. First, 331 suits (487 files) were sampled: any suits within a single regnal year in which a sole female plaintiff appears at catalogue level were subject to random selection, beginning with the 7th year of Elizabeth's reign (1565/6) and continuing at five-yearly intervals (12th regnal year, 17th regnal year, etc.) This was supplemented by more cases brought by a lone women litigant, randomly selected using The National Archives catalogue from throughout the reign. A second addition to the sample was a selection of suits in which one or more women appear on both the prosecuting and defending side at catalogue level. This proffered the relatively tiny proportion of twenty suits. Thirdly, twenty-six suits brought against a woman acting alone (which comprises 41 files) were added to the overall sample. These were randomly selected out of the 68 suits (for which a bill survives) against sole female defendants extant in STAC 5. Fourthly, cases involving at least one woman (sometimes unidentified in the database) were chosen which do not fit into either category. These constitute the majority of suits studied (590 suits made up of 713 files) and were found through random sampling; when a box was opened to collect the samples described above, the other thirty-nine files in the box were skim-read. This fourth sample includes 53 abduction suits (87 files). The last addition to the thesis's sample were 73 suits (99 files) found using catalogue references in which a female and male adversary shared a surname, as it became apparent that this was the common makeup of marriage contract suits (true of four of these collected). As a result, the thesis's sample will slightly overrepresent the incidence of abduction, matrimonial and intra-familial disputes among suits involving

women. However, the incidence of these samples combined generally follows the curve of all Star Chamber litigation across Elizabeth's reign.

In 197 suits out of 1040 sampled, at catalogue level no women are involved at all. Many wives who should have been named as complainants, either on bills or just the catalogue, because cases arose from their own interests, were not.[205] On three occasions in sampled suits, it is evident that a wife was litigating on behalf of her husband either in the Star Chamber or elsewhere; and presumably would not be named in relevant dockets. George Bartlett informed the court in 1572, for example, that 'hys mother came to London aboute sutes whiche her husbande this def[endan]ts father hath depending in the lawe'.[206] A quarter of those 197 sampled suits mentioned actually involve at least one wife (defending rather than prosecuting at a ratio of five to three), or a widow (slightly more often as a defendant than plaintiff). Overall, forty percent of these suits contain at least one female litigant. In the rest, a woman is discussed in pleadings, or the case arose from her own interests, although she is not herself a litigant. This includes posthumous allegations – for instance of recusancy and bribery against Dame Elizabeth Tregonwell.[207] Nineteen of these 197 suits are abductions. Sometimes she is a witness, like Gloucestershire maidservant Anne Poore in 1595. Often, they are victims of terror and hurt in forcible ejections and riotous trespasses, like Ellen Codde on a disputed common in Helmswell, Cheshire, or Chrystyan Shut in her Somerset home.[208] Very rarely, women's appearances are so fleeting that they are unnamed.[209] Unnamed gentry 'wyves' are seen in Stanton Harcourt (Oxfordshire) 'makyng merry' over 'dynner' at Sir Simon Harcourt's house in 1579. Demurrals might also contain sketches of female paramours. In Coxcombe (Somerset) in 1602, George Carewe's cousin Nicholas deferred to the court whether he should answer

[205] For examples: STAC 5/C20/16, B; STAC 5/C20/32, B; STAC 5/F2/16, B.
[206] STAC 5/B73/9, Depositions of George Bartlett. Also STAC 5/T13/29, I. Other parts of this suit have been treated by Steve Hindle.
[207] STAC 5/T34/29, B.
[208] STAC 5/B64/25, D; STAC 5/C75/29, B; STAC 5/B12/30; STAC 5/C45/15, B.
[209] STAC 5/F2/16, B. William Fletcher's unnamed wife is hurt by rioters in Widnes, Lancashire.

charges brought only out of George's spite. George was stung because Nicholas 'did seeke to reclayme and reform' him from incontinency 'and retorne him home to his honest wife' who had never given George cause to 'keepe many mens wives'.[210] In 1603 Francis Whetstones sought to steal from John Ragg '& his brethren ther old estates' in the Leicestershire countryside 'and so to turne them theire wyves and children out of doores to seek theyre lyvynge by begginge'. Such rhetorical motifs are much more infrequent than descriptions of women's active involvement in Star Chamber stories. Overall, the sampling shows that comprehensive archival analysis would likely inflate the proportion of female litigants from five percent. The extent of women's involvement in the court is still hidden behind its catalogue.

[210] STAC 5/R34/19, B; STAC 5/B42/38, A.

Chapter two

Entitled wives: women and Parliament

'Statutes which… save not in their general disposition persons commonly in all Laws favoured, as Infants, *Femes Covert*… must be strictly taken'

[1]

Sir Christopher Hatton (1540–1591)

A recent study using Star Chamber documents presents an assessment axiomatic to early modernists; that the court could 'circumvent the limitations of common law, but not so for coverture.' The study's point is made more specifically using a comment from Star Chamber judges which affirmed that the court costs due to a winning legal opponent could not be paid by a wife, who technically did not own her own pocket: 'and therefore a *feme covert* cannot sue in this court'.[2] But this chapter illustrates that what might have been true for women complainants was not for those defending: because a married woman could still pay *damages*. In the early Star Chamber Youngs found women prosecuting (fourteen percent of all litigants) more than doubly often than defending (six percent) – a 'stark contrast' not present in every legal jurisdiction, although true also of Chancery.[3] She also found that (almost) all female defendants who were recorded married were co-defendants with their husband.[4] Across

[1] C. Hatton, *A treatise concerning statutes, or acts of parliament: And the exposition thereof* (London, 1677), p. 76.
[2] K. Kesselring and T. Stretton, *Marriage, Separation, and Divorce in England, 1500-1700* (Oxford, 2022), p. 55.
[3] D. Youngs, "A Besy Woman … and Full of Lawe": Female Litigants in Early Tudor Star Chamber', *JBS*, 58/4 (2019), 741.
[4] C. Garside, 'Women in Chancery: An Analysis of Chancery as a Court of Redress for Women in Late Seventeenth Century England' (PhD thesis, University of Hull, 2019), p. 156.

Elizabeth I's reign, the overall proportion of women litigants remained comparable to its earlier period (but, as will be explored in later chapters, there was a steadily increasing ratio of women to men defendants from the 1580s). 13.7 percent of Elizabethan suits involved female litigants, and of these women 54 percent were defending – 46 percent of which were married. This chapter and the next use 180 sampled Star Chamber suits from Elizabeth's reign to examine why and how married women appeared before the court. The chapter goes on to uncover 49 charges to which wives answered entirely apart from their husbands. These suits provide the stage for an analysis of wives' financial as well as legal liability for criminal misdemeanour. First, though, it must be demonstrated that the nature of the Star Chamber has been broadly misunderstood.

i. Who used the Star Chamber?

The Star Chamber was not just for the rich. Brooks used the Star Chamber as an elite foil against which to hold the more 'middling' Queen's Bench and Common Pleas, as historians of other central courts have also done.[5] However, the 'historical commonplace that the gentry monopolized' the Star Chamber exists not because of, but despite, much available evidence.[6] Assertions that the Star Chamber was for 'the higher and wealthier ranks of society' sit uneasily beside the occasional acknowledgement that its process was actually cheaper than common

[5] For example T. Stretton, *Women waging law in Elizabethan England* (Cambridge, 1998), p. 178.
[6] C. Brooks, *Pettyfoggers and Vipers of the Commonwealth* (Cambridge, 1986), pp. 60-1.

law litigation – on a par with that of the 'poor man's' court of Requests, in fact.[7] Being 'a verye poore woman and not able to prosequte at the comen lawe', widow Elizabeth Symonds of Salisbury explained in 1560, she came to the Star Chamber instead.[8] In 1596, the average length of one case from pleadings to proofs was 1.5 years.[9] It must not be assumed that every litigant required documents be copied multiple times, however. Careful use of Guy's list of Star Chamber costs in 1597 projects that a middling-sized suit would cost the plaintiff £11.[10] But in 1600 this was a slightly *lesser* value in real terms than £6's costs were in 1530s Requests.[11] Labourers, servants, and (probably) *femes sole* would have struggled to pay fees.[12] But plenty of litigants did not expect to lay out that much given hopes for a settlement. The court of Chancery has also laboured under a historiographical assumption of vexatiousness, but has also seen revision in light of its many 'arbitrations, mediations, and compositions.'[13] Besides, the most arduous costs were those of travel and accommodation, which could theoretically be ameliorated with a commission to the localities on grounds of need. After 1558, '[u]nder the pressure of business' proceedings by commissioners occurred 'without special circumstances'.[14] In Chancery, this 'was becoming quite normal' during the sixteenth century.[15]

The difference between previous portraits of Star Chamber demography and the one this thesis draws arises partly from methodology. For Jacobean suits, Barnes counted the social status of the 'principal' plaintiffs and defendants to determine the court's overall social makeup

[7] J. A. Guy, *The cardinal's court: the impact of Thomas Wolsey in Star Chamber* (London, 1987), p. 109; Table 2 on the same page; 'Litigants in the English Court of Poor Men's Causes, or Court of Requests, 1515-25', *Law and History Review*, 38/2 (2020), 315.
[8] STAC 5/S6/36, B.
[9] L. A. Knafla, *Kent at Law 1602: Star Chamber, Vol. III* (London, 2012), p. xvii.
[10] J. A. Guy, *The court of Star Chamber and its records to the reign of Elizabeth I* (London, 1984), p. 63.
[11] Calculated using https://www.nationalarchives.gov.uk/currency-converter/ (Accessed 16 July 2022)
[12] Calculated using A. Shepard, *Accounting for Oneself: Worth, Status, and the Social Order in Early Modern England* (Oxford, 2015), p. 70.
[13] C. Muldrew, 'The culture of reconciliation: community and the settlement of economic disputes in early modern England,' *HJ*, 39/4 (1996), 917.
[14] Guy, *The court of Star Chamber*, p. 48.
[15] W. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967), p. 239; Bacon urged 'near and cheap justice.' B. Shapiro, 'Sir Francis Bacon and the Mid-Seventeenth Century Movement for Law Reform', *AJLH*, 24/4 (1980), 345.

– although it is unclear how the principal was identified given that the documents do not do so. The effect this methodology had on conclusions about litigant status is significant. For instance, the Star Chamber catalogue lists one case under the name of two gentlemen, but pleadings reveal that twelve out of fourteen litigants were servants.[16] Barnes's approach is a function of suppositions regarding the content of disputes; that yeomanry and husbandry in Star Chamber riots simply 'became one more weapon in faction-fighting among the elite'.[17] In this thesis's sample, however, litigants self-describing as yeomen or 'below' surpassed those of gentle status. This bears significantly on the believability of Star Chamber stories because investing *some* of one's financial resources in a lawsuit – including, potentially, damages – rather than very little of them would encourage circumspection. (Briefly, a note must be made regarding the categorisations of women litigants in different social groups: this thesis has counted wives as belonging to the same social stratum or occupation as their husband. A widow, singlewoman, or spinster is categorised under her dead husband's or, if unavailable, natal family's status.)

Counting individuals' statuses rather than that of decided 'principal' plaintiffs and defendants for three samples has been made possible by reading pleadings. However, not all pleadings provide helpful indicators of wealth, and an unknown proportion of plaintiffs are silent about their status. To overcome this somewhat, sampled litigants whose suits originated in a single county – Wiltshire – and whose status cannot be made out from Star Chamber have had their status verified with external sources.[18] This allowed missing data to be recovered in twenty-seven out of thirty-four Wiltshire suits, so that only ten out of all 107 sampled Wiltshire suits feature litigants labelled as having an 'unknown' status. The greatest overall addition made was to the 'yeoman' category. Replicating these numbers very broadly when it comes to

[16] STAC 5/B12/23. See plaintiff listings in T. Barnes, *List and index to the proceedings in Star Chamber for the reign of James I (1603-1625), in the Public Record Office, London, class STAC 8* (Chicago, 1975).
[17] A. Wall, *Power and Protest in England 1525-1640* (London, 2000), p. 149.
[18] Using H. St. John, *Wiltshire visitation pedigrees, 1623* (London, 1954), and church registers and probate records. Figs 1 and 2 for examples.

predicting the status of all sampled 'unknown' plaintiffs will allow for a more complete assessment of litigant social status than other systematic studies. Guy's excludes the 43.9 percent of Henrician suits which did not provide any descriptors of the plaintiffs, while Barnes's survey, antithetically, notes that sampled litigants 'of unknown status can be presumed to have been of the lower orders'.[19] By reading pleadings rather than catalogue entries for the Elizabethan files this 'unknown' percentage has been reduced to about twenty-five percent.

Figure 1: Chippenham, Wiltshire and Swindon History Centre (WSHC), Will of John Stringer 'Inholder' (1563). He left 'Elisabeth my dawghter one syluer gobelett' and 'Edythe my daughter xx^{li}'.

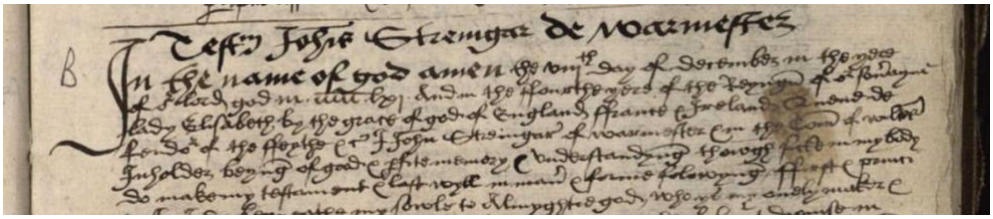
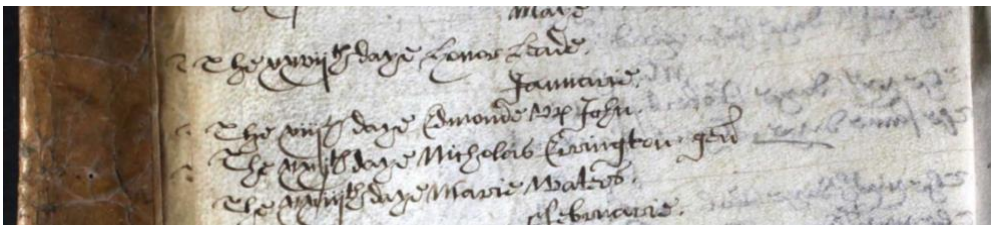


Figure 2: WSHC, Wiltshire Church of England Parish Registers, 1987/1. 1552 baptism record of Nicholas Errington gent.



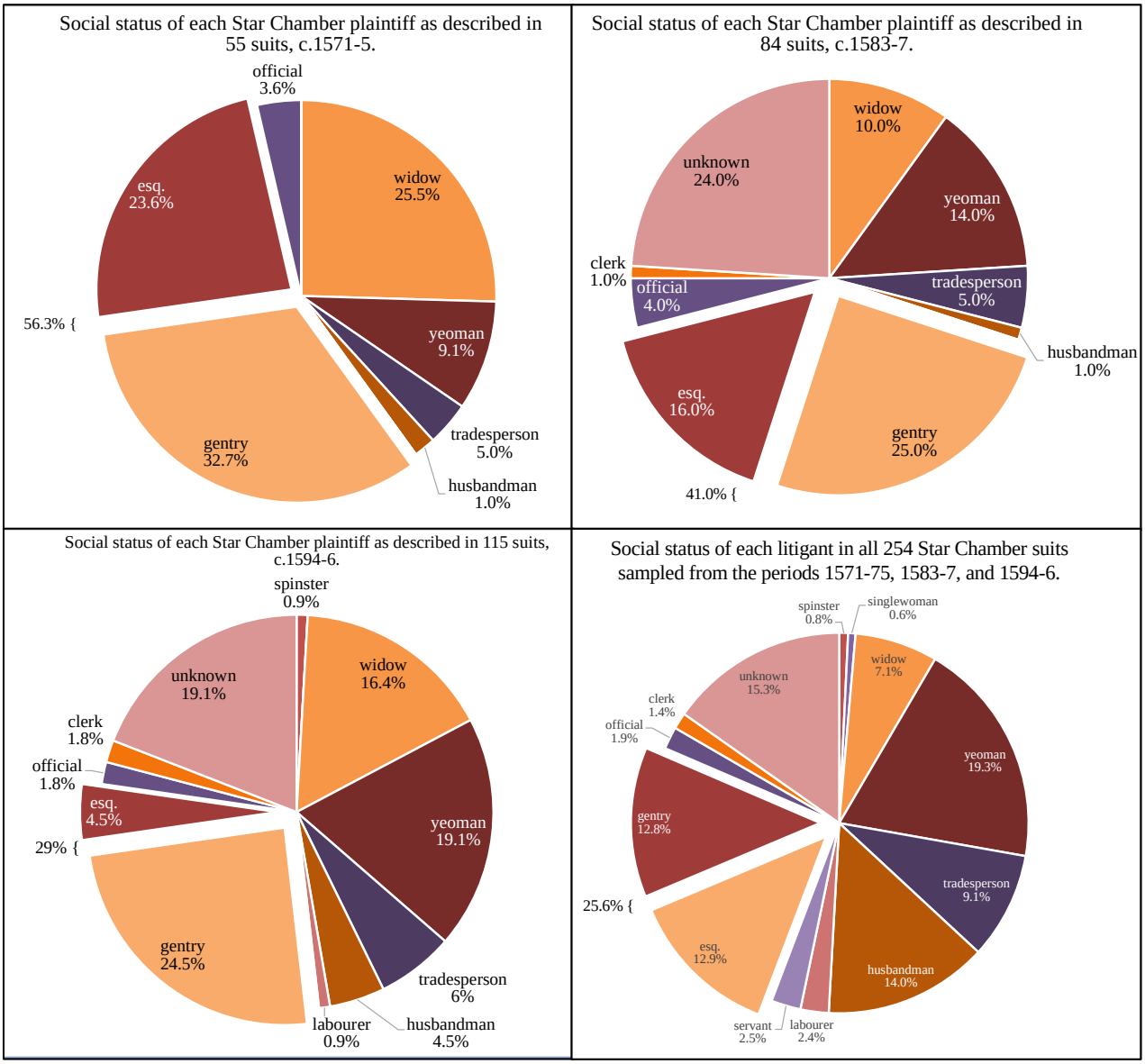
There are some satisfyingly clear patterns in the resulting data. The proportion of complainants from the gentry orders 'and above' ('esq.') declines quite drastically across the period, from 56.3 percent in 1571-5, to 41 percent only twelve years later during 1583-7, before declining slightly less steeply to twenty-nine percent in 1594-6. This has the interesting effect of returning the Elizabethan Star Chamber to its constitution under Wolsey, when 28.7 percent of its plaintiffs claimed gentry status, and yeomen and husbandmen (who together made 23.6

[19] Guy, *The court of Star Chamber*, p. 62; T. G. Barnes, 'Star Chamber litigants and their counsel 1596-1641', in J. H. Baker (ed.), *Legal Records and the Historian: Papers Presented to the Cambridge Legal History Conference, 7-10 July 1975, and in Lincoln's Inn Old Hall on 3 July 1974* (London, 1978), p. 10.

percent of the 1594-6 sample) 25.4 percent – although it is not clear what category tradespeople were relegated to by Guy's study.[20] The tallies made in this project do not result from increasing numbers of 'secondary' plaintiffs headed by those of the 'better sort'. The average number of complainants per sampled suit in fact declined from 3.57 to 3.29 between the earliest and latest sample. Incidentally, these mean averages were pretty steady across all suits in the project, rarely dropping below 2.9 complainants per suit, and never rising above 1571-5's 3.57. Within the 'gentry' stratum, titled plaintiffs exited the court the most rapidly, almost quartering their own number between the 1580s and 1590s. A change over time, then, is another reason why this thesis finds litigants different to Barnes. Even a count of STAC 5 samples using his 'principals' method almost inverts findings for James's Star Chamber, showing a roughly 52

[20] Guy, *The cardinal's court,* p. 109.

Chart 4: Social statuses of Star Chamber complainants bringing sampled suits during the calendar year ranges 1571-5, 1583-7, and 1594-6

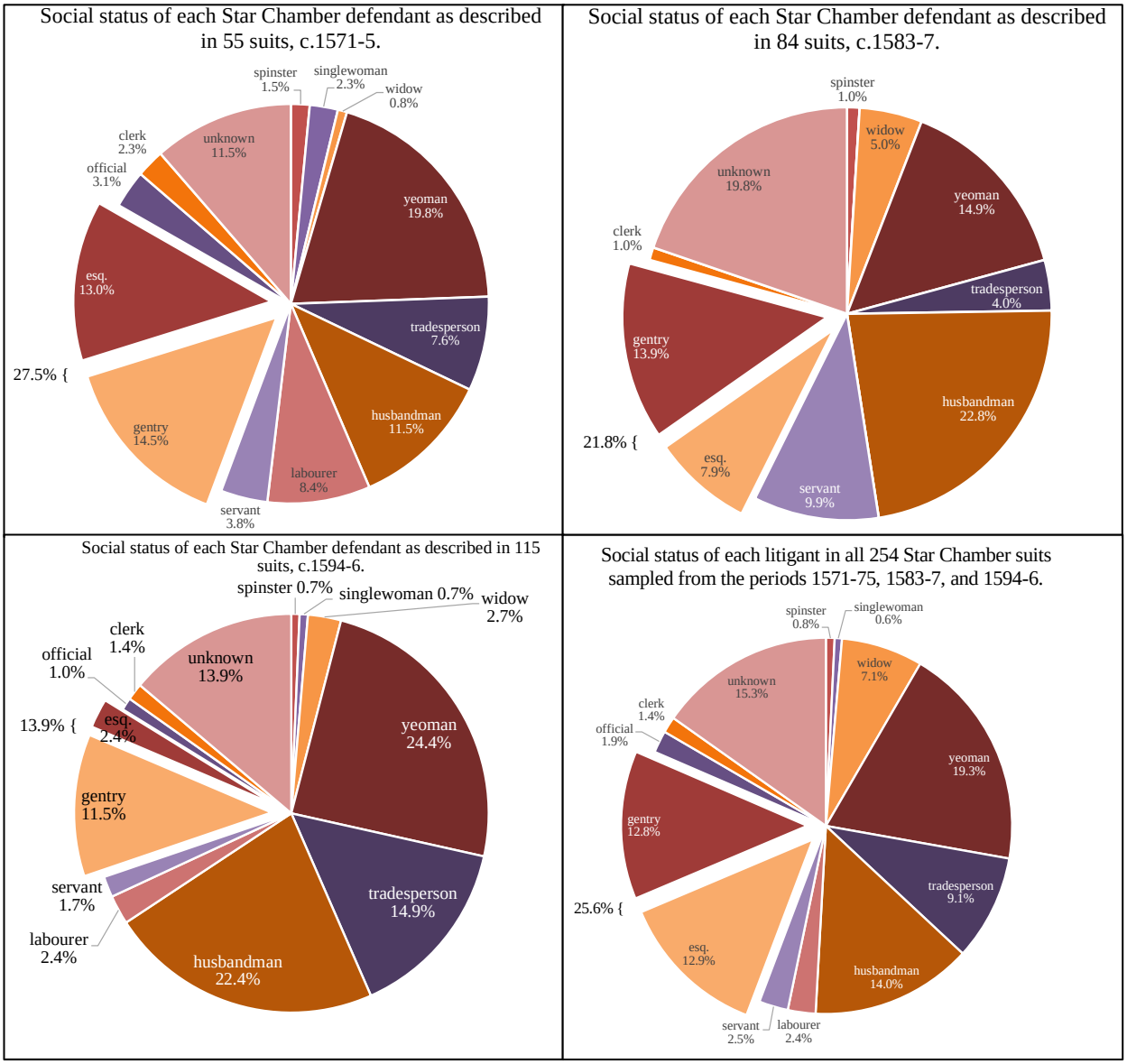


percent non-gentry clientele. The decline in titled litigants may also be a product of Elizabeth's disinterest in awarding titles to fortify royal support even as the previous generation of holders passed away.[21] If reassigning the proportion of 'unknown' litigants to other categories in accordance with the Wiltshire sample, the proportions of gentry increase to: 56.3 percent (unchanged); 47 percent; 33.2 percent. Even without these speculative adjustments, alleviating reliance on the STAC 5 catalogue allows for existing expectations regarding litigant social status to be largely re-evaluated. While it is not easy to challenge statements such as 'Star

[21] K. Wrightson, *English Society, 1580-1680*, 2nd edn. (London, 2003), p. 31.

Chamber had a more restricted litigant profile than some other courts', it should be argued that its litigation was *not* 'gentlemen's business, first and foremost.'[22] Suits were an expense (a much more significant one for some budgets than others) but not an ostentation.

Chart 5: Social statuses of Star Chamber defendants answering sampled suits during the calendar year ranges 1571-5, 1583-7, and 1594-6



[22] Barnes, 'Star Chamber litigants', p. 10.

Financially modest litigants ended up in the court. That the title 'gent' was used 'promiscuously' from 1560 onwards may buffer an otherwise steeper decline in 'the real presence… [of] the wealthiest landowners and townsmen'.[23] But at the other end of things, inflation would have pushed litigation over modest sums out of manorial courts, where there was a 40s maximum threshold for claims, and into Westminster. In other local courts the £10 or perhaps £40 thresholds would increasingly direct the rural middling sort towards central justice.[24] Almost half of complaints of thefts named sums smaller than £40. In 1597 Nicholas Lowman of Broadhempston (Devon) complained 'in all humblenesse' about the theft of his apples and 'peason' worth £5, some of which were 'in Garbes bound up in trusses... readie to be carried' to market when stolen by a neighbouring butcher and his wife. The sum, which is smaller than almost all mentioned in the sample, is insubstantial enough to raise initial suspicion that the accusation is a sort of 'drawing-on' to try title. However, the defence demurred on the grounds that the Pleas in Exeter and the Chancery too had already adjudged that Lowman owed an £8 debt, which the defence therefore had recouped in peas.[25] Lowman must have calculated that this £8 debt was worth appealing, even after processes in more than two courts had eroded it. The smallest annual income from leasehold rent mentioned was 3s, the greatest 1000 marks, and the mean £51/pa.[26] Fisherman John Lister and his wife Frances rented a Great Yarmouth (Norfolk) tenement but were in 13s 5d's worth of arrears.[27] This and many other examples reveal a mixed client base.

Even the humblest occasionally used the Star Chamber. Its provisions were not as generous as Request's own, where possibly ten percent of plaintiffs gained a pauper

[23] Brooks, *Pettyfoggers and Vipers*, p. 62
[24] Brooks, *Pettyfoggers and Vipers*, p. 97; 74.
[25] STAC 5/L42/8, B; Rr.
[26] STAC 5/H51/30 (1571); STAC 5/H16/22 (1582); £51/pa mean calculated using annual rental incomes from leased land mentioned in seventeen sampled suits.
[27] STAC 5/B24/33, A (1596).

admission.[28] However, the case made here is not that Star Chamber's population had an equivalent share of the 'poorer sort', but that it had a greater one than previously appreciated. John and Margerie Trueman lived in Thaxted (Essex) with four children 'to their charges'. Margerie went with one child to collect acorns in a local close, there being 'a great store therof', in order 'to make some moneye to releive and provide victualles for her' family.[29] During another suit, over a widow's tenement in, a witness was asked whether Agnes Hall 'hath… any succor to relief but the sayd messuage', in light of the fact that she was 'worth foure pound in goods'?[30] This project has found five traceable admissions on grounds of pauperism. The qualifier for this help was a worth less than £5, and its benefit was waived costs. From Lutton in Devonshire 'your poore Oratrice and daylye bedeswoman Elizabeth Marten' asked the court for its protection when neighbours carried away her corn so that she was 'driven to foorsake' her lawful messuage. The bill's dorse identifies it as 'Ex p[a]urp[e]rox' ('from the poor').[31] There are also two self-identifying bedeswomen and a bedesman amongst sampled lone complainants; but only two are labelled pauper admissions.

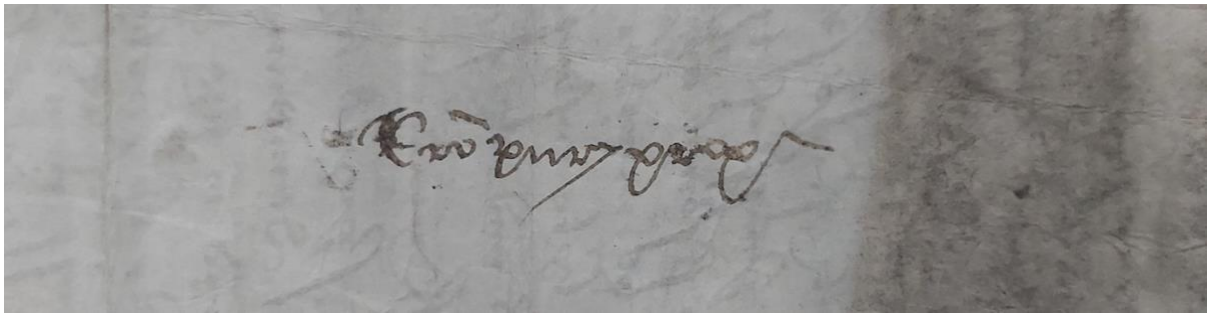


Figure 3: Elizabeth Marten submitted an undated bill of complaint *in forma pauperis*. STAC 5/M58/36, B (dorse).

ii. Substantive Star Chamber

[28] Stretton, *Women waging law*, pp. 84-5.
[29] STAC 5/T2/16, B.
[30] STAC 5/H52/5, I.
[31] STAC 5/M58/36.

As described already, Barnes was a proponent of the notion that litigants were of high social status, able to afford to ambush adversaries on multiple legal fronts.[32] Hence, the court itself was bedevilled with vexatious litigation. The notion in existing historiography of the court as a legal instrument subservient to others is affirmed by the supposed centrality of cross-suing to Star Chamber. Allegedly, wronged parties 'tried launching cases in whichever court they thought might produce a result in their favour', despite an 'assessment of probabilities' that their cause was 'a poor investment'.[33] However, many STAC 5 files thought previously to have been cross-suits are being reformulated as coherent single suits on an ongoing basis by archivists and historians.[34] Only nine (about one percent) of suits sampled here have a clear counterpart cross-suit.

Dismissing petitions as vexatious – as 'trivial and irrelevant' – replicates councillors' prejudices as to what constituted a sympathetic issue.[35] Half of the obviously gendered comments found during research deride the vexatiousness of 'suche unwomanly' adversaries, who were 'more busye then is fytt or convenient for a woman to be'.[36] However, detailed demurrers on grounds that suits were false – rather than replies beginning with formulaic throw-aways that someone was 'simply putting your subiect to charges' – are few and far between, even given the sample's essential bent towards 'busy' women. Most allegations that suits were vexatious – 'the rather used to gett rewardes then… for any reformacon of any misdemeanors' – are vague and theatrical rather than sophisticatedly tactical.[37] Barratry could

[32] T. G. Barnes, 'The archives and archival problems of the Elizabethan and early Stuart star chamber', *Journal of the Society of Archivists*, 2/8, p. 357.
[33] Kesselring and Stretton, *Marriage, Separation, and Divorce*, p. 52; Barnes, 'Star Chamber litigants', p. 28.
[34] Private conversation with Amanda Bevan, TNA.
[35] E. Henderson, 'Review of *The cardinal's court*', *The American Journal of Legal History*, 22/4 (1978), 337.
[36] STAC 5/S81/33, Rn; STAC 5/H45/3, A.
[37] STAC 5/W68/27, A.

add discursive value to basically any defence. It would also be more politic to criticise an opponent's cause than the legal system whose insufficiency allowed it. Or, too, rather than criticising the judges who facilitated it, whether they acted in Star Chamber or in the local jurisdiction to which one might return after successfully relieving a Star Chamber injunction. For these reasons, allegations of vexatiousness do not necessarily indicate litigators are particularly monied. Jonathan Healey has pointed out that 'even if suitors and their witnesses perjured themselves, their lies had to be convincing and based on real, identifiable experiences'.[38] It seems wisest to acknowledge that litigants were trying hard to avoid incriminating themselves, or losing their expensive legal battles, on pain of fines (at best) or facial mutilation (at worst). In the end, the archive would be most sensibly accounted the sum of numerous individuals' temperaments rather than systemically dishonest.

There were technical reasons to use the court which was eventually enthusiastically billed as the 'supereminent authority all other courts of law and justice'. England's disjointed legal system led to some inadequate relational functioning of various courts, and Lambarde thought Star Chamber's *raison d'être* was that it 'supported and the more evenly kept and managed' the kingdom's whole judiciary.[39] Nicholas Conyers, for example, had accused Arthur Phillip of abducting his wife Jone, who had been duly sequestrated by Star Chamber to a nearby knight's house awaiting sentencing in Star Chamber. However, Jone and Arthur had apparently escaped together after securing a hearing in the ecclesiastical court. This had necessitated Jone leaving sequestration to take the necessary oaths, and she did not return. Thus Conyers asked that the original order staying Jone be honoured and Phillip 'be compelled to bring her forth personally again'.[40] This and many like suits demonstrate that 'vexatiousness' and 'shoring-up

[38] J. Healey, 'The Political Culture of the English Commons, c.1550-1650', *Agricultural History Review*, 60/2 (2012), 271.
[39] W. Lambarde, in G. W. Prothero (ed.), *Select Statutes and Other Constitutional Documents Illustrative of the Reigns of Elizabeth and James I* (Oxford, 1894), p. 182.
[40] STAC 5/C39/33, B.

suits' are not synonymous. Hatton thought that statute – which, this chapter will show, really vitalised the Star Chamber – was responsible for 'reforming matters needful in the Commonwealth, and supplying a defect in the Common Law.'[41] Litigants would end pleas by explaining that they had come first to Star Chamber because they were 'without all remedie by the common laws of this your miesties Realme'.[42] Suits arose because a cause had encountered a genuinely ambiguous point of law. This helps to explain the diversity of litigants; the need to iron out legal ambiguity and move a cause forward would arise for all subjects under the queen's justice. Robert Snagge in 1580s Hertfordshire found himself in uncharterd legal territory when he was unable to pay a debt to John Morgan the day before it compounded. John's wife Susan had opened the door to Snagge but then 'utterly refused' to accept the money because 'her husband was forth abrode and she knew nott his mynde'. Common law's couverture had worked to shield Snagge from remedy in the sheriff's court. The Star Chamber, like Chancery, was special in that it could 'offer relief against the very stringent legal requirement of the conditional bond' for 'complete satisfaction'.[43] John and Susanna Morgan paid a joint £10 fine for their deceit.[44]

Elizabethan law also recognised that conscience occasioned its own self-adjustments, even when the relevant rules *were* clear. Plaintiffs hoped Star Chamber would invalidate perfectly legal transactions on grounds of bullying, infirmity, youth, insanity or drunkenness.[45] Elizabeth Mawes turned to the court when Cuthbert Reves from Coldrington (Wiltshire) entreated her to marry him 'with fayre promisses in shew, but verye fowl in deed'. Cuthbert took advantage of Elizabeth's hospitality in 'the parish of Savoy' while he defended himself in

[41] C. Hatton, *A treatise concerning statutes, or acts of parliament: And the exposition thereof* (London, 1677), pp. 34-5.
[42] STAC 5/J22/30, B.
[43] STAC 5/S1/9, A; Brooks, *Pettyfoggers and Vipers*, p. 72.
[44] E159/416.
[45] Examples at STAC 5/B5/20; STAC 5/T3/9, B; STAC 5/B60/30, B; STAC 5/L46/24, A; STAC 5/S15/33, B.

several suits in the 'westminster courte or courts' for eight terms and 'vacacions' before disappearing forever. Cuthbert ate Elizabeth out of home as she gave not only him

> meate… but his frends, and for his horses, yea, and to supply all his other necessityes, and occassions of wante, as by lendinge him monye, [and] Jewells to borow money on[.]

In a kind of expenses bill Elizabeth listed termly expenses of around £1, and £2 for the busier Michaelmas terms. Now she asked the Star Chamber to take pity and remedy these mistakes.[46] That these litigants were 'turning to Star Chamber to circumvent the limitations of the common law' was clearly a distinct phenomenon to litigants suing with the 'unfaltering hope that the try-on might work' – despite the tendency in extant historiography to conflate the two.[47]

Unlike some other studies, this thesis finds that much Star Chamber litigation concerned broadly socially equitable parties. This is at odds with Roger Manning's work on the court. He blames increased litigation on inflation, 'encroachment upon commons and wastes and the extinction of tenants' common rights.[48] That this chapter's findings invert Manning's is likely a product of differing sampling methods. Manning's references show that he largely limited his study to those STAC 5 cases filed under 'A' (that is, those which were launched by complainants whose name began with 'A'). The particular caveat of these suits, though, is that 'A' frequently stands for 'Attorney-General', prosecuting challenges to public order and state. The image projected through the prism of his sources would thus inevitably be of established power resisting (riotous) grassroots challenge. The tone set by Tawney's Star Chamber study of lordly hostility to local customary claims was doubtless influential.[49] Recent revisions have suggested that landlord greed should be given less credence as a causal factor

[46] STAC 5/M30/27, B.
[47] Kesselring and Stretton, *Marriage, Separation, and Divorce*, p. 52; Barnes, 'Star Chamber litigants', p. 28.
[48] R. Manning, *Village Revolts: Social Protest and Popular Disturbances in England 1509-1640* (Oxford, 1988), p. 36.
[49] See R. H. Tawney, *The agrarian problem in the sixteenth century* (London, 1912).

in the erosion of custom.[50] In the vein of Manning, Wood observes increasing conflict between cottagers and lords over common rights, resources, and rents, 'in fact, every area of the manorial economy where it was possible for lords to asset-strip resources'. This and rack-renting were then indicative an increasingly commercialized landscape. Simultaneously though, Wood speculates that those 'intra-popular struggles' which 'set… richer villagers against their poorer neighbours' may well be more significant. He regards, though, that these conflicts are more elusive than Manning-esque struggles between lord and tenant.

Suits sampled here suggest that 'conflicts *within* the ranks of the popular classes' were common business.[51] Only 48, or fewer than five percent of, suits are about (enclosure or commons-related) riots. Around seven percent of suits in the sample concern private debts, and half of these because an administratrix had approached her late husband's debtors, or debts had been inherited by a woman. Seven percent is a sliver of the litigants partaking in debt litigation at the King's Bench and Common Pleas – where 46 and 80 percent of all business respectively was debt-related by 1606.[52] Only five sampled Star Chamber suits concern trade interests, despite expectations that the court as a whole would deal widely with commercial contracts, which tallies with women's low involvement 'in litigation arising out of wholly commercial enterprises' in Requests.[53] Just under a third of suits from Middlesex regard non-landed interests, and a third of women suing out of the county are widows of crafts- and trades- people. This may affirm findings elsewhere that wives were likelier to legislate about credit relations and family business after their husbands died.[54] One such person was Elizabeth Hargrave of

[50] Such as W. D. Shannon, 'Approvement and Improvement in the Lowland Wastes of Early Modern Lancashire', in R. Hoyle (ed.), *Custom, Improvement and the Landscape* (Ashgate, 2011); H. Garrett-Goodyear, 'Common Law and Manor Courts: Lords, Copyholders and Doing Justice in Early Tudor England', in J. Whittle (ed.), *Landlords and Tenants in Britain, 1440-1660: Tawney's 'Agrarian Problem' Revisited* (Woodbridge, 2013).
[51] Italics added. A. Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013), p. 41
[52] Brooks, *Pettyfoggers and Vipers*, p. 69.
[53] Brooks, *Pettyfoggers and Vipers*, p. 87; quote from Stretton, *Women waging law*, p. 100.
[54] A. Shepard, 'The Worth of Married Women in the English Church Courts, c.1550–1730', in C. Beattie and M. Frank Stevens (eds), *Married Women and the Law in Premodern Northwest Europe* (London, 2013), p. 206.

London, widow of a citizen goldsmith, who sued two Roger Heleys, one a 'marchantaylor' and one a mercer, in 1598. Both men had transported her late husband's 'Oxhides' to Calais where they had sold them for a £180 profit which they then refused to share with the Hargaves.[55] Stretton wonders if the erosion of women's involvement, entering into the seventeenth century, in Common Pleas litigation might be due to the overall expansion in debt litigation. If women dealt infrequently with these disputes, their relative numerousness in the courts would decrease.[56] Chapter five will discuss shifts in allegations levelled by Star Chamber litigants. These show that women's involvement in some types of lawsuits declined numerically speaking, but also that this was because the court's business was diversifying. In the context of England's increasing 'unprecedented reliance on formal legal agreements, such as deeds and indentures, statutes staple and especially bonds', women's litigation concerning financial disputes will be shown in later chapters to have been reconstituted as accusations of forgery, amongst other things.[57] Thus the withdrawal of women from commercial litigation which may have occurred in the Common Pleas was not reciprocated in the Star Chamber.

Nonetheless, disputes over landholding did prove a stronger draw for women than debt litigation. This hints that the (mean) average woman was proportionately likelier to be a landholder than the male Star Chamber litigant, which, at the tail end of the sixteenth century, was a strong portent of personal wealth. The link cannot be very suggestive of relative wealth, however; to litigate over debt did not preclude that one had property. Having to litigate to protect one's land rather than to reclaim cash loans might be indicative of greater precarity, and in any case landholding is a fundamentally different indicator than landowning. The data does not allow for testing Barnes's observation that women litigants tended to be wealthier in

[55] STAC 5/H39/12, B.
[56] Stretton, *Women waging law*, p. 99.
[57] T. Stretton, 'Written Obligations, Litigation and Neighbourliness, 1580–1680', in (eds) S. Hindle, A. Shepard and J. Walter, *Remaking English society: social relations and social change in early modern England* (Woodbridge, 2013), p. 193.

James's reign.[58] Nonetheless this thesis understands that 'the occupation of land was increasingly seen largely as a commercial relationship', and demonstrates that women might be forced into litigation over land from a variety of perspectives.[59] Star Chamber women are cast more in the light of 'essentially private and economic subjects' than previous studies' interest in custom disputes would have led historians to expect.[60]

This chapter is focussed on re-evaluating the *feme covert*'s legal position. Key to this is the fact that offences coming to the Star Chamber changed across the period under study. This was helped along by the court's refusal from the 1550s to hear those civil title disputes which occupied its Henrician and Marian forebears. These were arguments over who had legitimate title to some private property, which were forced into the court when an alleged trespasser was called by an opponent to justify his occupation of the premisses in question.[61] What did the court's new business look like? '[S]undry excellent statutes' in 1563, 1571, and 1584 informed Councillors and judges against crimes 'which', Bacon wrote, 'no doubt had bred greater enormities, had they not by the royal policy of your Majesty, by the censure and foresight of your Council-table and Star-chamber, and by the gravity and integrity of your Benches, been repressed and restrained.' The 'enormities' which the good Queen had 'censured' were, according to Bacon, 'concerning frauds in contracts, bargains, and assurances, and abuses of laws by delays, covins, vexations, and corruptions in informers, jurors… and the like'. Bacon creditted the 'foresight of your… Star-chamber' for the minimisation of these ills because many of them fell under 'thee Jurisdictione Power or Authoritie of the Courte of Starrechamber'.[62] As would be expected, the shift – within both legal and (as chapters five and

[58] Barnes, 'Star Chamber litigants', p. 9.
[59] C. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2008), p. 352.
[60] Quote from P. Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge, 2005), p. 62; Manning, *Village Revolts*.
[61] Guy, *The cardinal's court*, p. 54.
[62] Francis Bacon, 'Maxims of the Law', in *Works of Francis Bacon, Baron of Verulam, Viscount St. Alban, and Lord High Chancellor of England* (10 vols, London, 1803), iv, p. 7.

six argue) broader culture – which accompanied this fascination with fraud was not confined to Star Chamber. It was complemented by a rise in statutory crime at the assizes, for instance, where fifteen to twenty percent of its convicts were found to have infracted statute against felony, and 70 percent misdemeanour.[63]

Evidence for Star Chamber's increasing use of novel legislation is impressive. The difference between the proportion of suits sampled by Guy in Elizabeth's first year concerning 'substantive crimes against property', and those from the whole reign, is very great. Guy found that abduction, forgery, extortion, and fraud constituted twenty-one percent of its business in 1559.[64] The percentage extracted from the present sample, on the other hand, is around 70 percent (discounting abduction suits, on account of sampling bias). This includes 147 suits which relate to forgery (14.1 percent), and 275 suits (26.4 percent of all in the sample) to perjury charges – many of which relate to disputes over private bequests, and perjury in probate courts. Only ten suits contain no charge which had a statutory basis. The new substantive crimes almost inevitably arrived at Westminster as part of will and other possession disputes – private property ownership, which was once the domain of civil, title, litigation. Star Chamber was thus the *foremost court* for many title-cum-forgery complaints, not one whose 'principal function… was to mount a collateral attack' – at least most of the time.[65]

Statutory basis for prosecution was mostly but not always implicit in suits. While many sampled plaintiffs recommended defendants were not 'regardinge the paines and punishments made and provyded by[…] statuts against wilfull and corrupt periurye and subornacon of periurye', one 1569 bill more determinedly referred itself

> for somuche as in your highnes parliament holden… in the Fyveth yere of your highnes Reigne yt was by your highnes by thassent of the Lordes Spirituall and temporall and the comons in that parliament assembled and by the auctoritye of the same provided and enacted…. [That] yf any person or persons after[wards]… either by the subornacon unlawfull procurement Sinister perswasions or meanes of any others or by theyr owne acte consent and agrement willfully and

[63] J. S. Cockburn, *A History of English Assizes 1558–1714* (Cambridge, 1972), pp. 97-8.
[64] Guy, *The court of Star Chamber*, p. 57.
[65] Barnes, 'Star Chamber litigants', p. 15.

> corruptly dyd comyt any manner of wilfull perjury in any your highnes courts of Chancery, the Starre Chamber the whyte hale or els where within this your highnes Realme of England or Wales or the marches of the same,

they were to be punished upon conviction in the ways set out by the statute.[66] The perjury statute was repeated verbatim in this particular suit because demurral on grounds of a technicality was attempted. John Bowser of Colnbrook (Buckinghamshire) accused Alice Trout 'spinster servante' of 'Imbesylinge… lynin' worth £4, '[twenty] marks of money' and 'fyne Russet yarne' from her master Richard Constable's house when he died. Repeating the statute against perjury, Alice argued that it was inapplicable to her. She affirmed John's claim that she had told Chancery that her master's inventory had been complete upon his death. She continued that this was no perjury, though, because she had taken the goods before Richard died for their safekeeping. Further, Bowser 'was privy to' these subtractions, she having given 'the complaynant understanding' of them at the time; she had not withheld any information, and so the perjury statute did not apply.[67]

Bills after this one, though, usually contented themselves with simply naming to offence – the court felt confident of its jurisdiction. A later (1584) regurgitation of the act was, too, part of counsel's strategy. 'By the letter of' the 1559 perjury statute, Anne Cooke's adversaries argued 'it apperethe that none cann take Any benifitt by [perjury] but the partie greved by' it. Cooke, though, had not actually been 'greved or hurt by' the perjury they had committed at the assizes. Actually, 'she did recover in hir said suite against this defen[dan]t', so she had no case by the Act.[68] That this was a major plank in the defence reveals the respect for legislation of the court. Counsel paid, as court documentations frequently evidence, close attention to all manner of statutes. The verbatim insertion of parliamentary statute as above was rarer, but at the very least plaintiffs protested that behaviour had been 'against lawes and

[66] STAC 5/L36/30, B; STAC 5/B90/30, B.
[67] TSAC 5/B90/30, B and A.
[68] STAC 5/C25/30, A.

Statutes in soche cases', or 'contrary to your Mties Lawes statutes heretofore in that case provided'.[69] Parents of abducted girls impressed upon the court that yes, their daughter had been taken away after being forcibly pulled onto horseback or a moving boat, this being the medieval understanding of 'taken by force'.[70] With an eye to medieval statute defining riot as twelve or more people unlawfully assembled, one bill insisted that only 'pore woomen, and divers of them aged, and the others very young children & gerles, to the nomber of eleven' had thrown down a hedge.[71]

Perjury charges are alleged in 276 (26.5 percent) of sampled suits – double those that Wolsey heard.[72] The first statute dealing explicitly with the crime was passed in 1563 as 'An Act for the Punishment of Such as Shall Procure or Commit Any Wilful Perjury'.[73] A wife just as much as her husband could 'lose and forfeit' a '20^{li} fine[,] half of which is returned to the Queen and thother to the pl[ain]t[iff]s', and be imprisoned for six months if found perjuring.[74] Further, nobody 'what estate, degree or condition soever he or they were, should from henceforth unlawfully suborn any witness' on pain of a £40 fine and the pillory.[75] In 1597 two plaintiffs demurred on the grounds that although both John and Anne Proctor were implicated in a subornation, Anne herself 'is not made partie to the bill as she oughte to be'.[76] Wives were liable to prosecution for perjury, and other statutory crimes, as if *femes sole*. Another of these statutes was that against forgery, which was passed by the same 1563 Parliament, and which constituted an offence in about fourteen percent of sampled suits. This legislation was a

[69] STAC 5/F1/23, B; STAC 5/M31/29.
[70] STAC 5/B82/9; STAC 5/E4/2; STAC 5/R8/10; STAC 5/S67/12 is the abduction of a wife; STAC 5/S18/30, in which one interrogatory asks if the abductor did carry her 'beheinde you one youre horse'; One judgement records Bardwell's indictment for 'Carrying away of Mary Page an heire & infant [by] *Setting her on horse back & holding her on* with his sword drawne: for this comitted for two yeares, *according to the Stat*'. Harl. MS 2143, fo. 11r; 4 & 5 Phil. & Mary, c. 8 (Jan. 1558).
[71] STAC 5/W3/38, A; 1 Mary 1, c. 12.
[72] Guy, *The court of Star Chamber*, p. 53.
[73] 5 Eliz. 1, c. 9.
[74] TSAC 5/B90/30, A.
[75] J. Guy, *Tudor England* (Oxford, 1988), p. 328; 5 Eliz I c. 9.
[76] STAC 5/P58/19, Dr.

comprehensive prohibition on the forgery of publicly recorded, officially sealed documents, as well as the knowing use of such documents as evidence in court. It applied to 'any person or persons watsoever' who 'shall pronounce publish or shewe foorth in Evidence any false and forged Dede Charter Writing Courte Roll or Will as true', and it was to the Star Chamber that suspected violators were specifically referred.[77] Those convicted 'shall paye unto the partie greeved his dooble Costs and Damages', and also 'shalbee sett upon the Pillorie… and there to have bothe his Eares cut of, and also his nosetrelles to be slytt'.[78] A statute in 1571 against fraudulent conveyancing was also frequently referred to in sampled bills. This targeted false sales and transfers 'for the maintenance of upright and just dealing in the purchasing of landes tenements and hereditaments'. 'Penaltie and Forfayture' for fraudulent conveyancing was 'the whole value of the Goods and Chattels' concerned.[79] This legislation, too, applied to 'all and everie' subject in the kingdom; William Hudson's famous *A Treatise on the Court of the Star Chamber* affirmed that 'a *feme covert*, shall be punished by this law'.[80]

How could wives be effectually penalised under these laws, then, given that 'married women… were incapable of owning property'?[81] Wives' statutory punishment was made possible because of peculiarities in *couverture*. Erickson's intuition in 2007 was that there is a particular 'need to bear in mind… the potential conflicts between possession and legal entitlement' in future research about early modern English women.[82] The following section shows that advice paying dividends.

[77] 5 Eliz. 1, c. 14.
[78] 5 Eliz. 1, c. 9.
[79] 13 Eliz. 1, c. 5.
[80] W. Hudson, *A Treatise on the Court of the Star Chamber,* 2nd edn, ed. T. Barnes (London, 1792; repr. New York, 1986), p. 98.
[81] R. Houlbrooke, 'Women's social life and common action in England from the fifteenth century to the eve of the civil war', *Continuity and Change*, 1/2 (1986), 182.
[82] A. L. Erickson, 'Possession-and the Other One-tenth of the Law: Assessing Women's Ownership and Economic Roles in Early Modern England', *Women's History Review*, 16/3 (2007), 382.

iii. Statute and the liability of wives

Regarding Chancery, Cioni describes how 'by means of the concept of the separate estate, equity loosened one tether on the *feme covert*', providing her with a financial safety net from unscrupulous husbands. The protection of these uses in land, says Cioni, 'was the natural outcome of [Chancery's] recognition of her individualism, responsibility and capability'.[83] Cioni's optimistic picture of equity law and its part in women's progression towards equal property rights concludes that 'Chancery accorded female litigants recognition as the responsible individuals which they were'.[84] Wives' culpability, too, for wrongdoing seems the natural outcome of such recognition, but Cioni's wives are all (potential) victims of misdeed. On the other hand, in discussing trespasses of the person (the Star Chamber's especial domain) Baker points out that an 'inability to own property did not render a married woman less capable of committing torts, any more than it exempted her from criminal liability'.[85] Punishment in Star Chamber was most likely financial. At common law judgment for debt, damages, or costs, was via a writ of *fieri facias* which 'ordered the sheriff to seize the defendant's chattels and cause the sum to be 'made up' (that is, raised by sale)' if the indicted person did not pay in cash.[86] William Holdsworth highlights the lop-sidedness implicit here. In equity law like Cioni's, wives had a 'peculiar proprietary capacity' in trusts and uses, but they could not be *answerable* for crimes and torts because such land was not leviable for damages. As such, in central equity courts the victim of a wife's wrongdoing met 'some injustice… [the position of]

[83] M. Cioni, 'Women and law in Elizabethan England, with particular reference to the Court of Chancery' (PhD thesis, Cambridge University, 1985), p. 280.
[84] Cioni, 'Women and law', p. 289.
[85] J. H. Baker, *An Introduction to English Legal History*, 5th edn. (Oxford, 2019), p. 527.
[86] Baker, *An Introduction*, pp. 73-4.

the married woman became as unduly advantageous in equity as it was unduly disadvantageous at common law.'[87]

But Baker impresses that husbands would pay for their wives' own crimes right up until 1882.[88] Why, then, was it not until 1614 that serious discussion was had in Star Chamber about the possibility that the court might ever have 'required nonconvict husbands to bear responsibility for their wives' offenses'?[89] In the wake of 'Sir Henry Townsend's Case', Hudson reported that a decision following this heated conversation was made that 'A *feme covert* shall be defendant in this court, and her husband shall pay costs and damages for her.' This was, though, 'much opposed by the judges; for that in civil causes, they said, the husband's estate should be charged by the wife, but not in criminal causes'.[90] Punishing litigants 'for the sins of their spouses' was never good practice.[91] Collecting or levying penalties from husbands had not been done in the Star Chamber. Accordingly, '[t]here was no case directly to the point with respect to damages ordered against a husband not convicted'. Not one case could be located in of all of Star Chamber's Elizabethan precedents, despite the thorough search commissioned by Chancellor Bacon.[92] If Baker's assessment is correct, the problem of whose property to penalise would have arisen at least once – indeed, many more times – since 1558.

But it did not, wives' own property *could in fact* be levied for certain crimes. The phenomenon of *femes covert* being financially penalised in Star Chamber derives from the fact that more likely than not (and in this thesis's sample, in 50 percent of suits), a litigant was there 'with the objective of winning a substantial prize. That prize was some form of property.'[93]

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[87] W. Holdsworth, *A history of English Law*, 2nd edn. (17 vols, London, 1923; repr. 1992), iii, p. 533
[88] Baker, *An Introduction,* p. 527. This informs much scholarship, for instance Ralph Houlbrooke discusses the immunity of female rioters in 'Women's social life', p. 182.
[89] T. G. Barnes, 'A Cheshire seductress, precedent, and a 'sore blow' to Star Chamber', in *On the Laws and Customs of England: Essays in Honor of Samuel E. Thorne*, p. 371.
[90] Hudson, *A Treatise on the Court,* p. 140.
[91] T. Stretton, 'The People and the Law', in (ed.) K. Wrightson, *A Social History of England, 1500–1750* (Cambridge, 2017), p. 214.
[92] Barnes, 'A Cheshire seductress', p. 374.
[93] Barnes, 'Star Chamber litigants', p. 15.

More valuable to litigants than fines was an injunction for (re)possession of the land 'in varyance'.[94] 'Concerning ye parties releif,' the anonymous manuscript *A new Discovery of the singuler Jurisdiccon of the high Courte of starre Chamber* informed, 'it is ordered sometyme by restitucon of what was taken away, or by damage'.[95] Given that the 'damages' plaintiffs sought was the contested property itself, accusations did not need to be tactically limited to opponents monied (or credited) enough to pay cash fines. So long as one's opponent had a (stolen) title to the land, they were worth pursuing. Here, a little-noticed caveat in *couverture* is of acute significance: 'real property brought to a marriage by the woman would remain attached to her'. Youngs calls married women's litigation 'evidence of the cultural acceptance' of this fact.[96] But grounds would not be sufficient to grant repossession against land's 'culturally accepted' owner. But Youngs's research focus does not concern her with the difference between property a wife inherited postnuptially, or property she owned at her wedding. The difference matters, because while a husband's 'title further extended to personal property given to his wife *after* marriage,' in many cases – when she inherited land in 'a fee simple, a fee tail, or a life estate' – he would take only its rent and profits.[97] While the husband had literal possession, as per Erickson's distinction, the wife preserved her legal entitlement to the land. Accordingly, she 'frequently did not make her husband joint tenant: the property remained as a separate estate' as far as court rolls recorded.[98] This gains more significance for wives in light of Capern's analysis that 'women were much more likely than men to receive the land from a relative,' rather than cash.[99] Richard Staverton's opponent in a land contest was

[94] STAC 5/W57/33, I.
[95] BL Harl. MS 6448, 'A new Discovery of the singuler Jurisdiccon of the high Courte of starre Chamber, and of all matters apperteyning therunto, the Eminent Judges of ye Court and the Officers thereof', as transcribed in Skelton, 'The Court of Star Chamber', appx 1, lx.
[96] Youngs, '"A Besy Woman', 750.
[97] J. Greenberg 'The Legal Status of the English Woman in Early Eighteenth Century Common Law', *Journal of Eighteenth Century Studies*, 4/1 (1975), 115.
[98] C. Churches, 'Women and property in early modern England: A case-study', *Social History*, 23/2 (1998), p. 170.
[99] J. Whittle, 'Inheritance, marriage, widowhood and remarriage : a comparative perspective on women and landholding in north-east Norfolk, 1440-1580', *CC*, 13/1 (1998) 38.

quick to point out that Staverton only 'pretended' to have some contested Berkshire lands in right of 'the title of his wife Elizabeth'; Elizabeth appeared to have inherited 'Hanfields alias Goldinge' manor near Reading from her father.[100]

The last piece of this puzzle is that at civil law, with successful trespass suits 'seisin of the land could not be recovered, and in practice the damages awarded were seldom substantial.'[101] Meanwhile, actions against forcible entry, detainer and disseisin might take place at the Queen's Bench, Common Pleas, and Exchequer, but 'were formally less advantageous' than criminal allegations.[102] In that case, how could a wife's unadulterated title to freehold land incentivise someone to sue her? Because they could turn to Star Chamber, where forgery and perjury allegations (often symbiotic, as discussed in chapters four and five) could be used to make trespass triable with a view to recovery.[103] Frequently, people seeking to increase their share of a family estate would allege that the beneficiary of a householder's will had fraudulently altered it. 'Cobbett *et al,* defendants' were 'convicted for a foul misdemeanour in publishing… a false will' following a 1590 suit. A £100 fine and imprisonment in the Fleet was prescribed, and most saliently, 'the plaintiff restored to the lands in the defendant's possession by the sentence of this court'.[104]

Confident statements cannot be made about the frequency of recovery orders due to a paucity of records. However, Guy's assertion regarding damages is that they 'were steadily awarded as the sixteenth century progressed'.[105] Barnes is more cautious, suggesting that damages were readily awarded until the fifth year of Elizabeth's reign, then much less so, reviving from 1588 for unclear reasons.[106] 1585 and 1586 saw Parliament reiterate measures

[100] STAC 5/S17/34, A.
[101] Guy, *The cardinal's court*, p. 58; J. H. Baker, *An Oxford History of the Laws of England* (Oxford, 2003), p. 721.
[102] S. F. C. Milsom, *Historical Foundations of the Common Law*, 2nd edn (London, 1981), pp. 133-7.
[103] T. G. Barnes, 'Star Chamber and the sophistication of criminal law', *Criminal Law Review* (1977), 323; Baker, *An Introduction*., p. 115.
[104] K. Kesselring, *Star chamber reports: BL Harley MS 2143* (Kew, 2018), n. 906.
[105] Guy, *The court of Star Chamber*, p. 58; 50.
[106] Barnes, 'A Cheshire seductress', p. 362.

against forgery and fraudulent conveyances – and of the sixteen suits concerning will disputes brought against wives alone, thirteen occur during or after 1585 (and within a timespan of seventeen years). Although this incline also resembles the general trend in litigation levels, that the arrival of women offenders mostly coincides with that of a particular penalty is telling. The incentive to penalise wives materialised when damages 'in relation to a property matter' were hers to be forfeited.[107] In 1602, fifteen percent of the court's business was forgery.[108] This proportion is replicated in this chapter's sample of 180. Disputed wills, mostly involving allegations of forgery or perjury, make up a full forty percent of sampled complaints defended against by wives. Half (twenty-four) of the 47 suits brought against wives without their husbands contain a forgery or perjury charge. Sixteen of these are the direct result of an argument over the terms of a recently deceased person's will, while three suits centre on false conveyance.

Plaintiffs did not hesitate to sue individual wives rather than couples. In 1600, Sir Edward Egerton of Cheshire – himself likely a cousin of the future Lord Ellesmere – accused wealthy Isabell Jebb of having perjured herself in the Common Pleas. Isabell answered, or rather, demurred on grounds of the last general royal pardon, alone. Her husband's existence is only apparent in the document's title: 'The demurral of Isabell wieffe of Richard Jebb'.[109] Wives were to respect judicial process, and commercial transactions, as all subjects were. If corrupting these, wives would be exposed to punishment without prejudice. In the 'empyrean' Star Chamber, Coke emphasised in James's reign, a husband was not liable for his wife's actions, although it may have been the case in 'base' common law courts.[110] If land was placed in a wife's own name, she was exposed as a potentially fruitful target of litigation. In 1591 gentleman clerk William Moffett of Barnet was charged with embezzlement via fraudulent

[107] Guy, *The court of Star Chamber*, p. 50.
[108] Calculated using Guy's figures in *The court of Star Chamber*, p. 60.
[109] STAC 5/E9/11, Dr.
[110] Barnes, 'A Cheshire seductress', pp. 376-7

conveyance.[111] The estate had, in fact, been put in the name of his wife Dorothy, so she answered also. She did so along with a Joane Briscoe, whose husband Philipp was uninvolved, but in whose name too some contested land had been placed by the Moffetts.[112] Gentleman John Guyllim charged George and Cecily Ashelyn for perjury regarding a contested farm in the manor of Rodley (Gloucestershire), and husband and wife appear together in the catalogue. This obscures the fact that Guyllim's counsel had made a technical misstep, apparently caught in time for Cecily to answer alone as sole defendant. Although it was George who took possession by force, it had come to Cecily by her father's death and apparently remained in her name.[113]

Pleadings were not elusive in describing a wife's wrongdoing. Defending a 1602 forgery allegation, one Elizabeth was introduced as 'wife of James Andrewes of Chattham, [a] Taylor'. The suit, though, was brought only against her name (like Richard Jebb who appeared only nominally in the case described in the previous paragraph, James appears nowhere else in his wife's written proceedings), and the interrogatories leave no doubt that it was Elizabeth who 'tooke Johane Dawes['s] hande… and sett ytt to the paper or parchment' of Johane's will, in order to alter it to her own advantage.[114] In another case Nicholas Brazier of Thriplow, Cambridgeshire, went one step further in 1586 when he described not only that a wife committed crime, but that she procured her husband to do so as well. After his sister Anabel Payne died in the village, Nicholas accused John Taylor of having forged Anabel's will without her 'privitye, notice or Consent duringe the tyme of her said sickenes'. This John apparently did 'by the advise' of his 'wyffe' Rose, thus redirecting to themselves 'Sixe pounds of Sylver two fether beddes certen shets blankets' and livestock from Anabel's estate.[115] Explicit

[111] William Moffett faced embezzlement charges as founder of Queen Elizabeth's School in Barnet.
[112] STAC 5/T15/27, A.
[113] STAC 5/G35/3, A. and B.
[114] STAC 5/D8/20.
[115] STAC 5/B66/2, B.

accusations that wives had *procured* their husbands' crimes themselves are unusual among sampled suits. The likely reason for Nicholas's wording is that Rose was Anabel's niece by blood, so if he secured a conviction these chattels were recoverable against Rose.

Remarriage did not shield widows from liability for statutory transgressions. From London, Mary became Mary Gates when she married her husband Laurence, 'a cannoner in her majesties service', 'in the duche Churche at Bargouvpzou'.[116] That was in 1591, but by 1594 he had already passed away and she was identifying herself to a Star Chamber examiner as 'Mary wief of George Peell of the parishe of St Annes London Joyner of the age of xxxiii yeeres'.[117] She was answering the charge that she had embezzled money owed to the London Cannoners Company from Laurence's estate. A note on the interrogatories reads: 'George Peelle is to be examined of the Interrogatories only wich be pricked and his wife of all'. George was only required to identify Mary.[118] Possibly George, unlike husbands in some other cases, was required to make this nominal appearance to the court because Mary had inherited the contested property before, not after, their own marriage. Mary could be liable, but George leviable, in this case. One Wiltshire wife Agatha Feltham sued her relative Eleanor in the Arches for refusal to pay out the contents a will when the task had fallen to her after its previous administrator died. Eleanor was also married, but this did not make the goods less recoverable against her as inheritratrix. Although there is no decree accompanying the Star Chamber complaint, in the Arches, anyway, Elynor was ordered to pay £11 court costs to the Agatha as well as 'eightscore' pounds to the plaintiffs 'or ther procter' for goods not yet administrated. Agatha had successfully used the civil law, which did not recognise couverture, to reclaim her £40 marriage portion from the reluctant (married) Elynor; now, she tried to use a criminal

[116] STAC 5/G14/15, D [miscatalogued as only Bill and Answer].
[117] STAC 5/G14/15, I and Depositions of Mary Peell.
[118] STAC 5/G14/15, I and Depositions of Mary Peell.

charge to uphold the judgement.[119] The Star Chamber was a tool which could be used for fining wives, even if indirectly.

iv. The allegiance of wives: doubled or halved?

These legal changes necessitated a different conception of subjecthood for women affected by them. The traditional view amongst historians had been that equity law shared some of the common law 'fear' of publicly undercutting a man's authority over his wife.[120] This reluctance would be commensurate with early modern political thinking that 'the imperatives of communal- and self-governance naturally extended from polis to house'.[121] Self-determination by subordinate household members, rather than cogent household units, would fit into this ideology poorly – as many plaintiffs appreciated when they described their adversary's 'masterlesness', and 'wandringe lief upp and downe the Countrye'.[122] The previous section in this chapter, however, has demonstrated that *couverture* did not prevent forfeitures being extracted from a wife convicted for her own crime. How, then, did the Star Chamber avoid upsetting an administrative scheme and deconstructing the politics underpinning it, even while punishing a wife as a distinct, criminal, subject? This section shows that the notion of wifely subordination was preserved by subsuming a wife's criminal motivations into another household unit – often her family of origin, or the household in which she worked.

[119] STAC 5/L13/7, B (1599).
[120] Brooks, *Law, Politics and Society*, pp. 357-8; Quote from T. Stretton, 'Marriage, separation and the common law in England, 1540–1660', in H. Berry and E. Foyster (eds), *The Family in Early Modern England* (Cambridge, 2007), p. 20.
[121] Withington, *The Politics of Commonwealth*, p. 215.
[122] STAC 5/M4/26, A.

The Star Chamber's disinterest in female disorder as an expression of a woman's *own* desires is evident in the fact that there are very few overt disagreements between wife and household in this chapter's sample. In one case, William Page of Sowthropp (Gloucester) sued his sister Agnes for trespass, describing her 'a woman most despyghtful' who released a swine onto his corn crop while her husband was away in London.[123] Agnes's husband returning and expressing concern at the conflict, Agnes described coming to the pound to 'intreate' her brother to accept some 'recompence for the trespasse' of her sow. The (only) reason was 'to thend this examinants husband might not be displeased towards this Examinant for suffering the trespasse to be comytted'.[124] Agnes pleads that she tried to satisfy her husband's wishes. Only one of the households in this chapter's 180-suit sample is 'divided' as opposed to what could be described as 'disorderly': John Jermyn complained that his wife Judith, litigating alongside their friends the Martens, 'beganne to take upon her in such unrulie contentious and disorderlie maner daily and nightlie to overthwarte controll check abuse and miscall' John. Having decided that he couldn't resurrect their cohabitation without being in fear of his life, he offered her an annual income instead.[125] However, most family units in the Star Chamber were undivided, although they could be disorderly.

Generally, where female disorder did exist in the sample, a conversation about what motivated a woman to her actions was not offered. One exception which proves the rule was the Ablett household, sued in 1591. Early modern authors wrote that women were easily led by their own corporeality; after the Fall as Augustine conceptualised it, Eve was 'forever thereafter identified with subjection of mind to body'.[126] The duty of a husband was to use his superior

[123] STAC 5/P32/24, B.
[124] STAC 5/P32/24, D.
[125] STAC 5/J1/10, A.
[126] A. Fletcher, *Gender, Sex, and Subordination in England, 1500-1800* (New Haven, CT, 1995), p. 68.

reason to moderate his wife's frailties and excesses, including her lust.[127] A husband who could not sufficiently subordinate his wife in this way risked his household falling into wider disorder. This was apparently true of Philip Ablett of Staffordshire, who was sued by Richard Sutton of Staffordshire in 1591 for ejection and cattle-wounding. Although just 'a boy or younge springalte of the age of Nineteene yeres', Philip, Richard's bill described, had recently married 80-year-old Marie Rowleston 'very Lycenciously Contrary to all good government and modestie, and contrary to the myndes of all her frends & kinsfolke'. Widows were especially libidinous thanks to the sexual experience already afforded them by their first marriage, and with Philip barely realising the self-mastery of adulthood Marie was unlikely to benefit from his guidance.[128] Furthermore, Philip was not only young but 'of bace parentage', having been 'brought up under Francis Rowleston', Marie's late husband, 'in place of a Bruer or horse keper'. Marie was 'nothinge regardinge the famelye wherof shee discended', nor honouring Francis. Because 'shee discended' to marry the young servant, Marie had capsized the ordinary household order. This was reflected in the unusual complaint in Richard Sutton's bill that Philip had committed the trespass 'by the Assent and Comaundment *of his wyef*'.[129] The Ablett example is unique because the motivation of this household's descent into disorder – Marie's own lust – is entirely internal to it. Contrarily, most of the interspousal suits described more widely in this thesis contextualise a wife's bad behaviour to within another household unit.

So, punishing households was usual. But it *was* understood that wives effected their own actions – indeed, it is hard to imagine how anyone might reach a different conclusion of the world. Anna Becker puts forward that Bodin, writing in contemporaneous France, 'defined the citizen as a free person under the sovereignty of someone else', as a wife under her husband. More broadly, Becker says, 'female dependence was not necessarily the

[127] A. Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2003), p. 76.
[128] E. Foyster, 'Marrying the experienced widow in early modern England: the male perspective', in S. Cavallo and L. Warner, *Widowhood in Medieval and Early Modern Europe* (Oxford, 1999), pp. 109-11.
[129] STAC 5/S34/22, I.

opposite of liberty was a commonplace in political thinking'.[130] Wives with liberty, of course, were at liberty to sin. The Tudor-Stuart problem of recusancy has brought this administrative tension – between a framework which dealt with heads-of-household, and a need to deal directly with its subordinate members – to scholarly attention. Recusants were any subjects who rejected the legitimacy of Elizabeth's church by refusing to attend its Sunday services. Prosecutions of married women, as well as those unmarried and men, began from the 1559 Parliament, only declining from the 1620s.[131] If married women recusants had been persuaded and procured to Catholic worship by their husbands, the whole household would require reformation with fines or imprisonment. This was necessary to avoid the providential punishment of all England (and, too, 'sett[ing] an example for lyke offenders'); preachers increasingly emphasised that 'the future of the community was fused with the fate of the private citizen's soul'.[132] It was eventually 'Resolved' in 1624, by Coke and Bacon among others, that no husbands of recusants 'should be spared' if their own religion was suspect too. But what if a recusant's husband was himself 'sincere in Religion, and that their Children and Servants, under their Government, are well educated, or come to Church'?[133] What Parliament obviously understood, to the law's discomfort, was that a wife in this case might have independent religious motivations to her husband and household.

Debate therefore followed about whether or not husbands could be punished for their wives' religious nonconformity, centring on the problem of whether a husband's goods could be levied to pay the requisite 'Penalty of 20 l. for the Wives Recusancy'.[134] Historians have agreed that enforcement was problematic. The authorities, variously: had the High

[130] A. Becker, *Gendering the Renaissance Commonwealth* (Cambridge, 2019), p. 184.
[131] P. Crawford, *Women and Religion in England: 1500 to 1720* (London, 1993), pp. 58-9.
[132] A. Walsham, *Providence in Early Modern England* (Oxford, 2001), p. 306; STAC 5/G14/34, B.
[133] 'House of Commons Journal Volume 1: 03 February 1606', in *Journal of the House of Commons: Volume 1, 1547-1629* (London, 1802), p. 263 and 'House of Commons Journal Volume 1: 12 May 1624', pp. 702-3.
[134] 'House of Commons Journal Volume 1: 03 February 1606', in *Journal of the House of Commons: Volume 1, 1547-1629* (London, 1802), p. 263 and 'House of Commons Journal Volume 1: 12 May 1624', pp. 702-3.

Commission bond over husbands for wives' better behaviour; fined families; and imprisoned these wives (to their husbands' chagrin as well as, probably, their own).[135] Interestingly, the High Commission appears several times in sampled material, enjoying a relationship with the Star Chamber which is explained a little by chapter five of this thesis.[136] And, as one sampled suit shows, the Star Chamber itself was apparently interested to weigh in on the issue of nonconforming households, as well as levying chattels. In 1586 for example, the court was petitioned that William Powtrell sheltered recusants in his house in Clayworth (Nottinghamshire), 'aswell men, as women'. Supposedly he 'collereth dyvers of some of ther goodes... with his marke… [saying] that they be his owne'. He did this 'because he would not haue them extended, & taken, for such money as the excommunicate persons hath forfeyted, to yor Maiestie, for that their recusancy'.[137]

More broadly, these debates affirmed that if a wife was incorrigibly sinful, and her godly husband's failed attempts to reform her had not righted her, the state apparatus would have to intervene to correct her instead. Despite aspirations by the law on behalf of husbands that they be 'both king and priest in his family', 'in practice, the categories of public and private were permeable'.[138] Star Chamber litigants shared stories about events that had occurred in their own 'shoppe', 'parlor', 'kichin', 'closett', and 'bedd chamber'.[139] Hudson relayed one 1563 case which might seem 'of a strange nature; where a complaint being made to the court that Brent consumed his estate in lewdness, and that his wife and children had not wherewithal to maintain them'. The court interfered, though, 'which order, though it soundeth merely

[135] J. A. Bossy, *The English Catholic community, 1570-1850* (London, 1976), p. 154. K. S. Peddle revised Bossy's view in 'In the Name of the Father: The Elizabethan response to recusancy by married catholic women, 1559-1586', *Feminist Legal Studies* (2007), 15/3.
[136] The two bodies were also procedurally alike. P. Collinson, *Richard Bancroft and Elizabethan Anti-Puritanism* (Cambridge, 2013), p. 44 and 47.
[137] STAC 5/S75/19, B.
[138] P. Crawford, 'Public Duty, Conscience, and Women in Early Modern England', in J. Morrill, P. Slack, and D. Woolf (eds), *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G.E. Aylmer* (Oxford, 1993), pp. 60-1.
[139] STAC 5/B5/23, B; STAC 5/G11/13, A; STAC 5/J17/8, Depositions of Clement Willyams; STAC 5/B70/37; STAC 5/F4/18, I.

civilly, ariseth out of this crime; and it is in the interest of the state that no one make a bad use of his own property'.[140] The Star Chamber even took it upon itself to set this example for lawcourts throughout the kingdom: serving as a lecture hall for judges' invigoration before they were sent on their common law circuits, the privy council there 'exhorted, encouraged, ordered and rebuked' magistrates to effectively oversee households in the localities.[141]

Parliament grappled with the necessity and difficulty of punishing other 'domestic' issues than recusancy. Star Chamber attorneys Bacon, Coke, and Egerton all discussed social policy in Parliament on numerous occasions, embodying the uniquely 'intimate link between policy and law' fostered by this lawcourt.[142] When Essex JP William Wiseman brought up the illegitimate pregnancy of maidservants in Parliament, his 'radical' proposition was that the servant 'had to bear the brunt of responsibility: penury would serve as the best admonition for her sinful behaviour'. JP George More's suggested solution, though, was couched in terms of (household) financial liability; either her master's household should pick up the tab because the pregnancy resulted from his lack of masterfulness, or whichever household she may have sought shelter in should do so instead. Ideally, of course, the father need be discovered, and *if* 'able to support a household' should relieve the two.[143] Households comprised financial units, and those without them (like the travelling maidservant) were likely financially dispossessed too. The tension between individual and household liability was kept taut here, largely by the relative poverty of maidens standing outside of the financial units which comprised households. This was the tension which was somewhat slackened when punishing (broadly middling) inheritrices for substantive property crimes.

[140] Hudson, *A Treatise on the Court*, p. 112.
[141] D. Smith, *Sir Edward Coke and the Reformation of the Laws: Religion, Politics and Jurisprudence, 1578–1616* (Cambridge, 2014), p. 6; K. Wrightson, *English Society*, p. 135.
[142] Barnes, 'Star Chamber and the sophistication', 326.
[143] D. Dean, *Law-making and society in late Elizabethan England: The parliament of England, 1584-1601* (Cambridge, 1996), p. 186

With the legal and financial obstacle ameliorated in punishing these crimes, the Star Chamber's other consideration was philosophical. Carol Weiner proposed that in presenting lone wives, JPs might elegantly preserve their own doublethink regarding wives' agency by 'resort[ing] to the fiction that women were spinsters in order to facilitate proceedings against them'.[144] Conversely in the Star Chamber, when women committed crimes away from their husband's home, fictive households – headed by masters or by brothers – provided alternative context *and motivation* for female criminality. Despite being fined alone, a criminal wife was almost always prosecuted as part of a group. There is a mean of 2.7 defendants per catalogued suit; but suits which involved women defendants contained a mean of 1.2 women defendants. Men tended to outnumber women within groups of defendants. A wife was the only defendant in just two of the 49 cases which were brought against wives as if *femes sole*.

The impulse to understand households as coherent sometimes involved sacrificing the headship of husband over wife. Nineteen wives prosecuted as if *femes sole* were indicted with their families of origin. After the death of Thomas Cove, Johan Mills née Unwynne answered to forgery and perjury with her brother and sister. Widow Eleanor Cove prosecuted the married Johane Mills née Unwynnge and her siblings in 1571 for affirming a forged document in court. This document obliged Cove to pay her dead husband's debt of £14 11s 4d to forger James Unwynnge.[145] Probably it was worth prosecuting Johane without her husband because Eleanor's need was to have James's obligation cancelled; any fine raised from Johane – then forfeited for want of 'collateral' – would anyway only have been a bonus. In a different case in 1582, William Bourne informed that his opponent Anne Knight (appearing with her mother Elizabeth Jonson) had procured Fayercloughe Freebodie to falsely depose to the Exchequer court in Chester in a possession suit. Five years ago, Anne explained, Roger Farthing 'havinge

[144] C. Weiner paraphrased by Houlbrooke, 'Women's social life', p. 182.
[145] STAC 5/C37/21, B and A.

begotten hir with childe[,] dyd promise to gyve hir' Anne's 'howse wherin she nowe dwelleth' in Northgate Street along with 'the some of two hundreth poundes', before leaving town. Bourne himself, her defence claimed, had at the time also given her £5 out of a promised £100 in return 'that she shulde no more use Mr Farthing his company'. It is not clear what relation Bourne had to Farthing, but by 1582 the latter was dead and Bourne was alleging that Anne's child was in fact her current husband William's in order to undercut Anne's claim and take title himself. This is William Knight's sole mention in any of the suit's documents, even though he and Anne married just prior to Bourne bringing his Star Chamber case.[146] It was not necessary to manipulate facts so as to make Anne's husband liable, so long as Anne's conspiracy was demonstrably with somebody else.

Other complaints contextualised a *feme covert*'s actions within an extended 'household' unit. Nine wives were understood as part of her master's household. It often cannot be established whether she was a 'life-cycle' servant or charwoman.[147] Barbara Puckle, wife of John, deposed in Chancery that George Shelley had sold a lease in South Malling (Sussex) worth 1000 marks for £120 to two men before he died. This conversation had occurred 'in her hearynge she goyng too and from the howse' about her work as George's housemaid in 1575.[148] In a case not dissimilar, Hugh Stukeley prosecuted William Darrell in the wake of his father's death. Katheryn Wilson 'wife of John of Leverton' was accused of perjuring herself over 'baggs of silver' and 'golde' worth £600, which she said exchanged hands from their ex-master Sir Edward Darrell. Katheryn was asked if she was 'a skulle or turne broche breade upp onlye on Almes by Sir Darrell and his sayde ladye'. Twenty-two-

[146] STAC 5/B65/35, D.
[147] The suits lends credence to Laslett's suggestion that 'in large households [live-in servants] may even be currently married'. P. Laslett, 'The institution of service', *Local Population Studies* Number 40 (Spring 1988), p. 57; This contrasts with assertions like Raffaella Sarti's that women in north-west Europe 'left service if they married'. R. Sarti, 'Domestic Service and Celibacy in Western Europe from the Sixteenth to the Nineteenth Century', *European History Quarterly,* 38/3 (2008), 440. For 2 more married servants (both witnesses): STAC 5/F4/18, Depositions of Grace Mathewe; STAC 5/M9/3, Depositions of Joan Brewett.
[148] STAC 5/S21/7, B and D.

year-old Katheryn replied that she lived as a servant in Sir Edward Darrell's house, committed to his care and service by her parents in exchange for some land from which Sir Edward drew profits to pay her keep.[149]

v. Conclusions

This chapter has established, in broad terms, who litigated in the Elizabethan Star Chamber and what for. Its findings have differed somewhat from classic Star Chamber studies, largely due to different methodological choices. Pleadings recognised women generally, and wives particularly, as pivotal litigants and witnesses where catalogues drawn up in the eighteenth century did not. Some of these women were there because 'the court had primarily become a central court concerned with' the 'application of an embryonic substantive law'.[150] Title claims were being recast as forgeries and perjuries, which were not triable at common law, to pull this 'substantive crime against property' into the purview of the court.[151] The Star Chamber's specialization may be why Stretton observes for Requests a 'surprising' lack of the trope of covetous women. It was common enough in Star Chamber, like in the case against Mrs Whelpdale who was accused of altering her husband's will along with the vicar by adding: '[f]or my backhowse[,] I will not give it from my wiffe'.[152] Furthermore, wives as well as *femes sole* could 'own' landed property even if it was not in her current possession. If adversaries were seeking repossession of realty and this was legally a wife's, the means to achieve it thus

[149] STAC 5/S81/15, D.
[150] Guy, *The cardinal's court*, p. 138; Barnes, 'Star Chamber and the sophistication', 323.
[151] Guy, *The court of Star Chamber*, p. 58; calculated using Guy's figures on p. 60.
[152] STAC 5/D27/22, B.

existed in Star Chamber; thus advising that statements about the rarity of capital assets like 'freehold title' among women be softened.[153] Wives were not necessarily in an 'unduly advantageous' position in equity.[154] Whilst it may be true that equity precipitated the biggest exception to couverture's operation in its development of trust, to a smaller but demonstrable extent it also facilitated the direct prosecution of wives.[155] This all suggests too that women's lower rates of prosecution resulted from a lack of opportunity.[156]

Proprietorship did not, though, displace the importance of gender in securing one's visibility to the law. The reason for this is that the 'law', and how it is applied, are fundamentally different entities. This contention is central to this thesis. Yes, legislation increasingly dealt with the realities of a legal system which relied on the cooperation of each its beneficiaries – as individuals who could own property, testify in courts, and threaten public order. Any person of what 'sex soever' had responsibilities as a subject, and if they were contemptuous of the law and its process sinned against kingdom and crown.[157] This is significant for research into wives' lives because women were liable to answer alone for injuries against royal judicial process. But, as in other cases, 'facing what they perceived to be a challenge to the household,' the judiciary sought to protect the integrity of the commonweal by realigning subordinate individuals with household units when possible.[158] This allowed the double-think inherent in wives' allegiance to both crown and household to be sustained.

[153] Stretton, *Women waging law*, p. 99.
[154] W. Holdsworth, *A history of English Law*, iii, p. 533.
[155] For equity law as circumventing couverture T. Stretton, 'The legal identity of married women in England and Europe 1500-1700', in *Europa und seine Regionen: 2000 Jahre Rechtsgeschichte* (Cologne, 2007), *passim*.
[156] For this viewpoint see Carol Z. Weiner, 'Sex roles and crime in late Elizabethan Hertfordshire', *Journal of Social History*, Vol. 8, No. 4 (Summer, 1975).
[157] Sir Edward Coke, *The Second part of the Institutes of the Laws of England: Containing the exposition of many ancient and other statutes* (London, 1609; repr. 1809), p. 121.
[158] D. Dean, *Law-making and society*, p. 187.

Chapter three

Couverture: women and the Queen's justice

'Seditious Tumults, and Seditious Fames, differ no more, but as Brother and Sister, Masculine and Feminine.'[1]

Sir Francis Bacon, 1625

'Female participation in' early modern riotous protest, says Crawford and Mendelson, was 'disturbingly visible to contemporaries, if not to subsequent historians.'[2] Snippets of evidence in pleadings exist of plaintiffs' own (possibly feigned) uncertainty over wives' legal capacities. One of the most significant exists in Anthony Denham's 1590 complaint of assault and embezzlement against William Muffett, his wife Susan, and the also-married Anne Curteis. The allegations – that the women used shears to cut the hand of a minister's wife, in protest of clerical marriage – conclude that

> yf suche outrageious assault, breach of your highnes peace & fowle mysdemeanors shold goe unpunished because they be done & executed by women & persons of the femall sexe, who are as much subjecte to your highnes lawes than anye the mayle subjectes are, yt wolde calle your highnes said Lawes iudges & iustyces in contempt and occasion many tumults & uprores[.][3]

Denham's counsel presumed to remind the court that 'persons of the femall sexe' were 'as much' required to respect 'lawes iudges & iustyces' than were 'the mayle subjectes'. Just and

[1] Francis Bacon, 'Of Seditions and Troubles: XV', in *Oxford Francis Bacon, XV: The Essayes or Counsels, Civill and Morall*, ed. M. Kiernan (Oxford, 2000), p. 43.
[2] P. Crawford and S. Mendelson, *Women in Early Modern England 1550–1720* (Oxford, 1998), p. 383.
[3] STAC 5/D1/1, B.

peaceful rule required the participation and loyalty of 'all the king's liege subjects'.[4] the logical endpoint of this was that a wife's allegiance was owed to the crown. In some lawcourts, wives' motivations were negated by a conception of everyday power comprising coherent and self-interested households. But the 'empyrean' Star Chamber (where, Coke emphasised, a husband was not liable for his wife's actions although it may have been the case in 'base' common law courts) dealt with statutory offences, via which wives were in dialogue with the crown rather than their own households.[5] However, that Denham's bill spent time revisiting the issue reveals that wives' identities as sovereign subjects were not consistently invoked. This chapter seeks the court's logic for this.

i. Were wives accountable for crime?

The last chapter demonstrated that property-owning subjects were exposed in Star Chamber using forgery and perjury charges which encouraged counsel to assess litigants' behaviour in relation to legitimate authority, and that wives were liable to punishment. Deliberations Ralph Houlbrooke assumes to be quotidian for '[a]ll those learned in the law', 'that women who committed crimes under their husbands' coercion could not be held responsible', are not at all apparent in sampled suits.[6] Marisha Caswell's investigation of 108 defences ('plebeian understandings') from the seventeenth century show that assize plaintiffs, too, 'had little difficulty depicting married women as criminals'. Only five referenced marital coercion, rather

[4] J. H. Baker, *An Introduction to English Legal History*, 5th edn. (Oxford, 2019), p. 542.
[5] T. G. Barnes, 'A Cheshire seductress, precedent, and a 'sore blow' to Star Chamber', in *On the Laws and Customs of England: Essays in Honor of Samuel E. Thorne*, pp. 376-7; A. Cromartie, 'The constitutionalist revolution: the transformation of political culture in early Stuart England', *P&P*, 163 (1999), p. 88.
[6] R. Houlbrooke, 'Women's social life and common action in England from the fifteenth century to the eve of the civil war', *CC*, 1/2 (1986), 181-2.

than holding wives personally accountable for theft, assault, and other misdeeds.[7] Houlbrooke's assumption was that wives' actions would inevitably be regarded as coerced rather than collaborative. But married women's crimes were almost universally presented in Star Chamber stories as 'independent actions' in the sense that they were not forced by anybody. Sometimes wives, with or without other household dependents, committed crimes alongside husbands 'at their procurement'. Plenty of other wives committed crimes alongside their husbands, with little or no distinction made between their actions. As such the Star Chamber offers a purgative for the 'tacit, if inaccurate, understanding' that court records render premodern women's agency 'all but invisible'.[8]

Tudor-Stuart jurist Michael Dalton's observation in *The Countrey Justice*, that a couple's crime is 'taken to be the onely act of the husband, and not to be felonie in the wife', has done a lot of work supporting the old truism that wives lacked agency in criminal records.[9] Much scholarship has taken this line out of context. Having reported that a felonious action by a couple would result only in the husband's indictment, Dalton goes on to caveat that this only applied when the wife acted under her husband's 'compulsion or constraint', *not* simply his 'commaundment or procurement'.[10] These categories were not stable, however, and gave rise to varied and sophisticated accounts of wives' criminal behaviour in judicial records.[11] For instance, Dalton reported that judges appreciated the differences between a husband's 'compulsion' upon his wife, and his 'commaundment'.[12] He also reported Bracton's writings

[7] M. Caswell, 'Coverture and the criminal law in England, 1640-1760', in K. Kesselring and T. Stretton (eds), *Married Women and the Law: Coverture in England and the Common Law World* (London, 2013), pp. 89, 92; 107.
[8] M. Stevens, 'London's married women, debt litigation and coverture in the Court of Common Pleas', in C. Beattie, and M. Stevens (eds), *Married women and the law in premodern Northwest Europe* (Woodbridge, 2013), p. 120.
[9] M. Dalton, *The Countrey Justice* (London, 1617), p. 374.
[10] Dalton, *Countrey Justice*, p. 374..
[11] T. Phipps, 'Coverture and the Marital Partnership in Late Medieval Nottingham: Women's Litigation at the Borough Court, ca. 1300-ca.1500', *JBS*, 58/4 (2019), 786; Stevens, 'London's married women'.
[12] Dalton, *Countrey Justice*, p. 374. Dalton also reported that judges appreciated the difference between a husband's 'compulsion' upon his wife, and his 'commaundment'. Possibly by 'commandment' Dalton meant the

that theft at a husband's instruction must be the wife's own crime, if she acts 'without other constraint' – 'but Master Stamford & others seeme to be of another opynion'.[13] Another, more striking, contradiction to the notion that wives were not responsible agents in court records are the 49 Star Chamber suits brought against wives as if *femes sole*. They make a significant minority of the chapter's 180 sampled suits.

Dalton's *couverture* did not apply in crimes *male in se*, like homicide.[14] This was true for John and Elizabeth Leame, appearing before Star Chamber in 1596. Their daughter-in-law Anne accused the pair of having persuaded her husband 'John ['the younger'] to take any course either lawfull or unlawfull to live abrode from' her, and to 'have ahold of' Anne's dowry themselves.[15] Pregnant with her absent husband's child, Anne sought her jointure at her in-laws' house, only to have Elizabeth beat her before 'most wickedly runynge with a knife ther to cutt [Anne's] throate'. '[W]ich undoubtedlye she had done[,] had she not byn prevented by unexpected meanes'. Her baby, Anne reported, died soon after birth. Anne submitted her bill to Star Chamber on November 8th. John Leame 'thelder' answered in the name of himself and his wife, arguing that they did not want to invite censure from neighbours in sheltering a lone mother: 'and his wief doe Notwithstandinge keepe one of the Complaynants children in there howse at there owne chardgs… which is more than this complaynant could conveniently have spared'. The Star Chamber recognised a legal error, because Elizabeth then submitted an almost identical answer in her own name only, on the 2nd December.[16] The court apparently had her answer alone for assault and (attempted) murder – *couverture* need not apply.

Technically Star Chamber did not hear felonies – but Dalton's rule (that 'coverture afforded wives no protection' when they committed felony in their husband's absence) applied

husband's instruction from afar – or, to illustrate when a husband gave his instructions *in situ* without threatening to punish his wife for non-compliance.
[13] Baker, *An Introduction*, p. 523.
[14] Dalton, *Countrey Justice*, p. 374.
[15] TNA STAC 5/L2/27, B.
[16] STAC 5/L2/27, B; Answer of John Leame; Answer of Elizabeth Leame.

when exceptional cases arose.[17] John Biggs 'clerke of chapplens perpetuall of the Savoye' complained that he and his wife Alice were set upon by eight married women whilst walking through London's Southwark on May 7th 1594. They assaulted the couple, 'tearinge in peces [and] castinge awaye' the Biggs' garments and 'threateninge to kill them... seyinge they would caste them into a ponde of water ther and drowne them'. Finally, although not one witness corroborated this, Jane Aston – or some other of the defendants – did 'take awaye ffrom your saied subiects wief a jewell amountinge to the valewe of' £15, before the couple escaped. The stolen item was valuable enough for this to constitute (felonious) larceny, not misdemeanour. The title of Aston's answer calls her 'the wyffe of John Ashton Gent,' but 'her marriage only featured insofar as she was identified' in this way, and we do not meet John again.[18]

Others of the Biggs' assailants also appeared in Star Chamber unaccompanied by their husbands. The assaults occurred after a constable tried and failed to apprehend Alice Biggs, in which 'stirr and greate adoe' locals John Cutler and Thomas Iremonger had been killed. '[N]aughtye' Biggs was seemingly guilty of an extramarital affair. Afterwards, on May 7th, fishwife Margaret Burton admitted proclaiming 'that it had bin better [if Alice] had bine never Borne than that those twooe men should be so murdered about her bad dealings'. Pushing blame for fornication and its evil consequences squarely onto Alice's shoulders, Burton and the other women shamed Alice in the street by uncovering her hair so that it was 'hanging lose [sic]… amongst so many' passers-by – and tied her to a 'pale' (fencepost). None of the eight defendants' answers and rejoinders attempt to demur on the grounds that these wives' husbands should also be charged.[19] Court practice aligned with the legal theory which was to be reported by Dalton two decades later.

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[17] J. A. Guy, 'The Early-Tudor Star Chamber', in D. Jenkins (ed.), *Legal History Studies 1972: Papers Presented to the Legal History Conference, Aberystwyth, 18-21 July 1972* (Cardiff, 1975), pp. 123-4; G. Walker, 'Keeping it in the Family: Crime and the early modern household' in H. Berry and E. Foyster (eds), *The Family in Early Modern England* (Cambridge, 2007), p. 73.
[18] STAC 5/B64/18, B and Jane Aston's Answer. See Caswell, 'Coverture and the criminal', pp. 97-8.
[19] STAC 5/B64/18, Jone Iremonger and Margaret Burton's Answer, and 5/B63/26, D.

Felonies, though, were investigated by Star Chamber only extraordinarily; and 300 times more women in England were presented for deeds less terrible than 'murther' than those for murder itself. Largely, in prosecuting non-felonious crimes 'marital coercion was immaterial', so Star Chamber was rife with suits in which couverture would not have been operable at common law.[20] This chapter examines a spectrum of case-types to reveal couverture's functioning along the axis of 'type of' offence as well as that of 'gravity of' offence. For Tudor and Jacobean Cheshire, Walker's common law case-studies of trespass support Dalton's observation that 'a *Feme couert*, (by her owne acte) may commit a forcible entrie or deteiner'.[21] On the other hand, despite Holdsworth asserting as early as 1923 that 'the married women's capacity to commit crimes is almost normal' *non*-land related disputes have until recently been underestimated as records of women's lives.[22] Studies by Garthine Walker, Jennine Hurl-Eamon, and others have helped to turn the tide, revealing married women committing petty theft, assault, and myriad other misdemeanours. Consequently, assumptions of historians that 'feminine' crimes – infanticide and scolding, for instance – were the preserve of most premodern indicted women is increasingly undercut. The research here substantiates these revisions.

This chapter provides evidence that wives were frequently understood to perpetrate and be accountable for criminal activity; and, that wives contributed to financial penalties for these offences. About 2,600 fines paid to the Star Chamber under Elizabeth were copied into memoranda rolls for the Exchequer.[23] These can be used to demonstrate that women were just as likely as men to be fined – and, to pay that fine. First, however, various applications of couverture will be analysed via close readings of pleadings in 180 suits, as well as existing fine

[20] Calculated using Walker, 'Keeping it in the Family', pp. 70; 73.
[21] Walker, 'Keeping it in the Family'; Dalton, *Countrey Justice*, p. 196.
[22] W. Holdsworth, *A history of English Law*, vol. III 3, 3rd edn. (London, 1923), p. 533 and Baker, *An Introduction*, p. 527.
[23] Counted using transcriptions at 'Star Chamber Fines' by Robert C. Palmer https://waalt.uh.edu/index.php/Star_Chamber_Fines (Accessed 15 September 2023).

roll entries. The content of cases will be used to organise this discussion. 'Household' crimes are used to describe accusations in which no differentiation is made between spouses' actions at all, and these comprise this chapter's initial discussions. In these, husbands and wives seemingly share the burden of responsibility equally. The chapter then moves on to handle suits in which their actions are clearly distinguishable, although sharing an objective. Often one spouse is absent, or their presence at the crime is ambiguous. These can be regarded as crimes committed by royal subjects.

ii. Crimes by households

Rightly taking lead from the contemporary perspective on crime as the product of an individual's sin, past historians have tended to elevate 'interpersonal' violence in qualitative and quantitative studies of premodern criminality. This has, though, led to a skew in favour of disputes between men.[24] Walker's recent work recognises the need to be 'alive to the family dynamic of much violence in early modern England'.[25] Many married defendants in the Star Chamber sought the collective economic enrichment of their household, rather than baldly furthering personal vendettas of the householder. If the 'emphasis on the household as the primary conduit of law and order… raised the status and practical authority of wives', it also intensified her accountability to it.[26]

The actions of the majority of married people in the Star Chamber are inseparable from those of their spouse. This accounts for over half (56 percent) of this chapter's sampled suits, constituting almost all accusations of theft and ejection in the sample. One quarter of sampled complaints make little to no differentiation between the actions of accused spouses. The faint

[24] For instance A. Shepard, 'Manhood, Credit and Patriarchy in Early Modern England', *P&P,* 167 (May 2000).
[25] G. Walker, 'Keeping it in the Family', p. 68.
[26] Ibid., p. 93.

impression comes through as expected that husbands were the primary representatives for households. In some complaints, wives are not given their Christian names, like William Fletcher's wife who was hurt by rioters in Widnes, Lancashire.[27] This is not true of any defendants, though. There are five instances in the thesis's whole sample where a blank space, never filled in, has been left for a wife's name, but in two instances this was also the case for her husband: '[blank] white and [blank] his wyfe wich weare your subiects tennannts at sufference'.[28] Men's Christian names were also left blank.[29] 71-year-old Alice Lavington appeared to have acted indistinguishably from her husband Christopher in wrongfully releasing cattle from a Wiltshire pound with the help of mastiff dogs.[30] Similarly to Alice, Elizabeth Bond was found 'lying in wait to' assault plaintiff Francis Wolrich in a saddler's shop in Ludgate alongside her husband Ralph, a haberdasher (both aged twenty-eight). Unlike Alice, though, Mrs Bond appears too at catalogue level; the reason for this is possibly related to the preservation of answers in the latter suit. Both Elizabeth and Ralph answered all of the same interrogatories, with almost identical depositions saving for their respective opening gambits: 'neyther he/she this dep[onen]t nor his/her sayd wyef/husband to his/her knowledge…'[31] All four individuals in these suits were equally answerable because wives were so too for non-felonious violent crimes.

That the actions of individuals could be straightforwardly bracketed together is somewhat a function of the fact that their crimes enriched a joint purse. In a 1597 theft, a butcher and his wife Cecily, their daughter, son-in-law (a tanner) and a spinster Thomasyne Dodderidge, broke into Nicholas Lowman's orchard and carried away fruit worth £5. Any or

[27] STAC 5/F2/16, B.
[28] STAC 5/S17/24, B. STAC 5/F10/32, STAC 5/A22/39, STAC 5/F3/33.
[29] STAC 5/F4/18, I, STAC 5/H60/23, STAC 5/B68/2, and STAC 5/S62/1, A: 'her husband [blank] Curtise'. Other times, legal officials are addressed by their surname only.
[30] STAC 5/W14/26, I.
[31] STAC 5/W53/23, I.

all of them reportedly assaulted Lowman's daughter and maidservant on their way out.[32] Three years earlier Derbyshire innholder Nicholas Dakin complained about the theft of his guests' (including JPs and 'divers men of great Worshipp') geldings worth £20 each, by John and Margarie Carte, who with 'Bryddells and halters' led them to 'Middleflatte Acre'. In 'halteringe' them they 'did pulle all the hayre from all the tayles & manes of the Geldinges'.[33] Both cases presumably merited the charge of larceny, given that the goods involved were valued at well above 12d. All members of the six couples across the suits were thus equally liable because wives were allegedly present at the larceny alongside their husbands and willingly so.

Each spouse shared stakes in their household economy, and there is plenty of Star Chamber evidence of litigants' awareness of this. Defendant Robert Naylor recalled considering purchasing a copyhold for farmland in Surrey in 1583. His wife Elizabeth had requested she be 'ioyned a purchasor with hym'. After all, she insisted,

> she had bene a good wyf unto hym & that she broght hym the better parte of [£100] and therefor she trusted that he wold not denye her requeste althogh yt were in a great matter[.]

Elizabeth remembered her marriage portion and expected that this investment should warrant her returns, although she seemingly had no official jointure arrangement. Robert agreed that 'hys wyf should haue her requeste to be as farr fourthe in the purchase of the coppyhold landes as hym selfe'.[34] The defendants' argument in one Middlesex case turned on the self-evident fact that Suzan Aske would 'had never any purpose or will to perswade her said husband to so unreasonable a requeste' as the terms of a disputed tenancy.[35] Margaret Hare was 'greeved' that she and her daughters Katherine and Margaret were 'left destitute' without access to their

[32] STAC 5/L42/8, B.
[33] STAC 5/D11/34, B.
[34] TNA STAC 5/N9/4, I and D.
[35] TNA STAC 5/A5/30, B.

Cheapside home by her 'loving husbands' will. She was asked in one interrogatory what she had expected, given the (presumably small) portion she had bought to her marriage.[36] This is telling of a culture in which the marital and financial duties of each spouse sat closely.[37]

Most pleadings which did not differentiate husbands' actions from their wives' represented title disputes. This includes both ejections and 'housebreaking' in the sense of 'pullinge downe the walls' or hedges on a plaintiff's land. Many of these derived from a wife's own claim, either in jointure or postnuptial inheritance. In 1602 also in Gloucestershire, Frances Taylor co-inherited with her two sisters, the third of which (along with her husband) ejected the other Taylor sisters from the property shortly after.[38] Both parties to Frances's suit appeared indistinguishable from their husbands who appeared with them – a very typical pattern. In the same year that Frances brought her case, inhabitants on 'Saterdaye markitt' street in Bewdley William Goyme and his wife prosecuted yeomen Mr and Mrs Humpton for housebreaking and using 'Ingene' to take up the floorboards. The defendants were accused equally for their part, despite the fact that their claim was through William Humpton's own kin.[39]

In two peculiar cases, complainants sought help in equity ejecting couples to whom they had charitably gifted occupancy of their own properties. In 1577 Peter Frechville gent. allowed John and Margery Long to live on his tenancy worth £10/pa. However, the couple were 'verie ingrate & unthankfull', letting it go to 'rewynous... decaye'.[40] Twenty years later John Elliott also regretted lending his Somerset house without contract to merchant Roger Maudley and his wife Elizabeth to live in. The couple promptly rented out the premisses to locals as a 'ware howse' and 'Smiths shop' furnished with a forge. Roger 'gathered togeather a multytude

[36] STAC 5/H13/12, Depositions of Hugh Hare.
[37] STAC 5/R34/19, B.
[38] STAC 5/T36/13, B.
[39] STAC 5/G14/21, B.
[40] STAC 5/F10/28, B.

of clamorus women' including his mother, Crissable Green, and Elizabeth 'the ringe leader', to protect their occupancy from ejection.[41] These Star Chamber litigants saw that regardless of legal ownership, spouses 'shared the duty of its care' as their 'prescribed social role within marriage'.[42]

Not all wrongdoing by subjects against the commonwealth was violent or riotous. Gloucester mercer Thomas Church in 1596 sued Henry Wynchcombe and his wife, and Richard Wynchcombe and his wife. The Wynchcombes purportedly smouldered a pile of 'rotten horselitter rotten and wett haye mouldey rushes' for twelve hours. Church's children, he complained, 'by the pestelent & infectious smother and odious smell... languished and fell most dangerouslie sicke and dyseased in ther bodyes'. The sole reason for this assault was because Church had 'began then to thrive in the trade of lief that Henry Winchcombe possessed viz: the Trade of Mercery'.[43] The family unit was summarily accused of economic territorialism. The misdemeanour of 'those who dumped 'filth' in or near a house' was according to Brooks the 'equivalent to denying freehold' from its occupants.[44] The real reason for this complaint's appearance in the court, though, was because 'withowt of all doubte… a pestelence would [have] come to' all the local inhabitants of Northleach if it wasn't for the constable's order to 'quench the unsavourie and venemos fare'.[45] Like any subversion of peace or justice, spreading sickness in the community was 'hertfull to the comonweale'.[46] During Lent of 1575 Crowhurst in Surrey 'infectd with the sicknes of Plague'. John Dewdney reported to the Star Chamber that his brother Robert and his two young nephews had died together at their home. Robert's wife Johan, said John, had 'most unnaturallie departed out of the house levinge her' family and

[41] STAC 5/E12/28, B.
[42] A. Capern, 'The Landed Woman in Early-Modern England', *Parergon*, 19/1 (2002), 199.
[43] STAC 5/C7/9, B.
[44] C. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2008), p. 356.
[45] STAC 5/C7/9, B.
[46] STAC 5/R4/22.

'without either takinge anie care for there buriall'.[47] This was unsanitary, 'to the greate perill and feare of all the neighbors', none of whom 'durst for feare of the infeccon of the sicknes' enter the house themselves. Johan had allegiances to family and commonwealth both, each of which she had reneged on.

iii. Crimes by subjects: aggravating justice

In about thirty percent of all sampled complaints, the actions of each spouse are clearly distinguished from the other's, although their motivations ostensibly remain collective. Unlike that portion of sampled suits which do not differentiate between individuals, these offer a chance to test contemporary thinking on what submission was expected from femininity. Some accusations suggest that a certain degree of physical passivity, or non-violence, was expected from women who otherwise exhibited 'a mannyshe nature'.[48] At times, though, this consideration was displaced by another: to whom submission by women was owed. When God cast Eve out of paradise, he had decreed 'thy desire shall be to thy husband, and he shall rule over thee'.[49] Whether scripture gestated in Tudor-Stuart England a view of women as 'naturally' servile to men, or as having to learn both a capacity and a *desire* for submission to their husbands, cannot easily be explored using pleadings.[50] But the suits in this section do show that wives were expected to balance feminine passivity against their obligation to serve

[47] TNA STAC 5/D1/18, A.
[48] As Grace Brickett did when she broke a door with an axe. STAC 5/D22/9, Rn.
[49] *Gen.* 3:16.
[50] L. Pollock, ''Teach her to live under obedience': the making of women in the upper ranks of early modern England', *CC*, 4/2 (1989), 248 *et passim*.

their own husband's needs – which might require violent action. Some Star Chamber plaintiffs accused wives of tilting this balance unacceptably far. Many others bringing trespass suits could make practical gains by bringing them against wives as well as husbands. To do so, they used new statutory crimes to invoke another obligation by wives: to submit to the Queen and commonwealth.

Title disputes remain the most numerous, making up about a third of the complaints in this category. It can be inferred that a handful of these are only superficially about assault. In 1568 Lodowick Greville alleged that Anne Turrell's husband had ejected tenants from land worth £50/pa in Essex, while she assaulted a servant, luridly threatening that she 'woulde see the gutts of the complainants servants faule abowt the legges'.[51] However, Greville was known to be a vexatious confabulator, and appeared in twenty-three catalogued files spanning sixteen years.[52] Other suits alleged poaching, resisting process (of arrest), and attempted rescues of a husband by a wife. While the latter two crimes might not have profited the defendants' household economy straightforwardly, the absence of help in husbandry during a husband's incarceration was likely detrimental to it. Alice Byrryott of Marshfield (Gloucestershire) threw stones at John Atwood to make him 'lett go of hir husbande' as they fought with a dagger in the street.[53] This can be conceptualised as pertaining to the Byrryott's finances insofar as injury or death would stay Roberrt Byrryott's earnings as a 'maltemaker'.[54] One suit in this category cannot be understood as immediately relating to defendants' wealth: Katherin Armstrong was accused of arson (after loudly 'wishing the whole town would burn').[55] Armstrong's prosecution would be understood on grounds of the commonwealth's safety.

[51] STAC 5/G27/16, I.
[52] *CSP* Dom. (12 vols, London, 1856-72), v, p. 334.
[53] STAC 5/G32/19, I and D.
[54] STAC 5/G32/19, I and D.
[55] STAC 5/H8/36, I.

Wives could be obediently disorderly. Counsel understood what made the actions of women defendants more palatable to courts expecting 'selective… subordination' to their husbands, but not necessarily 'spinelessness'.[56] Chrystyan Wood explained that she had defended her Essex home against intruders using violence, but only 'consyderinge… that her husband and all hys men servants who had bene nearest to have dealte wyth the [trespasser] werre from home'. Nonetheless the Woods were happy to describe to the court how Chrystyan 'layd handes alltogether uppon him and bound his leggs together', whilst her adult son 'dyd… hold him downe'. This Chrystyan described as only 'so much as lay in her power & was mete or comeleye for a woman resist'.[57] Resistance against intruders was 'meet' for women guardians of the home, as was demonstrated fiercely in the civil wars.[58] In 1589 Wiltshire constable Thomas Mylls was attacked by Elizabeth Howse, wife of a clothworker named Robert, with the help of Mary Chamberlayne and Sibyll Hylps. Being apparently judged non-fatal (non-felonious) violence, considerations of couverture over Elizabeth were operable; Robert was questioned and denied instructing his wife to attack the constable. The reason for the attack was because Mylls tried to arrest Robert a second time in a local dispute, so the women threatened 'we will teache thee to serve more process', and 'cawsed him to ronne away to save his lyfe, or els be slayne'. Elizabeth Howse admits to striking towards Mylls with a pitchfork but insists that its prongs were held inwards, as evidenced by hurt she caused to her own thigh. [59] As such, she tried to prove that the tool of defence had been used in such a way as to produce the bare minimum damage which it could – in other words, that she did not thirst for any blood.

[56] L. Pollock, ''Teach her to live under obedience': the making of women in the upper ranks of early modern England', *CC*, 4/2 (1989), 246.
[57] STAC 5/A26/37, A.
[58] P. Crawford, 'The Challenges to Patriarchalism: How did the Revolution affect Women?', in J. S. Morrill (ed.), *Revolution and Restoration: England in the 1650s* (London, 1992), p. 118.
[59] STAC 5/M49/26, I and D.

Wives' depositions, like Elizabeth's, almost always framed their own behaviour as defensive of the family unit, with very few exceptions. After all, JPs were advised to consider 'the Subjection and Obedience [a wife] oweth to her husband',[60] which might provide wives with the right degree of plausible deniability. Indeed, it is easy to imagine that crime was motivated often by (joint) material necessity or aspiration. In one 1588 answer to an allegation of hedge-breaking, destruction of cattle, and obstructing gentleman tenant Stephen Rogers's use of common pasture in Edmondthorpe (Leicestershire), thirty-year-old farmer's wife Elizabeth Porter alias Cope had her cake and ate it too. Philipp (today's equivalent is 'Philippa') Goodwin a spinster, and Elizabeth Johnson a twenty-year-old wife were both the Porters' servants when they helped Mrs Porter to remove Rogers's cattle from the common – common which he saw was 'for all manner there beasts Levaunt and Couchaunt'. Roger's bill assumes that Porter's husband procured the women to do so, but he appears nowhere in their answers.[61] Elizabeth Porter circumvents this absence of authority by arguing in depositions that her husband was himself acting on the commandment of Mr Morrice Barckeley. Richard, she explained, 'gaue like comaundment to this deponent his wyfe that she in his absence should like wyse putt fourth [Roger's] cattle owte of the saied comon grounde (yf he did put in anye)'. Philipp too remembered that they acted 'withoute anie… consultacon with anie personne But as she hathe harde Morrice Barckeley esquire gaue comandment unto Richard Porter alias Cope her late [master]' to do.[62] Simultaneously curbing her husband's responsibility as procurer, Elizabeth Porter's counsel furnished her with a superior's instruction to compound her own deference.

Pleas against common law theft on grounds of defending the household's economic interests are found other places in the English justice system. Walker finds magistrates in

[60] Dalton, *Countrey Justice*, p. 374.
[61] STAC 5/R15/38, B.
[62] STAC 5/R15/38, A and Ds.

Cheshire dealing with one woman 'saving' a cow she argued belonged to her family 'opined that she might receive lenient treatment', given her motivations. [63] Rose Unwyn offered a similar explanation for her actions when deposing to Star Chamber commissioners in Yorkshire in 1590. Thomas Stone complained that his cow was stolen at 'nyght tyme' from a ground which she shared with 'twoe heyffers'. He suspected Humfrie and Alice Woodroffe. Humfrie features nowhere in the story presented, but Alice deposed that the use of the cow for three years '& the increase of her' – presumably any calves the cow had – had recently been bought by Humfrie at 'at a dwelling howse called Greystoones' for 40s. Alice denied that she did 'by any meanes incyte or stirr upp' her married daughter Rose Unwyn to beat complainant Thomas Stone nor did 'saie… kill them kill them' when Thomas attempted to take back the cow. Twenty-three-year-old Rose was less reticent. Her own husband also missing from the pleadings, Rose deposed that 'yf she did not stryke [Thomas Stone] she would haue strycken hym yf she coulde[,] because he would haue taken the Cowe from her beinge in her fathers possession'. [64] Her apparent confidence in the face of the royal lawcourt was not simply ill-advised churlishness. It betrays an early modern paradigm at work which valued women's allegiances to family and crown both, often to the point of contradiction.

Several cases of resisting arrest demonstrate the limits of what constituted acceptable wifely 'spiritedness', even 'so long as a woman conformed to the ideal at the points at which it was precise, that is to be married, chaste and obedient'.[65] There seems in pleadings and proofs an acknowledgement that a wife became personally punishable if her actions betrayed considerations beyond aiding her household. Unlike suits with no differentiation between spouses, almost all title disputes are accompanied by a charge of perjury, forgery, or contempt. This exposed a wife to prosecution by virtue of her reneging on her allegiance to the Queen's

[63] G. Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), p. 90
[64] STAC 5/S79/15, I and D.
[65] L. Pollock, 'Teach her to live', 246; Pollock's discussion of Ann Haskell's ideas, 232.

commonwealth – even though her allegiance to her household was intact. Meanwhile a third of the suits allege serious assault by the wife, with considerable overlap here with these title disputes. Johane Hancock was accused of defaming her brother's opponent in a marriage contract dispute: she announced one Sunday she had gone to 'Sherborne churche but onlie to haue seene a fine whore', meaning his escaped bride. The argument descending into an affray, one Dorset constable came to arrest Johane only to have her 'spitte in [his] face, [use] words of reproache', and in a 'disordered maner… then and there demeane her self towards' him.[66] Johane was examined for resisting arrest entirely without her husband, who is nowhere in the suit's documentation.[67] Johane's demeanour was straightforwardly her own liability. Fraught relationships outside of the home and other motivations for crime exposed wives to independent punishment.

In one 1624 Cambridgeshire assize case, Bacon ruled that wives would not merit individual punishment for felonious trespasses 'except the malice of the will and intention appear'.[68] Also after the chronological reach of this thesis, Bacon informed that 'in civil trespasses and injuries that are of an inferior nature, the law doth rather consider the damage of the party wronged, than the malice of him that was a wrong-doer'.[69] When he was still practising as a Star Chamber Attorney, however, this had not been as clear-cut as he now made out. According to Jones, during the intervening time Chancery had also been busy working out its capacities to judge motivation.[70] This theme will be picked up again in chapter five. Meanwhile, what can be read 'sideways' into the cases sampled here is that even when defending the family unit, the *manner* of a wife's behaviour mattered. In 1575 yeoman William Westley, his wife Elizabeth, and her sister Elioner Hollins, assaulted bailiff William Wyat and

[66] STAC 5/T36/37, Interrogatories administrated for the plaintiffs.
[67] STAC 5/T36/37 and STAC 5/T4/13.
[68] Dalton, *Countrey Justice*, pp. 374-5.
[69] Francis Bacon, 'Maxims of the Law', in *Works of Francis Bacon, Baron of Verulam, Viscount St. Alban, and Lord High Chancellor of England* (10 vols, London, 1803), iv, p. 38.
[70] W. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967), p. 423.

rescued his prisoner Symonds Holme 'on the way' to their home to Glaston (Rutland). Complainant John Dane, in whose name Holme had been arrested, described William Westley as 'Ruffyanlyke', and Elizabeth and Elioner as 'verrye mankynd, devilishe, and outrageious women'.[71]

There are thirty-six more similarly explicit value-judgements about womanhood and its performance in this thesis's sample (of 1,040 Star Chamber suits). Unsurprisingly given the court's interest in property, explicit mentions of social status as pertaining to wealth are far more numerous. Almost all equity plaintiffs seeking enrichment will self-describe as 'poore', 'honest', and less often, 'humble'. Typically, an adversary is unfairly bringing 'this defendant beinge a verey poore husbondman to excessive chardges and expence'.[72] It is only once asserted that one's adversary does not deserve legal redress on grounds of excessive wealth (and the assertion was not first-hand); but very commonly that 'out of a covetous mind' they have made false claims to one's estate. Leaving aside these almost omnipresent descriptions of status, gender is the most common in this thesis's overall sample. Research is required into 'male samples' to see if women were more apt to have their worth assessed in gendered terms than men.[73] Litigants were about two-thirds as likely to use age as an explicit discursive tactic than gender, although not infrequently pleas describe 'being A poore wydowe *and* a very aged woman [italics added]' or similar.[74] Widow Agnes Hartope defended herself against vexatious litigation from her stepson, she 'beinge an oulde gentlewoman aboue the age of three score yeres'.[75] Sickness and infirmity come a very far fourth place in terms of personal descriptors, with fewer than nine mentions in 1,040 suits. This does not include injury or illness alleged to have been caused by the actions of an adversary. George Fyrth pleaded that his mother could

[71] STAC 5/D2/36, B.
[72] STAC 5/N15/9, Answer of James Mulford.
[73] L. Gowing, 'Gender and the Language of Insult in Early Modern London', *HWJ*, 35 (1993).
[74] STAC 5/N15/9, Answer of Alice Wyfold.
[75] STAC 5/C20/23, A.

not attend Chancery both because it was 160 miles from home, and 'divers Infirmyties and diseases doe sore greve her'.[76] Elizabeth Knight of Hampshire provided Chancery the same excuse in 1589.[77]

Returning specifically to gendered discursive strategies: it is difficult to know how to categorise some self-descriptions, and they are not collated in this paragraph. For instance, Isabell Maddocks explained that 'she was but a yonge woman & easie to be abused' by defendants.[78] Occasional judgements reference gender but their inflection is obscure, so the inherency of gender to them difficult to assess: for example, litigants in 1583 advised each other that it was better a copyhold reversion be 'dependinge on the lyfe of so lusty a yong woman' than on one's older wife.[79] Of the thirty-six clearer examples which remain, none pertain to singlewoman alone. Four of these are a woman describing her own female naivety in support of her case, and another four her own physical weakness. Two more litigants commend another woman's virtue and modesty (equal numbers of these are from bills and answers). Five examples describe wives, five widows. Two of them are from onlookers to crime and not clearly discursive. Many of the remaining two-thirds of gendered comments complain that a woman litigant has behaved with 'suche unwomanly demenor' or words to that effect.[80] A full half of these complain about women using the law – usually vexatiously, but in one extreme case simply in order 'to sue anie man'.[81] Most of these comments come from complainants. Five further complaints and answers take issue with the improperly 'mannysh' physicality of the woman in question, and another two her lasciviousness.[82] In 1601 Mawd Rye was declared 'of a manly disposition and hott spirit far unfittinge her sex'.[83] Out of all these

[76] STAC 5/S76/33, A.
[77] STAC 5/K14/2, I.
[78] STAC 5/M43/7, I.
[79] STAC 5/B75/23, B.
[80] STAC 5/S81/33, Rn.
[81] STAC 5/S79/33, B.
[82] STAC 5/B49/17, A.
[83] STAC 5/G2/5, B.

negative judgements, only three are directed at widows; all the rest are complaints about wives, despite their making up less than half of all female litigants. In Star Chamber stories, wives had a greater propensity to surpass moulds of acceptable female behaviour; legal counsel evidently thought it needful to provide grounds to differentiate wives from other defendants and condemn them on their own terms. Both spinsters and widows were legal persons who need not be differentiated from co-conspirators to affect their indictment. One banal explanation for some of this is that there are anyway only 42 identified singlewomen in this thesis's whole sample.[84] But legal doctrine evidently did not conflict with everyday notions of widows' personal capacities.

So, Star Chamber was a court routinely seeking to bypass couverture's functioning by pointing to additional outrages by married female defendants. Another case was brought by the Attorney-General against Edmund Wood and his (unnamed) wife living in Fountains Earth 'in the libertie of Kirbyshere' (in northern Yorkshire). Asked why his wife cried murder when bailiff Henry Atkinson tried to arrest him 'by vertue of a warrant from the Judges of the assyze', Edmund replied that Atkinson's entourage had begun to 'rend & tear his clothes' when 'his wiefe cominge Imediately thereupon forth of his house with a younge childe in her Armes did for verie feare crie owt murder Murder they will murder my husband'. Edmund Wood sent her to fetch seven 'wemen beinge his neighbours' to 'beare witness' to his purportedly wrongful apprehending. The most intriguing interrogatories asked Edmund whether

> your selfe your wiffe or some of your [all-female] companye then sayd hange the Judges and ther warrantes, and that it was but papers and [did] bid[,] knock these fellowes downe… Baron Savile Baron fart I Care not a fart neyther for him nor his warrant[.][85]

But Edmund's depositions lean heavily on his assertion that there were no 'papers' at all to legitimate his arrest – that the warrant was three miles away with the sheriff. Possibly Atkinson

[84] Twenty-seven of whom are defendants. In an additional four suits to these thirty, it is implied but not stated that a defendant is a singlewoman.
[85] STAC 5/A31/13, D.

painted an element of sedition into events to bolster his account; this rendered the women more reproachable than if they had used force to help Edmund escape. Here a different maxim of Dalton's may be pertinent: 'If the Husband and the Wife joyn in committing of Treason, the necessity of Obedience doth not excuse the Wives Offence, as it doth in Felony, because it is against the Commonwealth'.[86] What transpired in Fountains Earth was not treason, nor had she spoken 'scandalous words' – which touched the person of the Queen – but it was sedition.[87] Sedition, though, was a crime certainly 'against' the commonweal, as well as being of special interest to later Elizabethan Star Chamber.[88] It was against the Queen's commonwealth – her body politic, but not her body.

Using sedition to aggravate wives' deeds recurs in sampled pleadings. In 1601 Henry Brooke was keen to implicate the husband of a miscreant woman. Elizabeth Wilson and her servants broke into Henry's garden in London, where they set upon his wife Susan as she lay out her laundry. Pushing 'Susan being then verye great with childe' to the ground, the women began 'misusyng' Susan 'sayinge she was growen soe bygge with two Calues & an Ape, with many other words not beseeminge womanhood'.[89] Susan was being accused of buggery.[90] The story then takes an incongruous turn, as the complainants reported in their interrogatories that, during the furore, Elizabeth did 'sende for Godfrey Wilson her husband, to come unto her in the garden'. At which point, improbably, all parties waited while 'Godfrey [gave] allowance to all that was done by Elizabeth and encoraged her to goe on'. The scene feels even more like a false interjection given that in the next interrogatory, Godfrey has disappeared. Now a 'Constable or headborough' arrived on the scene, whereupon 'conference... passed betwene'

[86] Dalton, *Countrey Justice*, p. 374.
[87] D. Cressy, *Dangerous Talk: Scandalous, Seditious, and Treasonable Speech in Pre-Modern England* (Oxford, 2010), p. 64.
[88] 1 & 2 Phil. & Mary c. 3, *Statutes of the Realm*, ed. A. Luders (11 vols. 1810-28), iv, pp. 240-1. Reiterated in 1 Eliz., c. 5 and 6, *Statutes*, iv, pt. 1, pp. 365-7; D. Cressy, *Dangerous Talk*, p. 65.
[89] STAC 5/B73/22, B and A.
[90] '[A] great Lady had committed buggery with a Baboon, and conceived by it'. Sir Edward Coke, *The third part of the Institutes of the laws of England: concerning high treason, and other pleas of the crown, and criminal causes* (London, 1644; repr. London, 1817), p. 59.

him and Elizabeth, and he instructed 'that Elizabeth should desolve *her* said riottous company [italics added]'. Instead, she 'and her crewe' kept watch over the garden for the night, Mrs Wilson boasting that she would pay 40 angells to keep out the Brookes.[91] As discussed earlier, a wife was liable for a forcible entry.[92] Accordingly, Henry could have had Elizabeth punished alone for trespass, regardless of Godfrey's presence. What was the advantage to Henry, then? Henry's suit was ultimately successful: the relevant fine roll entry reads 'From Godfrey Wilson in the precinct of St Katherine by the Tower of London, gent £20. From Elizabeth Wilson, wife of said Godfrey Wilson £10'.[93] To each, this was a doubly hefty fine than usually given for one crime successfully prosecuted.[94] Why was Elizabeth also fined, given that she was clearly 'procured' by her husband, by Henry's own account? Because when the constable told her to depart the garden she had announced that

> nether cared she for the Constable, no nether for Judge nor Justice, not any other in England... no not at the comandemente or hand writtinge of your most excellente Majesty, unlesse your heighnes came in person[,]

would she surrender.[95] Discussing *feme coverts*' culpability for trespass, Dalton says also that

> such fine set upon the wife, shall not be leuied vpon the husband; For the husband shal neuer be charged for the act or default of his wife, but when… iudgement giuen against him *and* his wife [italics added][.]

The authority Dalton cites is Coke.[96] JPs were thus instructed also that damages could be levied upon a husband's property or chattels only if he was also convicted of the offence. Exposing both Wilsons maybe served as insurance for Brooke who did not trust that Elizabeth had personal wealth enough for bailiffs to impound. The premisses in question were, after all, in Godfrey's own name; the dispute seems to have arisen because he was not made aware that his

[91] TNA STAC 5/B64/32, B.
[92] Dalton, *Countrey Justice*, p. 172
[93] TNA E159/424.
[94] J. A. Guy, *The cardinal's court: the impact of Thomas Wolsey in Star Chamber* (London, 1987), p. 115
[95] STAC 5/B73/22, B and A.
[96] Dalton, *Countrey Justice*, p. 172.

lessee Thomas Russell had in turn subletted the garden to Henry Brooke, apparently already an enemy. If the Brookes had not accused Elizabeth of resisting process and sedition, her actions might thus become excusable (from a separate fine) to the court as a defence of family land.

In thirty complaints the main issue is contempt by refusing process or impeding a coroner. Although by the end of Elizabeth's reign most crimes against justice had a statutory basis, contempt of court process and vexatious litigation, including barratry, did not. Contempt also included false imprisonment, labouring witnesses, and obstructing servers of court process.[97] This accounts for the inconsistency of Star Chamber's approach to indicting wives without husbands in such cases. Elizabeth Chamberlain's husband was a JP accused of malfeasance in 1601 for his lacklustre investigation of Alice Knight for the 'wiching of children'. Elizabeth was questioned too, on slightly different grounds; did she ask her husband not to allow local women (the complainants) to be examined about Alice by Gloucester grandees or else 'the pore Woman shal be undone'?[98] Elizabeth was called to answer two sets of interrogatories; but as it was their opponent who was eventually fined (£50, for his vexatious litigation), we are not able to compare the perceived culpability of each Chamberlain for perverting justice.[99] On other occasions husbands of contemptuous wives appeared to have been uninvolved at all. In 1576 Marie Musgrave was wife of gentleman Cutbert of Crookdale in Cumberland. Apart from her husband (who had answered for himself the year before), she defended allegations of defamation and interfering in due process from Mawd Lawson alongside James Harrington esq. and Thomas Darlington of Carlisle. Marie had slanderously reported that a Thomas Leigh (deceased) had been 'made awaie sometimes by poysoning sometimes by witchcrafte or enchantmente made and procured by Mawd', his widow. The defendants 'thereby procured the dead bodie of Thomas Leigh whiche before dyd laye in the

[97] T. G. Barnes, 'Star Chamber and the sophistication of criminal law', *Criminal Law Review* (1977), 324.
[98] STAC 5/N15/16, I.
[99] E159/425 [N15/16, C20/1]

grounde seven daies to be taken upp by one Allenbie' a royal coroner of Comberland. Their efforts were wasted, as when Allenbie 'did unbowell the dead bodye… the intraills and other inward partes were so freshe as if he had been newly parted this lief', which precluded any 'collor of poisoning or other evell dealinge towardes' Leigh. Marie was called to appear upon subpoena for corrupting the coroner.[100]

A more complex ad hoc decision on couverture's application was necessitated in 1596. JP Robert Buxton had sued his yeomen neighbours Thomas Brett, Anne Brett, and their children Elizabeth and Richard at the Norfolk Sessions in a boundary dispute over whose 'soyle' a hedge could be constructed on. At the time, Buxton later told Star Chamber, Anne had 'desisted not from hir manlike throwing downe the banke until all was done', and made no complaint of any injury. Seven days later, though, 'for the subversion of the true course of Justice' Anne

> *by some device of her owne not withowt the consent of Thomas hir husbond…* spottyd her Arme a lofte on the inside therof with some paynted oyle & couleur Inke or blacke leade or some other thinge as thoughe it had bene brused by some blowe or hurte receved (as otherwhyles she hath done much worse) […] in rude and unwomanly manner[.]

Anne presumably 'shewed forth her paynted arme' to the 'Grand Inqueste' with a view to garnering pity, which was successful in that the verdict of the inquest passed in the Bretts' favour.[101] The bill's syntax (emphasised above) is unusually strangled. A charge of perjury per se was not relevant, this being a deceit practised at an inquest, so the complaint fell back into unlegislated territory.[102] There was no legislative basis with which to circumvent couverture's operation in this case, so Thomas should surely be called to answer for Anne. At first, only Thomas Brett had been called to appear at the bill's bottom. But the court evidently

[100] STAC 5/L12/33, B.
[101] STAC 5/B49/17, B. Italics added.
[102] J. H. Baker, *The Oxford History of the Laws of England* (Oxford, 2003), p. 380.

reconsidered – after all, Anne had acted with her husband's *consent*, not 'constraint'. Anne's name was therefore inserted with a caret.

A 1582 suit between the Tregonwells and Dorset sheriff Nicholas Martyn provides a particularly pertinent illustration of case-by-case assessment for individuals' culpability in contempt cases. In a previous Star Chamber judgement, Martyn had been given licence to recover damages and costs of more than £300 against John Tregonwell for debt, ejection, and non-appearance. It was his wife Anne who made answer along with three allies of the Tregonwells in January of 1582, to Martyn's accusation that they had ransacked and hidden John's property before it could be levied, and then released his cattle from a pound. Evidently the court later decided that John needed also to be held responsible, as his name was later inserted into the bill's list of defendants. In February he was required to submit his own flat denial, presumably when the court had decided to implicate him in the complaint.[103]

Margaret Robyns, nearing the end of her life in 1580s Gloucestershire, promised her near kin Sibyll Cooke née Carpenter (upon her marriage to husbandman Thomas Cooke) a life interest in her land and adjacent house when she died. When she did die, the property was contested by shoemaker Gyles Woodcock and Gloucester sheriff John Dorney. The Cookes took occupancy of the house until Dorney and Woodcock arrived one day to arrest Sibyll for trespass. Sibyll protested in her depositions that she her husband 'was abrode withowt the howse' when they did so, and that she was 'sucking' a small child who was abandoned while Sibyll sat in gaol for twelve hours. The sheriffs admitted that they had tied her onto a horse as the Cookes alleged, but only because Sibyll 'wilfully… & verye unwomanlye & unseemeley did laye her backe appon the grounde saying that if they would cary her they should, but goe she would not'. They also defended that an appropriate warrant was made upon a writ of latitat

[103] STAC 5/M33/11, A.

out of the Queen's Bench, also that this was an action of trespass.[104] This was probably astute in light of Dalton's later observations regarding a *feme covert's* 'forcible entrie or deteiner', that 'upon the Iustices view of the force, shee shalbe imprisoned therfore, (and it seemeth also she may be fined in such case)'.[105] Possibly the Cookes' counsel relied on the patchy application of the law. What existing evidence does demonstrate clearly is that they advised their clients to deny hard that a warrant had been obtained at all – suggesting that they appreciated the power a trespass action had to undermine Sibyll's position.

There are many more cases which reveal plaintiffs and their counsel grappling with ambiguous statute provision.[106] In a 1587 tort-type case, a gentleman gave care of his five-year-old son to grandparents yeomen Michael and Elizabeth Meade. But Elizabeth 'dyd wrecke her malice, uppon the sonne and infante of youre Subiecte'. In a seeming frenzy one November day, 'intendinge as it shoulde seeme, to murther [young Michael] Elizabeth did thruste him beinge naked into an hotte Oven'. The sad episode ended when servants rescued the child, but not before he was 'greatlie impared, bothe in his witte and bodye'. Counsel asked that the suit be heard by Star Chamber because

> she hathe not herein comytted Fellonye, althoughe her intent, were litle better and therefore not punishable, by thordinarie course of the comon Lawes of this realme[.][107]

Both Meades were called to answer despite this being a charge of assault (so, not subject to couverture), and even though the child's grandfather played no part. Possibly Elizabeth was recognised to be non compos mentis and in need of her husband as *prochain ami*. More confidently it can be presumed that because trespass had been against a body and not land,

[104] STAC 5/C66/27, D.
[105] Dalton, *Countrey Justice*, p. 172.
[106] For example, STAC 5/H51/9: Complaint against wife Johane Whyte for Elynor Seede's rescue; STAC 5/S79/6: Complaint against wife Rachaell Clarke for attempted maintenance; STAC 5/S17/22; STAC 5/B61/39; STAC 5/W3/38: Complaints against wives for riot; STAC 5/W15/22, B: Complaint against 3 wives resisting process when they 'cast scolding hott water' on the bailiff.
[107] STAC 5/T15/6.

compensation would be cash, not land recouped. Penalising Mr Meade too would better assure it was leviable, but Elizabeth's 'intent' belonged to herself. In another case, Robert Snagge's 1581 bill asked that 'a Subpena be directed to John Morgan and Suzan his wife'.[108] Suzan Morgan was visited at home by Snagge's servant, who tried to pay her a large sum in fulfilment of an obligation of debt from his master to her husband. But 'because her husband was forth abrode and she knew nott his mynde', Suzan 'utterly refused' to accept the payment before its end date – causing the obligation to forfeit. If successfully sued, Suzan had no land to recover – but there was a debt to cancel. Additionally, Suzan alone had perjured herself to the sheriff by insisting Snagge's story was untrue. That John's name was also put in the title of Suzan's answer, but then crossed out, points to the case's ambiguity.[109]

Complainants' pecuniary incentives, given that any penalties enjoyed double the assurance when a husband was also charged, help us to understand other trespass-related disputes. (This insurance was even more salient given that many fines were only partly recouped.)[110] In 1597 Hertfordshire, one gentlewoman ordered her maidservant to prepare scalding water to throw at Francis Tournley come to serve process. She also 'incouraged' her dogs to 'tear out [Tournley's] throte'. One incongruous interrogatory suggests her husband was 'at the window', procuring it all.[111] The same accusations are made against Elizabeth Hoskins, wife of a Dorset yeoman living in Beaminster Prima manor. One out of ten interrogatories asks vaguely if Mr Hoskins had also threatened the official, but only Elizabeth was examined.[112] In a 1572 plain charge of assault (without an issue of title), Thomas Emerson was attacked at home in Lincolnshire by 'Margaret Dicconson Alice Dicconson & Johane Dicconson as women

[108] STAC 5/S1/9, B.
[109] STAC 5/S1/9, A.
[110] G. R. Batho, 'The Payment and Mitigation of a Star Chamber Fine', *HJ*, 1/1, 1958.
[111] STAC 5/P21/38, I and D.
[112] STAC 5/H45/1, I.

voide of goddes grace & shame of the worlde,' who 'did pull the heares from his heade & bearde'. Beard-pulling was especially demeaning to one's manhood. Less euphemistically, they

> moste brutishelie & impudentlie against all shamefastnes & womanhode then & there did pull the same your subiect by the privie partes of his bodie… in most cruell vile & dishonest manner out of his mansion house[.]

This was all done 'by the procurement consortacion & helpe of others', meaning William and Robert Dicconson, husbands of Margaret and Alice.[113] This is the two men's only incursion into the bill's narrative – they were not present but rendered legally culpable nonetheless. Proving this would not absolve the Dicconson women, given that 'marital coercion was immaterial' in violent misdemeanours.[114] But Thomas had thus multiplied, not reduced, the number of adversaries he charged; William and Robert's 'commaundment' of their wives (the 'principals') made them 'accessories' to the crime.[115] This made canny sense if garnering Thomas double fines, from both husbands and wives at once.

iv. Wives having a riot

Women's presence at riotous trespasses – often onto enclosed land – has received good treatment already. But reading Star Chamber suits alongside relevant legal handbooks (here, Dalton's *Justice*), can do something to illuminate the reasoning behind authorities' seemingly fickle prosecutions of wives for riot.[116] Some wives evidently expected to avoid being punished

[113] STAC 5/E4/34, B.
[114] Walker, 'Keeping it in the Family'. Calculated using pp. 70, 73.
[115] Baker, *An Introduction*, p. 523.
[116] Crawford and Mendelson, *Women in Early Modern England*, ch. 7; J. Walter, 'Faces in the crowd: Gender and age in the early modern English crowd', in Berry and Foyster, *The Family in Early Modern England*, and his

– 'thinkinge themselfes lawles' on grounds of tradition.[117] But as the quote opening this chapter – that 'persons of the femall sexe… are as much subjecte to your highnes lawes than anye the mayle subjectes' – shows, women's expectation to be lawless was confused and incorrect.[118] In another riotous trespass, this one in 1598 Warwickshire, the heavily pregnant Joan Newbery ('lookinge every houre after for her delyverance') was placed by her accomplices 'in the house, thinckinge that the priviledge of her venter should be a proteccon for them all and a cloke for all their misdemeanors And the Ryoters as well woemen as men'.[119] These women laboured under the misapprehension that maternity rather than wifehood offered legal immunity. In other cases, women found that even wifehood could not give them the immunity they had hoped. Several suits suggest that women were brought to heel by Elizabeth's Star Chamber; but also that, at least from the end of the reign, it sought to punish them not only as riotous subjects but as disorderly wives, too. The latter sixteenth century didn't yet know its own mind about the legal status of married female persons.

One early complaint against twelve wives for throwing down ditches in 1567 merited the coy answer that they had

> privily and in verie quiett manner assemble themselfe together at the ditche and having certeine spades and shovells with them did then and their cast downe the ditche... and then departed privelie awaye agayne without geving knowledge thereof to their husbands or to any other person[.]

The pleading strenuously denies twice more that none 'of their housbands[...] were consenting or agreinge to it'. The crown evidently found the twelve women in this case to have rioted, as they were fined 20s each.[120] Cases such as this must contradict early suppositions in scholarship

''Law-mindedness': Crowds, Courts and Popular Knowledge of the Law in Early Modern England', in (eds) J. Begiato, A. Green and M. Lobban, *Law, lawyers and litigants in early modern England: essays in memory of Christopher W. Brooks* (Cambridge, 2019).

[117] STAC 5/W66/28, B.
[118] STAC 5/D1/1, B.
[119] STAC 5/W66/28, B.
[120] E159/361.

that husbands were consistently treated as if they had procured their wives to riot.[121] Manning found a 76 percent increase in enclosure riots by the end of Elizabeth's reign, as over the preceding two decades, putting this down to general increased socio-economic tensions.[122] But might it also reflect an increasing visibility of Elizabethan women to the law in cases such as this one? By the time Dalton was writing at the beginning of the seventeenth century, it seems that a fine like that on the twelve hedge-breaking wives would no longer be taken: if women 'doe flocke together for their own cause; this is no assembly punishable' as riot, 'vnlesse a man of discretion moued them to assemble for the doinge of some vnlawfull act'.[123] By James's reign, then, wives would continue to be punishable as riotous subjects – but only if seen to be acting with male consent. In several sampled Elizabethan cases, married women's 'will' to assemble in furtherance of their own cause rather than any man's was already being hotly debated.

Hufton argues that '[a]s long as the riot was 'spontaneous' rather than evidently planned, justices were prepared' to ignore women's culpability.[124] But possibly most significantly, planning would likely entail that husbands knew about their wives' involvement. Dalton recalled that 'certaine women, that had apparrelled themselues in mens apparrell, and had pulled downe ryottously a lawfull inclosure, were worthily punished for the same in the Starre-Chamber'.[125] These women's disguises may have evidenced an unacceptable level of male involvement – enough to suggest that men had 'moued them to assemble'.[126] Another riot, this in Wimbotsham (Norfolk) in 1594, also sought windows into wives' souls, or at least

[121] R. Manning, *Village Revolts: Social Protest and Popular Disturbances in England 1509-1640* (Oxford, 1988), p. 97.
[122] Manning, *Village Revolts*, p. 79; 55.
[123] Dalton, *Countrey Justice*, p. 91.
[124] O. H. Hufton, *The Prospect before Her: A History of Women in Western Europe* (London, 1995), p. 464.
[125] Dalton, *Countrey Justice*, p. 172
[126] Perhaps relatedly, '[c]lothes were exempt from the common law dictate that, on marriage, a woman's personal estate became her husband'.' If a wife rioted wearing her husband's property, did she forfeit her claim to act autonomously? Quote from A. Shepard, 'Poverty, Labour and the Language of Social Description in Early Modern England', *P&P*, 201/1 (2008), 61.

their wills. Sued by Nicholas Hair esq. for riot and plough-cutting, some suspected 'women or menn clothed in woemens apparrell' came across Hair's manservant Barnard and allegedly

> thruste the face of Barnard into the new ploughed ground there… by reason of the Earth sand and claye putt into the mouthe and eares of Barnard… one of your company [said] what haue you don the man is smothered looke howe blacke his face is[.]

At this point the women relented and gave Barnard 'Aire'.[127] One husbandman said he had advised his wife to talk to Barnard 'in the way of intreatie' for access to the enclosure they disputed. A yeoman defended that he had warned his wife that only trouble would come of protest.[128] In another, slightly earlier case, George Wanton from Huntingdonshire complained in 1589 that land he had enclosed nineteen years ago had been unlawfully breached by a large number of local wives (and four singlewomen). A collective answer by some women with their husbands' excuses that the latter

> were aboue a myle from the said grounde and not aidinge or assissting the women… albeit they were not altogether miscognizant & unknowinge that some of the women were minded to dryve their cattall on to the grownde to take their common as lawfull it was... in ancient time[.]

Helen Saunders, though, answered alone – that she placed her animals on the land 'in the right of her husband' Robert.[129] In both the Wimbotsham and Huntingdons cases, men acknowledged that they knew of their wives' desires, but not the particulars of their plans. Any help that this might have offered the defendants' case is unclear. Possibly it balanced the men's status as 'your Maiesties subiectes' against that they had as husbands. Absolute ignorance as to their wives' actions was either unflattering or unbelievable, or not yet so relevant to prosecution as Dalton would later report.

The riot which throws these themes into sharpest relief occurred in Datchet (then in Buckinghamshire), a half-hour's walk from Eton College outside Windsor, around 1597. At issue was the use of a pasture enclosed by Mr Edmund Kidderminster. On Monday 24th October

[127] STAC 5/H42/7, B.
[128] STAC 5/H42/7, D.
[129] STAC 5/W3/38, A.

and each two days following, local wives joined in pulling down the hedges at its perimeter. At one o'clock that Wednesday afternoon Clement Towse, a herdsman's wife, attended and bought

> A ladell in her hand for no other intente or purpose but only to procure Myrthe as this def thinketh… [the women] in A Jestinge manner sayd that they would hau christened Mr Kedermyster with the Ladell if he had byn there for that they thoughte he was not well christened[.]

She also brought the black grease 'of a cartwheele' to 'Rubb, and beesmutt the face and Eyes of the [com]pl[ainan]ts Shepherd'.[130] 60-year-old husbandman's wife Margarett Baven admitted that she 'dyd curse the [com]pl[ainan]t for taking their common from them & wished that the devill had him'. However, she defended, 'they should not haue hurt him unles yt had byn by talking unto him & that she thincketh they should haue done roundly for that [he] dyd seeke to oppresse them in their common'.[131] That Baven paralleled injury by words with physical hurt is as arresting as her self-righteousness is. Equally engaging is Elizabeth Haukynson's rendition, that 'the women dyd then curse Mr Kedermynster, but she thincketh that if [he] had byn there present amongst the women no hurt or vyolence would haue byn done unto him'.[132] Haukynson depends on the plausibility of women's curses, and not blows.

Husbands were asked 'whither did yow know of your wyfes intencon or meanyng of goeng thither, beefore shee went'. The seventh interrogatory asked, 'whither did you afterwards advise her, that shee should goe no more thether in such unlawfull manner'. Next was a telling insertion: 'or advise yor wife to repayre to the sayd ground'?[133] This caret discloses an ongoing conversation by the court as to whether passive allowance by the husband was enough to indict the wife; and, suggests that it decided that the husband's express commandment was in fact required. Carpenter William Philipps deposed that he wasn't aware of any rioting before it began, 'but was very angry with his wyef for her going thither at twoe tymes & dyd soundlie

[130] STAC 5/K6/24, Depositions of Elizabeth Hauckynson and I.
[131] STAC 5/K6/24, Depositions of Margarett Baven.
[132] STAC 5/K6/24, Depositions of Elizabeth Hauckynson.
[133] STAC 5/K6/24, I.

boxe his wyef for her labor'. This was the most vigorous response of a husband to his wife reported in the suit, and only Margaret Philipps out of the two was fined (40s, reflective presumably of William's plea that 'he holdeth no lande… but only a howse & a Backsyde').[134] By Easter term 1599, Margarett Baven had been convicted of the riot and paid her £10 fine. Her husband Richard described how, discovering Margarett's intentions to join Wednesday's riot, he enjoined 'lett the weomen of that Towne en gods name goe if they will, I will not further or hinder them in it but for your self do not goe'.[135] As for the Monday and Tuesday gatherings, though, while he did not procure his wife to riot, 'neyther dyd this def[endant] at any tyme forbydd [^or forwarne] his wyef to goe thither'.[136] Additionally, both Bavens admitted, ahead of Wednesday's altercation Richard worried about his wife's safety in the face of Mr Kidderminster's mastiff dogs. His solution was to have his adult stepsons 'dressed in womens apparrell', and hide with weapons 'neere unto' the pasture in case the women 'should haue stood in any neede'. Richard's candour in his depositions was rewarded with a fine double the size of his wife's.[137] In contrast, Maurice Hale's wife Anne reported that on Tuesday her husband informed her 'that she this def[endant] should goe no more'. Maurice's tone was shared by the rest of the householders, and Richard Baven was the only Datchet husband fined.[138] Most explicitly among the sampled suits, the judges in this case decided the riot had been galvanised by 'generall consent and agrement had amongst the same wemen'.[139] His 'wyef', one Dachet husband had deposed after all, 'was a pryncipall doer' of the unrest.[140] The judges thus had discerned which husbands were innocent of riot on grounds of who better moderated his wife's behaviour, and then punished only their guilty wives.

[134] STAC 5/K6/24, Depositions of William Philipps; E159/417.
[135] Ibid., Depositions of Richard Baven.
[136] Ibid.
[137] STAC 5/K6/24, Depositions of Margarett Baven; E159/417.
[138] Ibid., Depositions of Anne Hale.
[139] Ibid., Depositions of Elizabeth Hauckynson.
[140] Ibid., Depositions of Maurice Hale.

Despite what Dalton later wrote, in 1597 the crown still regarded rioting wives to be punishable as individual subjects. It understood that alliances *within* the female community at Datchet had fomented unrest, rather than the instructions of any male ringleader, but it still fined these women. However, its attitude to the capacity of wives to threaten the whole commonwealth as well as the 'little' was evidently in transition. Supplementary penalties were visited upon the Datchet rioters, so punishing them twice – this time as disorderly wives. Hawarde reports that the women were condemned to the 'kuckinge stoole,' and the men required to stand on the pillory 'bareheaded & in woman's apparrelle.'[141] This penalty exemplified Star Chamber's preference for punishments befitting the crime where possible.[142] In light of the stool's association with scolding, women's involvement in the episode was thus reappropriated as a magnification of their natural propensities to noxious speech. By punishing the 'curses' that could have 'hurt' Kidderminster 'by talking', and the disorder they brought home to husbands, judges confined these women's seditious potential. The pillorying, meanwhile, made an absurdity of Baven's adult stepsons. The court could not shake the tension it felt between wives' subjecthood on the one hand, and their subordination to household patriarchs on the other. As in chapter two, when circumventing husbandly authority it created a fictive household unit – this one composed of Baven's adult stepsons – upon which to administer justice.

That the court continued to be unsure of its footing regarding wife's independent liability for riotous behaviour is apparent in one other detail. Deploying the tactic discussed earlier in this chapter, counsel sometimes appealed to the *manner* in which women rioted, in order to aggravate the basic charge against them. Lurid allegations from 1598 featured thirteen women using their 'many great bellies' as a 'cloke' for their riotous trespass into a house in

[141] J. Hawarde, *Les Reportes Del Cases in Camera Stellata, 1593 to* 1609, ed. W. Baildon (London, 1894), p. 104.
[142] For example 'in 4. *Eliz*…one who brought in. blank paper, and said that was their verdict, was adjudged to wear papers at every leet day for seven years.' W. Hudson, *A treatise on the Court of the Star Chamber,* 2nd edn, ed. T. G. Barnes (London, 1792; repr. New York, 1986), p. 109.

Berkshire. On their arrival they gave 'dry blowes' to a female servant in the house and ejected her. When another servant used a ladder to get at an upper window, they simply swung it away so that 'he fell downe to the grounde twelve foote'. They were, said the complaint,

> all or the most part woomen of grete stomack and audacytie… not rememberinge their sexe and that they were woomen nor that they were subiect to your majesties lawe as well as men butt thinkinge themselfes lawles[.]

The women apparently 'did passe forth the tyme in dancinge and singinge within the house songes and sonetts of Ribaldrye undecent for anie honest eares to heare'. The manner of the defendants' trespass was 'nott fitt or convenient for women', turning gender into an aggravating rather than extenuating circumstance.[143] The absence of any men who might have 'moved' these women to riot necessitated highlighting their ungodly womanhood instead. In this way their disorderliness was contained by turning it inwards, towards the self, rather than outwards against the Queen's peace.

A final interesting feature of women's riot suits is exemplified in one supplicant's 1594 complaint of riotous trespass upon a wooded pasture 'comonly called… hill grove' at Lypiatt manor (Gloucestershire). The fourteen malefactors 'being all or the most parte of them maryed weomen havinge husbands and dwellinge' nearby were 'sekinge to worke their owne wils without regard of lawe or conscience'.[144] The uncomfortable reality sitting underneath the Lypiatt bill was not only that wives could be shown to have a will different than her husband's. What the bill's specific wording precluded – and what the Star Chamber was unwilling to countenance – was that a subject's 'conscience' might not be aligned with England's 'lawe'. It preferred conscience to be objective.[145] True, 'the limited requirements of Elizabethan 'conformity' for all lay subjects, magistrates and commoners alike' were set out in the 1559 Act of Uniformity; and this 'toleration' informed Lord Keeper Bacon's 1570 speech in the Star

[143] STAC 5/W66/28, B.
[144] STAC 5/T25/22.
[145] E. Longfellow, 'Public, Private, and the Household in Early Seventeenth-Century England', *JBS,* 45 (2006).

Chamber which boasted that the Queen had refused to make 'inquisition and examination … of mens consciences'.[146] But various devices of government, including the High Commission (whose close relationship with the Star Chamber was mentioned in chapter two), and the bishops (who sat on the Star Chamber), were used to identify Catholic 'church papists' and too-radical puritans alike.[147] Ordinary people, too, were anxious about one's neighbour being the wrong sort of Christian, and questions about what each spouse could do if the other fell into heresy were appeared in both prescriptive and ephemeral literature.[148] Elizabethan wives' consciences were increasingly their own responsibility – an uncomfortable thought which was not resolved in the sixteenth or even seventeenth centuries, but which played shyly at the edges of Star Chamber suits here and in later chapters.[149]

v. Wives' fines

If 'a woman covert without her husbande be indicted' for trespass, she was 'partie to the judgement onlie'.[150] But simultaneously, 'such fine set upon the wife, shall not be leuied vpon the husband; For the husband shal neuer be charged for the act or default of his wife'. It is puzzling, then, why Star Chamber thought it was worth fining wives as they did, if they truly had no recourse to funds.[151] Why did husbands not need to be forced to pay for their wives'

[146] A. Gajda, ''A Wall of Defence unto This Realm': William Cecil, Conformity and the Protestant State in Early Elizabethan England', *The English Historical Review*, 139/596 (2024), 66.
[147] P. Collinson, *Richard Bancroft and Elizabethan Anti-Puritanism* (Cambridge, 2013), p. 48 and F. Heal, *Of Prelates and Princes: A Study of the Economic and Social Position of the Tudor Episcopate* (Cambridge, 1980), p. 219.
[148] W. Perkins, *Christian oeconomie: or, A short survey of the right manner of erecting and ordering a familie according to the scriptures* (London, 1609), pp. 100-4; Anon., *A pittilesse mother that most unnaturally at one time murdered two of her children* (London, 1616).
[149] Crawford, 'Public Duty, Conscience, and Women', pp. 71-2.
[150] Dalton, *Countrey Justic*e, pp. 196, 172.
[151] Houlbrooke, 'Women's social life', 182.

crimes? Houlbrooke speculates that women's fines given in 1605 were only half as large as men's in one riot case because there was a 'reluctance to penalise the ostensibly innocent husbands too heavily'.[152] Houlbrooke's instinct that judges understood the whole household economy to be implicated in punishment is sure, but the reluctance he describes was responsive enough to context that some disorderly wives were entirely exposed to punishment. When the defendants in the Datchet case ('Maurice Hale, Richard Baum and divers others, women, defendants') were found guilty of 'riots, routes & unlawefull assemblyes', they were also adjudged liable for ten, twenty, or thirty pound fines – dependent upon their presence at each riot, not their sex.[153] The corresponding fine roll entry for this indictment shows that Elizabeth Haukinson, Gerrard's wife, was fined a full £20, matched only by Richard Baum's fine, while Gerrard himself is not charged (or, at least, didn't pay his own fine on the same day as his wife).[154] Women were treated by the court as separate, chargeable, entities at the point of contact. Judges did fine wives separately to their husbands. Meanwhile in another conviction (1597), it was noteworthy that the judges gave a 'lesser punishment for a husband than his wife for riot'.[155] Evidently the *fact* of separate fines for husband and wife was not irregular. Despite Hudson's note, extant records show that sometimes both halves of a couple paid the same-sized fine. For instance, Edmund and Emott Budd of Borrington in Devon each paid £10 in 1598.[156] This evidence is useful for discussing civil – and 'quasi-criminal'– law too, as Barnes shows that levying fines and levying damages were not perceived very distinctly in Star Chamber.[157]

One superficial answer to why descriptions of husbands' property being exacted for their wives' fines are elusive is that fewer women were indicted in the first place. As previously outlined, there are 2,104 women defendants identifiable in the STAC 5 catalogue, less than

[152] Ibid., 182-3.
[153] Hawarde, *Les Reportes*, p. 103.
[154] E159/417.
[155] Hawarde, *Les Reportes*, p. 87.
[156] E159/415. See more examples too on E159/416.
[157] Barnes, 'A Cheshire seductress', p. 377; Guy, *The cardinal's court*, p. 115.

four percent of all defendants.[158] But, according to the most complete single contemporaneous list of Star Chamber fines, women were not convicted disproportionately less than their male counterparts. Out of about 2,600 memoranda roll entries, 89 were from women. 4.23 percent of all women defendants (visible at catalogue level) were therefore fined. The equivalent proportion of male defendants was 4.22 percent.[159] Once accused, women were no less likely to be found guilty by the court than men. The fine rolls record 55 fines from a wife. Sixteen recorded fines were from wives whose husbands did not pay any fine himself. For instance, wives Juliana Fenne, Alice Hogge, and Agnes Townesende from 'Layton Bussard' each surrendered 20s in Michaelmas of 1590 with no mention made of their husbands.[160] Twelve husbands handed over a fine on behalf of their wives; but nobody paid 'for the fine of… his wife' after Christiana Fellow's husband did in Michaelmas 1570.[161] The parliament held a few months following reiterated provisions against fraud in 'any persons… whosoeuer' – including the payment of fines 'to the Queen'.[162]

What the pleadings, meanwhile, remind historians is that many wives were not dependent on husbands for cash earnings. Many wives demonstrably had some capacity to pay their own fines. Colchester widow Katherine Awdley allowed John Christmas occupancy of some land, on condition of default if he did not raise money enough to pay her for it within two years. In 1584 this deadline had passed, and John turned to his stepmother Bridgett – now married to gentleman George Darrell – who bailed him out herself.[163] In the Easter term 1593, 'Frances Smyth, wife of Robert Smyth within the parish of Bromley, Middx, gent' paid the

[158] See chapter one.
[159] The number of memoranda roll entries is only a rough count. Calculated using transcriptions at 'Star Chamber Fines' by Robert C. Palmer https://waalt.uh.edu/index.php/Star_Chamber_Fines [accessed 15 September 2023].
[160] E159/401. Quite possibly these fines (taken in Michaelmas 1590) resulted from a 1589 commons enclosure dispute, STAC 5/H36/8.
[161] E159/361.
[162] 13 Eliz. 1 c. 5.
[163] TNA STAC 5/A17/21, B. Bridget's husband was in fact fined £25: E159/386. But as John himself was fined only 50 shillings, it seems Star Chamber was not punishing the breach of contract so much as Darrell's later violent ejection of Awdley, and his corruption in office of bailiff.

queen £10 as ordered by Star Chamber, and her manservants' much smaller fines of 40s apiece.[164] Women of the middling sorts frequently made report to other court officials of their own independent worth and means, although women's wages were often smaller,[165] and the same was true of Star Chamber. Of lesser means than previous examples, Margaret Dicconson, wife of Richard living in Nether Wyresdale in Lancashire, was assaulted so that she

> remayneth a maghymed and sore broaken and brused woman never like to bee able to helpe her self by… labor, as formerlie all her liefe tyme shee hadd done and (as the propertie of her estate and callinge requyreth)[.][166]

Margaret's husband was in the bill in name only, despite the vicious assault wrought on her in their home. If she was litigating without spousal support, she obviously would have required independent access to funds. In Devon in 1589 wife Joane Tapper, defending herself against subornation, was asked 'what livinge hath' she, and 'what trade dothe she use to gett her lyvynge what is she worth in goods'.[167] She was identified as a seamstress with land worth 4 nobles/pa, but 'further in debt then she is able to satissfy'.[168] When defending, married women may have been dealt smaller fines than their co-defending husband partly because they would be more readily disbursed by wives' smaller earnings.

So, wives could contribute to their own fines. This was doubtless also because defendants themselves (and litigants generally as Caswell has shown for Assize courts) regarded indicted wives as part of 'a criminal household rather than one in which the husband assumed all liability'.[169] One Star Chamber appeal suit described how the court had wrongly adjudged John, Robert, and Frances Vineor pay damages of £35 6s 8d when indicted for

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[164] E159/408
[165] See A. Shepard, 'The Worth of Married Women in the English Church Courts, c.1550–1730', in Beattie and Stevens, *Married women and the law*; A. L. Erickson, 'Married women's occupations in eighteenth-century London', *CC* (2008), 23/2; For smaller earnings of female petitioners: J. Healey, *The First Century of Welfare: Poverty and Poor Relief in Lancashire, 1620–1730* (Woodbridge, 2014), p. 193.
[166] STAC 5/D35/17, B.
[167] STAC 5/F7/6, I.
[168] STAC 5/F7/6, I and Depositions of Daniell Longworthy.
[169] Caswell, 'Coverture and the criminal', p. 97

perjury, to 'greate preiudice & wrong'.[170] No distinctions are drawn between Frances's financial liability and that of her husband Robert. Agnes Bettes of Northam, Suffolk, was accused of violently rescuing her husband George and son Hillarye from the bailiff. She was asked if 'yow or yowr husbonde at the tyme of ye said arreste [did] incorage yor children and servants… to comytt the rescue' using promises that 'yow or yowr hubonde woulde beare them owt in yt'. Either (and both) promised to pay any legal costs of co-conspirators.[171] One bill describes how George and Elizabeth Tailor suborned William Turney to depose at Lincoln Castle that Edward Shrieffe had died aged older than twenty-one years (not, as he had actually been, twenty and six weeks) – which triggered the Tailors' inheritance of his land. George assured William that 'he shoulde nott lose his labor for his wyffe shoulde geave' William's wife Anne 'something' in exchange for the court appearance.[172] William's labour was for negotiation between Anne and Elizabeth. Examples of this blended financial responsibility are frequent – this paragraph has simply excavated some which pertain to litigation costs.

There are in actuality only a handful of explicit pronouncements in 1,370 files explicitly contradicting the idea that a wife had an economic stake in her household. Most of these were a plaintiff pointing out that an adversary was litigating wrongfully in their spouse's name.[173] This was because, too, the legality of couverture was understood and widespread. But this evidence sits next to the apparent ease with which wives navigated 'their husband's' finances, and the one phenomenon need not preclude the other. For contemporaries, financially penalising a wife probably did not seem distinct to punishing the whole family and vice versa. One accusation concerned the corruption of married gaolers. In 1598 George Reynell had inherited the wardenship of the Fleet through his wife Elizabeth by right of her dead first husband Edward Tyrrell. The pair were accused together of failing to upkeep conditions of both

[170] STAC 5/V1/22, B.
[171] STAC 5/G39/31, I.
[172] STAC 5/B19/38, D.
[173] STAC 5/W58/18, A.

'the comon gayle' and quarters of 'the better sort'.[174] Perhaps on grounds of Elizabeth's contribution to the Reynell household economy in marriage, they share responsibility for the stewardship. But in 1591, Isabell Martyn's appearance parallels Elizabeth's even though the job was *not* owed to her connection. The London aldermen had instated William Martyn, a citizen goldsmith, as gaoler of Wood Street Compter, promising him £100/pa. One interrogatory asked the Martyns if they blackmailed prisoner Sir Walter Lewson when he was found 'behavinge verye suspyciously with your maid servant'.[175] Lewson offered them £1000 – for his freedom, too. The Martyns seemingly shared a professional identity. On the agreed night, the gaolers 'drank wyne plentye in so muche as some of the servants… founde great faulte at the rule they kept'. This was the couple's thin excuse for why the gaol door was found open and Lewson gone while city watchmen were not in the vicinity.[176] One witness for the Martyns deposed that when Lewson escaped, Isabel 'did weep and cry out that she was undone'.[177] The defendants tried to use Isabel's identification with gaoling to augment their trustworthiness, demonstrating again the acceptability of the notion that women shared their husband's economic stake.

vi. Conclusions

Chapter two investigated what brought complainants and defendants to the Star Chamber. The present chapter has sharpened this point further by tracing a profile of (pre)suppositions about wives' criminality in 180 suits; personal capacities for recalcitrant behaviour, and whose

[174] STAC 5/S21/23, B.
[175] STAC 5/G14/6, I.
[176] STAC 5/G11/6, B.
[177] STAC 5/G14/6, I.

responsibility it was. Despite common law tendencies 'to think in households', wives were held accountable as criminal individuals in the later sixteenth century. Rather than dismissing the logic of couverture as entirely internal, historians able to undertake substantial sampling of court records can use statute law to understand better suits defended by wives. Equal weight should be given to the charge a woman faced as her marital status, in predicting her experience of the law – at least in the Star Chamber. Jurists considered wives fully liable for criminal charges of forcible entry, detainer and disseisin – staples of Star Chamber business. In this court, common law *couverture* was not helping women to evade the law, or to share blame between perpetrators. Indeed, sometimes wives and husbands were both fined, doubling culpability (and recompense) for hurts suffered by complainants. Nor were recognitions of wives' crimes only notional, as demonstrated by the equally likely payment of fines to the crown by convicted wives as by convicted men. It was considered exceptional that a husband should be personally charged for his wife's prosecutions (or, at least, that he complained about this in writing).

This chapter has also advanced the question, then, of how prosecutions could be obtained when *couverture* made prosecution at the common law difficult. It has added several substantive crimes to historians' list of 'affairs of the household' – featuring recusancy and spousal abuse among other things – which are understood to have merited a response in 'the public domain' despite patriarchal ideals.[178] Women were punished for their recalcitrance towards the judicial apparatus, rather than allegiance to their household; they were punished as subjects, not wives. The manner in which they behaved was also relevant. Wives who were not just defensive of their family but showed 'mannysh' and 'unwomanly' malice in the course of title disputes, exposed themselves to prosecution as individuals via nascent statute against fraud, contempt, and sedition. These observations can partly relieve historians' frustrations that

[178] Brooks, *Law, Politics and Society*, p. 359.

'the importance of motivation' in Tudor equity suits against women – and, concomitantly, the fact of whether 'women more than men were judged not just on their guilt or innocence but on their motivations' – has been obscure.[179] They also show that the way in which the law was applied to subjects was responsive to broader, gendered, values and expectations; even when circumventing inherently gendered legal devices (couverture) and abiding by the letter of a law applying to everyone 'what estate, degree or condition soever'.[180] The following chapter sets out to investigate how true this was of women who were on either side of marriage.

[179] C. Peters, 'Review of *Women waging law*', *CC*, 16/2 (2001), 309.
[180] 5 Eliz. 1, c. 9.

Chapter four

Property-by-will: women and family

'Women must have their wills when they live, for they make none when they die.' [1]

English proverb

A conversation between Richard Whittingham's friends when he lay dying in Kent in 1599 is recorded in Star Chamber interrogatories. One friend pointed out that Richard's daughter 'Prudence Whittingham was a Bastard, And that if she should dye without yssue, she should leave noe heires to enherite Richard Whittinghams landes.' A better-informed bystander replied 'that the lands would haue heires,' because he himself had been 'witnes to a will' dictated by Whittingham. '[B]y wich will[,] Richard Whittingham gave his lands to Prudence and to her heires, and for wante of heires of her bodye the landes to Remayne to Jesse Whittingham brother to Richard'.[2] Prudence's exclusion by custom was superseded by the making of Richard's will. Indeed, Henry VIII's 1541 Statute of Wills had assured testators' autonomy over property transmission – by authorising wills, allowing testators to bequeath real estate as they chose. In Elizabeth's reign too, land needed no longer transmit according to manorial or local inheritance practices. This chapter examines the Star Chamber's role in ensuring that will, rather than (customary) right, was shored up by the law – and the effects that this had on the position of women in Elizabethan law.

[1] W. Hazlitt, *English Proverbs and Proverbial Phrases*, 2nd edn (London, 1882), p. 499.
[2] STAC 5/A50/19, Interrogatories administered to Edward Gamlyn.

The first question to be asked, though, is why these suits came to the Star Chamber. The largest current studies of early modern probate disputes are by Lloyd Bonfield and Ralph Houlbrooke, both of which focus on consistory courts in England's southeast. They presume that 'Parliament seemed content to allow probate jurisdiction to remain largely in the hands of church courts and left it largely untouched,' the consistory courts' monopoly only receding in the seventeenth century.[3] But disputed wills, mostly involving allegations of forgery or perjury, make up 98 suits out of the 1,040 sampled. The Star Chamber was obviously a rich source of probate business. In part, this phenomenon was owed to an increase in private litigation over inherited estates generally; by the tail-end of the sixteenth century, contemporaries themselves were complaining that land was a particularly competitive commodity.[4] More presciently for the points made by this chapter, though, fundamental changes to the *nature* of land contests also inflated Star Chamber probate business.

The conflicts sampled in this chapter evolved in the aftermath of family deaths, over the newly carved-up estate. In fact, relatives sued each other in more than ten percent of all sampled suits. The standard type of property dispute for the earlier Tudor period was a forcible dissesin. Margaret Wase, for example, was charged with forcibly entering into her son's land in Storrington (Suffolk) during Edward's reign. In 1565 she retorted that the complainants had actually entered the house, and beat subtenant John Pytter. Witnessing this and 'fyndinge a batt abowte the backeside of the howse', Margaret picked it up to defend Pytter. Such precaution was necessary because Pytter 'was lyke by the [complainant] to be thruste throwe with a Javelyn yf [Margaret] had not byn all the warer'.[5] But by the 1550s, the Star Chamber was refusing disseisin disputes. This much was evident in Easter 1573, when widow Jane Beamont had her stepson Henry Beamont esq. (of Sydbury in Devon) examined whether he had made

[3] L. Bonfield, *Devising, Dying and Dispute: Probate Litigation in Early Modern England* (New York, 2012), p. 52, and R. Houlbrooke, *Death, religion, and the family in England, 1480-1750* (Oxford, 1998), p. 87.
[4] J. Thirsk, *Rural Economy of England: Collected Essays* (London, 2003), p. 68.
[5] STAC 5/B39/29, A.

'any entre' into her house.[6] Henry evidently thought it sufficient to reply that he 'doth refuse to make any answer and the cause is for that the same do concerne this def[endan]ts tytle'.[7]

So, as Elizabeth's reign progressed, Star Chamber disputes over property increasingly centred will-making (or, as part i of this chapter especially shows, historic marriage contracts) instead of forcible entries. The value of probate suits to plaintiffs trying to sue out of the court was that they offered opportunities to allege 'criminal causes that lift up the head against the commonwealth'.[8] In the course of a probate suit counsel could recast civil land disputes in the mould of perjury or forgery allegations, neither triable at common law, to pull a title-based complaint into the purview of Star Chamber.[9] The relationship between perjury, forgery, and will disputes – as well as, relatedly, marriage contracts – will be demonstrated in the course of this chapter. The relationship was well-known by contemporaries; when Bacon cited six major weaknesses in the law, one was 'that men's assurances of their lands and estates by patents, deeds, wills, are often subject to question, and hollow'.[10] Indeed, Fox thinks that 'the increasing fluidity of land transactions' after the Reformation was the very motivation behind the 1563 statute 'agaynst the forgyng of evydences and wrytinges'.[11] It is, though, hard to determine the direction of causation. But in any case, the statutes against forgery, utilised in many complaints in this chapter, certainly regarded that they were remedying an epidemic problem: which 'hathe of late tyme been verye muche more practised… in all Partes of this Realme then [sic] in tymes passed'.[12]

The cross-suing of will disputes – or, more precisely, the perjury to church courts inherent to such disputes, as section iii explains – using the Star Chamber is not as 'odd' as

[6] STAC 5/B48/27.
[7] STAC 5/B48/27, Depositions of Henry Beamont.
[8] W. Lambarde, *William Lambarde and local government: his 'Ephemeris' and twenty-nine charges to juries and commissions,* ed. Conyers Read (New York, 1962), p. 104.
[9] J. A. Guy, *The court of Star Chamber and its records to the reign of Elizabeth I* (London, 1985), p. 58.
[10] Letter from Sir Francis Bacon to King James, 1616, in J. Spedding, R. Ellis, & D. Heath (eds), *The works of Francis Bacon*, (14 vols, London, 1857), vi, p. 64.
[11] A. Fox, *Oral and Literate Culture in England 1500-1700* (2000), p. 274.
[12] 1 Eliz., c. 5 and 6, *Statutes of the Realm* (10 vols. 1810–28), vol. iv, p. 443.

scholars have thought.[13] Egerton, in 1611 writing 'Some Notes, and Remembrances, Concerning Prohibitians, for Staying of Suites in the Ecclesiasticall Courts', was unambiguous that ecclesiastical law was insufficient to adjudge disagreements which arose after a 'man makes his last will and testament… deuiseth his landes, and giueth legacies of his goods, and nameth Executors, and soe dyeth'.[14] Wills were an ecclesiastical matter, but also about property. Church courts could not grant property or damages in its judgements. Although the ordinary common law courts could do so, Egerton felt that a 'lay jurie' did not have the skills required to test probate.[15] Presumably, then, the Star Chamber's involvement in probate business was necessary for plaintiffs who sought the recovery of willed property. Probate was therefore handled by the Star Chamber, as well under Egerton's chancellorship as other the Tudor-Stuart years.

The 'Star Chamber solution' – to the problem of church courts not being able to deal adequately with propertied matters – is also evident in suits which show litigants trying to recover property owned by the church itself. In the 1570s husbandman John Cornyshe testified to the 'Eccliastycall Courte of the Byshopp of Exon' concerning some arable land leased 'frome the late Pryor of the Dissolved howse or monasterye of St Jermyn'. This grant included ground named Cuttlenet near Saltash in Cornwall. It had been leased 'for the tearme of Forty years beinge confyrmed and allowed under the Seale of the late Courte of Augmentacyons' – the body which administered monastic revenues following the Dissolution. The leaseholder of Cuttlenet received the tithes from the Rectory of the parish. However, the parish which John Cornyshe claimed Cuttlenet belonged to, and therefore which leaseholder Cornyshe identified that these tithes were owed to, was contested by widow Alice Roberts. Roberts claimed that

[13] J. Hudson, *Crime and Consequence in Early Modern Literature and Law* (Edinburgh, 2021), p. 36.
[14] Sir Thomas Egerton, 'Some Notes, and Remembrances, Concerning Prohibitians, for Staying of Suites in the Ecclesiasticall Courts' (1611), in L. A. Knafla, *Law and politics in Jacobean England: The tracts of Lord Chancellor Ellesmere* (Cambridge, 1977), p. 288.
[15] Ibid., p. 288.

Cuttlenet was part of the parish of Landrake, the leaseholder of which had been her recently deceased husband. In 1575 she took Cornyshe to the Star Chamber to accuse him of perjuriously misidentifying the leaseholder of Cuttlenet and cheating her husband's estate out of tithes.[16] By alleging perjury Roberts made triable in the Star Chamber an issue which usually could go 'no further' upon appeal than 'the archbishop of the province'.[17] The Star Chamber could also offer Roberts recovery of the disputed tithes, not simply Cornyshe's 'canonical correction', the ecclesiastical court's only weapon.[18]

It should be said that during Elizabeth's reign it occasionally 'was doubted' and debated between justices whether perjury in ecclesiastical courts could, in fact, be punished by the Star Chamber.[19] Before the 1563 Act Against Perjury, witness testimony could only be tried as perjury by a secular or a canonical court if it had happened in its own jurisdiction.[20] After the Act, secular authority over the offence certainly did reach right up to the church's door. But things were hazier beyond that, convention continuing to obscure Star Chamber's attempts to try church court perjurers. Although the new statute declared 'it shall not extend to any spiritual or ecclesiastical court', where 'usual and ordinary laws, as heretofore hath been and yet is used and frequented in the ecclesiastical court' would be protected, it did not specify what this protected jurisdiction was.[21] The Star Chamber did anyway hear cases of perjury in the ecclesiastical courts 'throughout the sixteenth century'.[22] By the seventeenth century Coke had decided that, '[f]or perjury concerning any temporal act, the Ecclesiastical Court hath no

[16] STAC 5/R25/30, I.
[17] Sir Edward Coke, *The fourth part of the institutes of the laws of England* (London, 1644; repr. London, 1797), p. 339.
[18] P. Cavill, 'Perjury in Early Tudor England', *Studies in Church History*, 56 (2020), 203; Excommunication, in other words. A. Walsham, 'Worthless Witnesses? Marginal Voices and Women's Legal Agency in Early Modern England', *JBS*, 58/4 (2019), 721.
[19] R. Crompton, *Star-Chamber Cases: Shewing What Causes Properly Belong to the Cognizance of That Court* (London, 1630), p. 44.
[20] M. Gordon, 'The Invention of a Common Law Crime: Perjury and the Elizabethan Courts', in *The American Journal of Legal History*, 24/2 (1980), 150.
[21] 5 Eliz. 1, c. 9
[22] Gordon, 'The Invention of a Common Law Crime', 156; Hudson, *Crime and Consequence*, p. 36.

jurisdiction'. Furthermore, 'if it be concerning a spiritual matter, the party grieved may sue for the same in the Star-chamber.'[23]

This chapter considers how the changes in magnitude and quality of property-related disputes affected widows in particular, and Elizabethan women more broadly. To do so, it examines 127 widows across the thesis's sample who litigated in various types of suit over their late husband's landed property. The first section will chart the relative merits and demerits to women of inheritance-by-will (and prenuptial financial agreements) as against different widows' estates in English law. This will uncover a pattern of change in women's dealings with the Star Chamber – and, how their causes were narrated – across Elizabeth I's reign. The subsequent section will hone in on the 98 probate suits in the thesis's sample, including those involving 51 testator's widows, in order to ask if the structural changes to Star Chamber litigation gendered litigant experiences of the court.

i. A widow's wont, or a widow's want?

The financial motives firing disputes over heritable estates are easy to see. Many had much to lose. Husbandman Edward Frome of Berkshire 'condemynyd' his stepmother Mary 'in tharches touching a legacye geven' to him by his father Thomas's 1584 will. Edward had Mary, Thomas's executrix, 'arrestyd and kept in Wynchester goale by the space of viii or x weekes or untyll she' delivered Edward the copyhold which constituted his legacy. He described that twenty-four hours before passing away, his father 'upon his death bed[,] was mynded to make

[23] Sir Edward Coke, *The third part of the Institutes of the laws of England: concerning high treason, and other pleas of the crown, and criminal causes* (London, 1644; repr. London, 1817), p. 164; M. Gordon, 'The Perjury Statute of 1563: A Case History of Confusion', *Proceedings of the American Philosophical Society,* 124:6 (1980), 438-454., p. 439; Coke, *The third part of the Institutes*, p. 164.

a surrender of the copihold premisses unto' Edward. Turning to the Star Chamber, Mary explained that the copyhold actually constituted her widow's estate – her only home.[24] Pleadings suggest that marginality pervaded the lives of many Star Chamber widows, who vitally depended on relatives' goodwill. Husbands might stipulate an 'upper chamber' of the family home for her to live in until she died, or £5 'for meate & drinke' or 'three lodes of wood durynge her lyfe', to be offered out of his children's own share.[25] Several widows were helped in their necessary farm work by abler-bodied stepchildren, sowing the ground for possible resentments. In one Norfolk instance, William Neve 'with one woman more whom he hyred for harvest worke' cut his stepmother's hay to prevent its spoil 'he seing the weather like to prove wett' one August. An argument with his stepmother over the whereabouts of one load of hay ignited a wider one about the farm's ownership.[26] There were also allegations that widows supported themselves with sex work. Witnesses were asked in one London case of libel 'whoe hath maynteyned Marye [Halwood] in her widdowhoode with apparrell meate drincke & lodging[?]'. They named married local William Jones, who 'often tymes… hath Rysen and gone to Maryes Chamber shee beinge in bedd & there stayed an hower or twoe together'.[27] Three out of five pleadings *in forma pauperis* found by this study were submitted by widows.[28] Many widows would have needed to fight hard for their income, and any property which generated it.

As was the case before the Statute of Uses, and of Wills, widowers expected to enjoy their wives' whole estate 'by the curtesy of England' for his life (by which the widower became to be identified a 'tenant by Curtesey'[29]). When a husband died first, however, common law

[24] STAC 5/F8/8, I.
[25] STAC 5/F8/8, Depositions of Alice Myldenor.
[26] STAC 5/B7/12, A.
[27] STAC 5/J10/16, Interrogatories administered for Isaac Hopkins.
[28] STAC 5/A15/1; STAC 5/L25/26; STAC 5/M58/36; STAC 5/B100/5 describes Isabel Wilson's pauper submission to Chancery.
[29] STAC 5/G40/31, B.

dower almost universally assigned his widow a third of his property.[30] This right to 'thirds' did continue to be 'well protected' by law – a fact which the number of (lone) widows seeking to recover property in the Star Chamber attests to.[31] In one straightforward example, John Clerke and his wife Johane recounted that when Johane's previous husband George Fourde had died, she obtained a writ of dower for a third part of his freehold land in Marwood (Devon). The whole freehold came with tenants William and Elizabeth Allen installed, so they were duly 'delyvered' by the local sheriff an order to relinquish a third of the tenement.[32] The eviction would have been necessary for Johane, because under the law of dower widows could not receive ongoing rents – only the land proper.[33] Ecclesiastical 'thirds' (a third of his moveable) were also a widow's to keep. Suffolk widow Marion Nicolls defended her chattels against family members inventorying her late husband's estate: 'gobletts', napkyns', and a 'brasse potty of what bignesse', among others.[34] Manorial freebench or 'frankbench' (or, 'franckbanck') was guaranteed copyhold to widows of most customary tenants i.e. those belonging to a manor.[35] All three of dower, thirds, and freebench, although legally protected privileges, were limited to the recipient's lifetime.[36]

A widow's freebench might be valid only 'durynge the tyme that she shall lyve sole and unmarryed'.[37] While Cioni argued *contra* other scholars that Chancery grew reluctant to uphold such limitations on freebench, the present sample suggests these were frequent limitations.[38]

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[30] B. Todd, 'The remarrying widow: a stereotype reconsidered' in M. Prior (ed.), *Women in English society 1500-1800* (London, 1991), p. 38; One caveat disallowed dower if she was not 'past the age of nine yeares at the time of death of her husband'. Sir Edward Coke, *The first part of the Institutes of the laws of England; or, A commentary upon Littleton: not the name of the author only, but of the law itself,* ed. E. Brooke (London, 1809) sec. 36.
[31] E. Spring, *Law, Land, & Family: Aristocratic Inheritance in England, 1300 to 1800* (London, 1993), p. 40; 4.8 percent of STAC 5 suits were brought by a sole female plaintiff. Of sampled suits 203 were instigated by a widow.
[32] STAC 5/C20/16. 'Clerke' miscatalogued as 'Cooke alias Carter'.
[33] Coke, *The first part of the Institutes*, sec. 39.
[34] STAC 5/S72/26, A (1587).
[35] 'Franckbanck' appears in STAC 5/G18/33, B.
[36] See B. Todd, 'Freebench and free enterprise: widows and their property in two Berkshire villages', in J. Chartres and D. Hey (eds) *English Rural Society 1500-1800* (Cambridge, 1990).
[37] STAC 5/R1/31.
[38] M. Cioni, 'The Elizabethan Chancery and women's rights', in D. J. Guth, J. W. McKenna, and G. R. Elton, *Tudor Rule and Revolution: Essays for G. R. Elton from His American Friends* (Cambridge, 1982), p. 169 as against A. L. Erickson, *Women and Property in Early Modern England* (London, 1993), p. 197.

Upon her yeoman husband's death on the 24th April 1581, Elizabeth Ryman claimed 'all suche Coppyholde Landes parcel of the Manor as her husbande doth or did or shall dye seised of' in Purton (Wiltshire), as its custom allowed. But her occupancy persisted only as long as her widowhood.[39] In fact, there is only one example in the sampled suits of a widow's manorial leasehold which was definitely *un*affected by her remarrying. From her first husband Francis Hollowaie, Anne inherited a 5s/pa lease for two acres of meadow 'by copy of manor roll' in Newbury (Berkshire). After her second husband Gyles Hynde died around 1578 she enjoyed the lease's remaining twelve years unchallenged.[40] The remit of widow Agnes Hall's occupancy of her Oxfordshire copyhold was even more intimate than widowhood: it was for life 'yf she dyd kepe her self so long sole *chast* & unmaryed'.[41] Evidence for this particular stipulation – by which 'the widow, if found guilty of incontinency, loses her freebench' – is somewhat rarer than that concerning marriage.[42]

Few widows are accused of trying to ignore these customary limitations. In fact, only two remarried widows came to Star Chamber in order to defend their continued occupation of freebench property after remarriage: recently remarried Agatha Mynn of Christon (Somerset) contended that by the custom of Wynterhead, her first husband John Payne's copyhold came to her for life 'as longest lyver' of the two. Their 'firstborn heir' Christopher Payne, 'thirstinge' for the property and its profits, tried to enter the property prematurely.[43] Agnes Larcombe from Avell manor (Somerset) was also sued over the functionality of a 'widowhood' clause in 1563: William Carrant challenged whether wives could keep freebench 'duryng hir lyff after the death of her husbond whether she marrye Agayne'.[44] Neighbouring tenants seemed hard to hide from,

[39] STAC 5/R1/31. For more examples of limitation to widowhood see STAC 5/B6/28, A; STAC 5/D1/19, A; STAC 5/H52/5, I.
[40] STAC 5/H8/7.
[41] Italics added. Wharton, *Exposition of the Laws*, p. 513; Erickson, *Women and Property*, p. 197.
[42] Wharton, *Exposition of the Laws*, p. 513; Erickson, *Women and Property*, p. 197.
[43] STAC 5/M53/31.
[44] STAC 5/C14/26, I.

and keen to eject expired copyholders to make way for the new. In Toddenham (Gloucestershire) they were so eager to prevent unlicensed occupations that when William Hamp was in Flanders on military service and left his tenement to his 'aged parents', neighbours 'did throwe' William's mother 'ouer a hedge wherof she became lame… of her armes'.[45] Most importantly, it was simply hard to make proof against local wisdom as to widows' entitlements. One bill made a rare attempt, by alleging that John Hoskyns had lied to the manorial court at Beaminster about the contents of an 'ancient… Court booke' detailing local inheritance customs.[46]

Existential challenges to custom were an uphill struggle for widowed women seeking tenancy. The lords of Middleton Hall in Westmorland 'sometymes in respecte of service or povertie did… permitte some widdowes to occupie sometymes more and sometymes lesse then the thirde parte'. But this caused 'contencons' to 'arrise between some of the widowes and their children'. More than thirty years' worth of juries and false verdicts had not decided if Middleton widows should be allowed half their husband's tenement once his heir reached majority.[47] Widow Elizabeth Baxter of Muche Malverne in Worcester lived in Hall Green on Baldenhall manor 'of the devise of' her kin John Backster. But the lord, 'supposing' John 'to be a sott and a naturall foole from his natyvytie… by his bailiff and servant made claime unto Backster as his sott'. They staked the lord's claim by 'vyolently' carrying John away one July evening in 1594 and evicting Elizabeth too.[48] Widow Baxter was basing her right to occupancy on John's customary tenement, which was in turn being trumped by the landlord using another custom. The keystone of each competing claim was identity.

In fact, convincing locals and courts that they *were a widow* – or the 'right' one – proved as popular a tactic as disputing conditions on manorial occupancies themselves. Joan Hucker,

[45] STAC 5/H1/38, B.
[46] STAC 5/H56/40, B.
[47] STAC 5/M34/9, B; STAC 5/H5/16 for a widow challenging customary fines at Adderbury manor, Oxfordshire.
[48] STAC 5/B74/23, B.

'bedeswoman' (usually, someone who received alms) of Donyatt (Somerset) faced Johane Ballam in the Star Chamber when both claimed freebench as wife of the late Robert Hucker. Ballam pleaded that she had married Robert years ago, but soon left the manor for Southampton. This was because Robert 'myslykenge' his new bride 'and pretendynge her nott to be his lawfull wyef,' instead cohabited with Hucker. Now Ballam 'yet beinge alyeff' claimed her widow's estate from Hucker, who 'was never the trewe & lawfull wyeff of Robert'.[49] Hucker retaliated by producing an old certificate for divorce issued by the prebendary of Ilminster, confirming that Ballam's claim was null.[50] Mary Callow of Culm Davy manor mentioned earlier sued her mother-in-law and the manor's lord James Boureman. Mary's husband James Callow 'hath bestowed' himself somewhere 'your subiect knoweth not'. Quite possibly she meant to be treated therefore a widow, with the attendant freebench rights. Boureman did not oblige, adjudging that Mary 'was and yet is marryed and under coverture to James Callowe', who he assumes to be still alive.[51] Generally, widows did not seek to redefine a manor's rights – although, they might their own membership of it.

This section has set a scene in which 'the occupation of land was increasingly seen largely as a commercial relationship', and women were thus pushed to litigate over the terms of these relationships rather than rely on older inflexible customary and common-law entitlements.[52] In the whole sample, widows' claims to freebench number twenty-five.[53] However, while thirteen freebench-informed claims were staked in the Star Chamber before the thirty-second year of Elizabeth's reign, ten arose during the 'hungry' 1590s which followed. Possibly the displacement of freebench claims into the Star Chamber during this period correlates with rising inflationary pressures, manifesting as trespass or greater-value claims or

[49] STAC 5/H1/35.
[50] STAC 5/H76/15.
[51] STAC 5/C74/29, Answer of James Boureman.
[52] C. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2008), p. 352.
[53] Contrastingly, 60 percent of Elizabethan Requests cases concerned customary law governing a copyhold widow's estate. B. J. Sokol and M. Sokol, *Shakespeare, Law, and Marriage* (Cambridge, 2003), p. 121.

both. In any case, responses to freebench claims were unpredictable, encompassing wills, alienations by sale, and disputations of wardship.[54] Claims of intestate deaths (in effect, claims to common law dower) were more likely pitched against claims that land had been sold (or otherwise conveyed) than other arguments, although generally the bag is mixed. In a further eight cases, opponents argued intestacy – against a widow whose case relied on a will. Jointure-based pleas also stimulated mixed responses. Why was the type, rather than the content, of these various settlements often disputed? And why, given this was the case, was not one type of settlement consistently preferred? This section will explore litigants' use of these 'self-help' methods of inheritance, and seeks the answer to these questions with reference to the gendered application of the law to cases by plaintiffs.

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The single largest group – 45 out of 127 – of widows based their pleas on their late husband's testament. During the 1580s this tactic experienced a surge in popularity within the sample, from fewer than fifteen percent of widows using it, to 45 percent of them doing so.[55] After the Statute of Uses, a husband might specify *more* than the legally prescribed estate to his widow. However, Spring cautions, it was 'possible for the heir to object if he did so.'[56] Star Chamber evidence taken alone gives the impression that this was probable. Having partly disinherited his eldest son William (who 'dyd not shewe himself a dutyfull Childe') during a 1583 redraft of his will, wealthy Wiltshire gentleman Thomas Garrard told friends that

[54] STAC 5/B74/23; STAC 5/B95/2; STAC 5/C33/32; STAC 5/S5/40.
[55] This frequency held up except for a small dip during 1590-1594. As might be expected, this period was accompanied by a small rise in common law dower claims (i.e. widows pleading that they were administratrices).
[56] Spring, *Law, Land, & Family*, p. 40.

> he… had mynde to haue geven [William] the some of one Thousande pounds if… he would haue byn bounde to the same Testator to be quiet and not to trouble hys wife and children aft[er] hys death[.][57]

As Thomas had worried, his bequests to his second wife Alice were swiftly challenged by William. In 1592 Hampshire, siblings John and Mary Graunt also perceived they had been foiled of their inheritance. Their father Michaell's will left his brewhouse to their stepmother as long as she lived.[58] After all, the 'ancient Custome' of Southampton made all estates 'devisable of and for any estate whatsoever'. But John and Mary were making a bid to render Michaell's estate using the common law – applicable to freehold land in cases of intestacy – instead. Its provisions of equal thirds of a dead parent's wealth to offspring and the widow would secure the siblings an immediate income.

So, if a will was perceived by the household's adult children to be insufferably unfavourable, they might deny its validity or even existence. In 1559, Richard Vyne's stepmother was 'vexed with muche Sicknes' in the days following his father's death. Richard took advantage of the moment to lock his stepmother in the house and wrest administration of his father's estate for himself. He told the Ordinary of Surrey that his father had died a widower.[59] If not deriding the whole document as forged like Richard Vyne had done, litigants might instead find a technical fault in the will's production. In her 1582 rejoinder Rose Becker, a widow in Aylsham (Norfolk), insisted that her stepsons 'well knowe' that their father William 'did constitute nominate & appointe' her 'his sole Executrixe'. He left his 'cartes, horses' and livestock to Thomas but all remaining goods to Rose.[60] But Rose's stepson Thomas complained that Rose 'hath not shewed that euer she proued such supposed last will accordinge to the ecclesiasticall lawes of this Realme'. Therefore, 'she did take upon hir thexecucion of the same

[57] STAC 5/G18/16, D.
[58] STAC 5/G27/1, B.
[59] STAC 5/V3/16.
[60] STAC 5/B7/12, Rr.

without… probate', and her Star Chamber complaint was invalid by dint of her own identification as executrix.[61] Thomas tried to 'demote' the widow from executrix to 'administratrix' – the title granted to widows by the probate court to handle unwilled estates according to common law. If Becker could be proved intestate, even technically, then common law rules would operate to gift him a third of his father's wealth. That is not to say that widows faced an easy task convincing family that their husband died intestate. Dower, brides were forewarned, 'must be demanded, sometime sued' during widowhood, but 'sometime neither with suit or demand obtained'.[62]

On the other hand, when wills *were* operable dissatisfactions often arose *because* bequests were discretionary. Decisions taken by the testator drew open new spaces for expectation and resentment which had not existed in a pre-testamentary world – and brought business into the Star Chamber. Although most testators did respect the quantities prescribed by common law when making assignations of their estate, the 'expectancie of patrimonye' by different beneficiaries was not uniform.[63] In one typical contest over a deceased father's disposable third, Yorkshire singlewoman Elizabeth Typlady sued her stepmother Sibell in 1580. They fought over 'the third parte of [land called] the Grange of the yerelie value of twentie pownds'. Sibell, Elizabeth complained, fraudulently sought John Typlady's bequeathable estate for herself – to have 'converted to her all the substance of her said late husband falslie and untrulie contrarye to his will and mynde in his life'. If Sibell's bid were successful, Elizabeth and her sisters would each lose one-third of the Grange and so be left sharing only Yorkshire's customary third. With the inheritance of each of them thus halved, they would enjoy only 'a smale Childe's portion in comparison' to what John had intended.[64] John also bequeathed all his 'household stuffs' to Elizabeth. Generally, husbands re-instated to wives her own chattels

[61] STAC 5/B7/12, A.
[62] T.E., *The Lawes Resolutions of Womens Rights* (London, 1632), pp. 182-3.
[63] STAC 5/F19/2, A.
[64] STAC 5/T35/34.

as an absolute minimum. John had snubbed Sibell, which might explain her attempt to encompass more of his land. Neither had John appointed his wife executrix, unlike 96 percent of Yorkshire testators.[65]

Men 'had complete freedom' not only to surpass common law bequests, but alternatively 'to disinherit his children and leave his wife penniless', should he wish.[66] There was cultural resistance to this, though. When Thomas Read of Beverley (Yorkshire) 'had conceaved unkyndnes toward' his own son '& altered his good will from [his son] to his daughters sonne', his friend yeoman James Richardson advised 'him manye tymes That yt were more mete for him to leaue his goods to his Sonne than to his daughters childe'.[67] Star Chamber suggestions of widows entirely dispossessed by wills are rare, although not so much as Erickson's testamentary study found. One 'unlearned' Lincolnshire widow Margaret Fenton was duped, she said, by a tailor who oversaw the will and informed her that it disinherited her of the family freehold (worth £15 15s). For twenty-two years, Fenton told the Star Chamber in 1580, she had thus forgone the profits thereof.[68] That so much time elapsed before Fenton challenged her husband's apparent decision is telling, perhaps, of resignation to a husband's unfairness; but could equally indicate that Margaret could not afford to outlay suit costs. Women in the Star Chamber as elsewhere entered marriages expecting that most 'husbands are not so vnkinde or vntrusty as to endamage their Wiues' with an unfavourable inheritance, as the anonymous author of *The Lawes Resolutions of Womens Rights* put it early next century.[69] Although, this chapter will show, one's children could be less reliable.

In addition to the fact that the *size* of a widow's inheritance was technically at his will's discretion, legacies could be fettered in any other way a husband chose. Some very specific

[65] Erickson, *Women and Property*, pp. 162, 159.
[66] Ibid., p. 28.
[67] STAC 5/R39/3, Depositions of James Richardson (1583).
[68] STAC 5/F29/5, B.
[69] T. E., *The Lawes Resolutions*, p. 182.

conditions on inheritances in wills provided plaintiffs opportunities to allege non-fulfilment by a beneficiary. Yeoman Thomas Wells of Berkhampstead died in 1590, having declared that 'unto my wyef Besse I doe gyve unto thee by my will' a room in the family home.[70] Elizabeth later vacated the room on account of a new marriage; all very usual arrangements which her stepsons did not dispute.[71] But, unwilling to lose profit, they claimed that their father had informed them that Elizabeth's bequests were conditional on her rescinding her jointure lands worth 30s/pa 'lying in great Gaddesen'.[72] Informal deathbed additions to a widow's estate (or detractions from it) were familiar enough to Elizabethans, yet still problematic enough to impede probate. Conditions on widow's landholding could be unsqueamish in identifying patrilineal estates, rather than widows, as ultimate beneficiaries. From Bosbury (Herefordshire), Martha Harforde's husband willed her the family home for widowhood, so long as its 'householdstuff' 'shoulde remayne unwasted or unconsumed without any fraude nor guyle'. If Martha failed to do this, 'all his Bequests to her to be voyde'. In 1584 Martha's stepson informed the Star Chamber that she had reneged on her inheritance because she had 'plucked oute the marks wherewith any kynde of linen was before marked and put in her owne marke.'[73] Property-by-will provided myriad occasions for disinheritance which old customary entitlements had not.

More usual limitations made by husbands on his wife's inheritance were to: her life; her widowhood; or the minority of an heir.[74] The fact that such conditions could be discretionary invited (potentially fraudulent) attempts to 'defeate' a 'wydowes estate in the prem[i]s[e]s if god dyd call her husbande oute of this worlde'.[75] The limitation 'to life' might not prove too problematic to (step)children of 'an oulde gentlewoman aboue the age of three

[70] STAC 5/B50/30, Depositions of Alice Myldenor.
[71] See Erickson, *Women and Property*, p. 164. For discussion of houseroom willed to widows; p. 169.
[72] STAC 5/B50/30, Depositions of Alice Myldenor.
[73] STAC 5/H55/27, B.
[74] Erickson, *Women and Property*, p. 166.
[75] STAC 5/F8/8, Depositions of Edward Frome.

score yeres', 'gyven whollye to end her lief in quyotnes'. True, some mothers were extraordinarily hardy. In 1601 Alice Page had occupied her Essex tenement 'so longe' because she was 'a woman aboue one hundred yeares of age', and her yeoman son William secured special licence from the crown to live jointly on his mother's copyhold 'by vertue of her age and weaknes'.[76] Alternatively, though, children might find themselves frustrate of inheritance which was 'dependinge on the lyfe of so lusty a yong woman' as widow Christian Hurforde.[77] Litigants like these might seek their stepmother's thirds ahead of schedule. Nicholas Reade of Exeter described how his father and one Agnes Barrell made

> A marryage verye unfitte aswell in respecte of the greate deferrence of there ages Thomas beinge a verye aged man in his extreame doling yeres and very sicely weake and muche decayed in strength of bodie and mynde And also verie inconvenient for some other respectes not meete here to be menconed[.]

Nicholas's gripe was that, he thought, Thomas had been 'induced by Agnes to make his will and Testament… to make one Richard Crocker and Robert Crocker bretheren and neere frinds of Agnes his Executors'.[78] It is hard to imagine what utility the euphemism to Thomas's impotence held if not to shore up the possibility of annulling an (impliedly unconsummated) marriage to Agnes. Agnes was 52 at the time of Nicholas's Star Chamber complaint, so if Nicholas's suit was unsuccessful might have a while to wait to occupy his father's home.

A husband's bequest could be time-limited to 'so longe as she keepeth her selfe wydowe and unmaryed and no longer', or 'lyve[d] chast'.[79] Only a minority of wills imposed this limitation according to previous studies, but at least eleven relevant suits are in the current sample of 127.[80] Predicting as one might stricter controls on widows' enjoyment of very

[76] STAC 5/C20/23, A; STAC 5/P19/40, B; STAC 5/P32/24, I. The oldest sampled complainant is Alice Gawen, who was aged 93 in 1592 and battled for her property against her daughter-in-law Katheren. STAC 5/G11/13.
[77] STAC 5/B75/23, B.
[78] STAC 5/R36/10, B.
[79] STAC 5/B50/30; STAC 5/S53/12.
[80] J. Spinckley, 'Spinsters with Land in Early Modern England: Inheritance, Possession and Use' in A. Capern et al (eds), *Women and the Land 1500-1900* (London, 2019), p. 38. See too Erickson, *Women and Property*, p. 166. Including: STAC 5/A2/35, B; STAC 5/A48/40, B; STAC 5/H52/5; STAC 5/H55/27; STAC 5/W46/11; STAC 5/W57/26, B.

affluent estates, six of these examples concern gentry families. In the 1560s Jane Coryton, widow to Somerset esquire Peter, was bound by his will to forfeit her land to the couple's grandson if she died (reasonably enough) but also if she married. In the 1560s Jane Coryton's son Richard balked against the fact that he had only been left an annuity by his father, ejecting Jane from the property. Although he was an esquire, however, Richard's annuity was a fairly modest £13 6s/pa.[81] Non-gentry examples include that of Thomas Howse of Wheatley (Oxfordshire). He willed The George Inn, which he kept, to his wife Alice 'dureing her wydowhood and yf she marryed then the same shoulde remayne to her fyve children'. Alice and her 'unhonest' new husband Raph Cobbett, though, proved a false will alleging instead that the inn was simply Alice's for life, and if she had no heirs was it to come to the three Howse sons only.[82] The Star Chamber came down hard on Raph in 1590: 'the will was adjudged to be a false will and the plaintiff restored to the lands in the defendant's possession by the sentence of this court, £100 fine and Fleet.'[83] The court was happy to support a husband's chosen limitations upon his estate from his grave, perhaps especially to prioritise *immediate* family's enjoyment of lands; by the time the case was being fought, Alice had left Raph a widower.

There were widows too who regard their own interests as aligned with those of other beneficiaries. Todd's thesis that limitations to widowhood were borne of 'at least as much [her husband's] possessiveness as economic concern' uses evidence from the manor of Long Wittenham (then in Berkshire).[84] However, those limitations of court evidence which lend Todd's assessment some precarity are true too of Star Chamber files. Todd's observation that more copyholds were being limited to widowhood 'at a time when a widow's legal capacity to secure her separate estate by trustees was being strengthened', might equally be read as

[81] STAC 5/C33/3; STAC 5/C6/17. Other examples of 'widowhood' clauses in gentry wills at STAC 5/W82/17 and STAC 5/A48/40.
[82] STAC 5/H58/33.
[83] K. Kesselring, *Star chamber reports: BL Harley MS 2143* (Kew, 2018), n. 906.
[84] Todd, 'The remarrying widow', p. 39; J. Spinckley, 'Spinsters with Land in Early Modern England: Inheritance, Possession and Use' in Capern et al, *Women and the Land,* p. 53.

attempts to protect children's prospects in an increasingly tight and expensive land market. Todd points out, after all, that the rare widow who married and thus reneged on her copyhold only allowed that her new husband 'took title to the land with reversion to the son of the first marriage'.[85] In one 1580 Lincolnshire jointure dispute sampled in the current project, John Fenton was instructed by his mother Margaret 'that he was to solicite and followe his mothers causes in this honorable courte for that his mother was olde'. Margaret was cognisant that the long-term beneficiary of recovering of her late husband's £400 estate was John himself.[86] Legal possession surely sometimes obscures from the historian shared occupation or enjoyment in actuality.

The fact of shared interests between widows and children did not serve to lessen widows' legal woes generally. In fact, if a late husband's family was blended, parent-child alliances might intensify them. Problems in the majority of cases arose because the children of an earlier marriage regarded themselves harder done by than their stepsiblings. There are indications that the court perpetuated these dynamics. The majority of pleadings are self-conscious that a dispute concerns family disorder, but rarely imply that distinctive duties are owed to different family members. There is language, however, used in pleadings which is entirely peculiar to the parent-child relationship. This may be related to the fact that a child abductee's parent could sue for the 'loss of service' embodied by their son or daughter.[87] Plaintiffs' explanations that their actions were 'at the commandment of [their] mother' echoed the scriptural imperative to 'honour thy mother' as well as 'thy father'.[88] Coke was uncomfortable with parricide's omission from the legal definition of petty treason, given that

[85] Todd, 'The remarrying widow', p. 39.
[86] STAC 5/F29/5, D.
[87] W. S. Holdsworth, *A history of English Law,* 2nd edn (17 vols, London, 1923; repr. 1992), viii, p. 429.
[88] STAC 5/T32/39, Depositions of Elianor Heylyn; For discussion of duty to parents see W. Perkins, *Christian oeconomie: or, A short survey of the right manner of erecting and ordering a familie according to the scriptures* (London, 1609).

'sins against nature are very serious'.[89] Fifteen different women went to law with their 'naturall' children (as did two men), and only three of these concerned wills. This was only half of the number of stepmothers who faced disputes with their stepchildren, and two-thirds of these stepfamilies litigated over a will. There is occasionally some explicit cultural appraisal of stepmothers in depositions. In 1589 witnesses from Ashley (Wiltshire) were asked if

> William Longe [did] at any tyme denye his mother and terme herr his mother in lawe and did he… go a bout to gett the possession of her person and wished her deathe or go about to kill her or anye that favered her[?]

To be a *step*child (a child 'in-law', in early modern parlance) was, in William's cultural vocabulary, to enjoy diminished practical and emotional filial responsibility. William's disagreement with his mother Alice concerned the land of his late father Anthonye. With 'no pytye had of her at all', Alice complained, William had ejected her from the family home while threatening to 'untyle the howse over her head'.[90] A stepmother's claim on an estate, wrought only by marriage, was less salient than that of blood. Litigants are never accused of being 'an unnaturall sonne' to their stepmother, although many were of disregarding 'thoffice and dutie of a most naturall Sone to his naturall mother'.[91] (There are no equivalent comments regarding stepdaughters.) Julyan Graunte's anxiety, recounted by her sister in 1580, was that if Julyan's new husband 'should happen to dye before her,' she worried, 'he had diverse lustie fellowes to his sonnes wich would not Suffer her beinge olde to have any thinge'.[92]

Fractious relationships within stepfamilies were made especially acute by another common stipulation by Star Chamber husbands: that their widow should enjoy the occupation

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[89] Coke, *The third part of the Institutes*, p. 20. Quoted in G. Walker, 'Imagining the Unimaginable: Parricide in Early Modern England and Wales, c.1600-c.1760', *Journal of Family History*, 41/3, 274.
[90] STAC 5/L42/25, I; Alice was being denied the right most widows had 'to occupy the conjugal house during their lifetimes. If the house was copyhold or freehold, they had a right to freebench or dower, respectively.' Erickson, *Women and Property*, p. 163.
[91] STAC 5/O5/37, D (Arnold Waringe 'said that he would make' his mother Ellinor Odingzells 'eate a horseloaf') and STAC 5/C6/17. For other examples, see STAC 5/B26/34; STAC 5/C21/32; STAC 5/H13/12, Depositions of Elizabeth Rotherham; STAC 5/L43/10, A.
[92] STAC 5/B39/22, A (Somerset).

of his *entire* landed estate during their child's nonage. This clearly frustrated older siblings who wanted their partition of land, particularly when child-bearing years were long and family branches multiplied by remarriage.[93] Very few widows in Erickson's mid-sixteenth to late-seventeenth century study have their bequest restricted to an eldest son's minority – but this was not unusual in the Star Chamber's experience. The gentry population is probably denser in the Star Chamber than that in Erickson's source base, and this offers part of the explanation. It may also be that restrictions were written in deeds or indentures rather than the will itself, in which case occupation-by-guardianship was more frequent than has been realised. These discretionary guardianships do, however, occur across the Star Chamber's social strata.[94] In Thorpe (Essex) in 1578, William Pye the elder willed his copyhold tenement to his second wife Joan – but only for so long as his eldest son was in his minority. If William Pye junior died while still a boy, it was to pass out of Joan's hands and into her stepdaughter Suzan's. William did shortly die, from an unknown illness. Joan now disputed the age specified in the will in court: she suspected that Suzan had falsely inserted 'one mynyon' above 'two exes', turning twenty into twenty-one and so ejecting Joan prematurely.[95] Elizabeth Melleyn of High Needham (Derbyshire) was widowed by Robin, who had paid 40s/pa for his copyhold. His will gave her full occupancy as long as their infant sons were in their minority. She complained that she had been ejected by Adenus Beresford who also stole her 'Bacon' hanging 'at the roffe'.[96] Husbands from along the whole pecking order gave wives time-limited wardships over their legacies.

When marrying second (or third, as in two sampled cases) husbands, prenuptial settlements might defend the rights of eldest stepchildren in lieu of their dead parent's will. In 1595 Nottingham widow Dorothie Grante 'had divers children by her former husbande[,] had

[93] See STAC 5/J1/6 and STAC 5/A48/40.
[94] Examples at STAC 5/G32/34; STAC 5/G40/31; STAC 5/L24/14; STAC 5/L37/12.
[95] STAC 5/M43/10, B.
[96] STAC 5/N9/10, B.

there portions… and was by nature to seek theire advancement'. Therefore when she was wooed by Butler Eyre, recounted her kinsman William Crabtree,

> dorothie would not agree to the marriage but Conditionallie that [Eyre] should enter securitie to leave her yf he died before her as sufficient in welth and substance as he found her[,] and likewise that he should procure his father to assure to him and dorothie a lease for that [Eyre] was of none or verye smalle liveinge[.]

As Eyre 'fayled' to do this, Dorothie called off the engagement (or as Eyre sourly described it, 'discarded and cast of[f] your seid subiecte').[97] Litigants in these cases identified conditional marriage contracts as 'jointures'. The assertion that jointures, popularised by the Statute of Uses, became more usual as the Tudor age progressed is held up by the present sample.[98] Whereas thirty-one out of 127 suits examined in this section represented litigation over jointure arrangements, only five of these suits were launched in the first twenty years of Elizabeth's reign. The decade following, though, saw thirteen sampled suits, a proportion of sampled suits which remained steady from 1590 to 1603. Claims by widows to common dower across the period proved doubly popular pleas than those based in jointure until 1580. After this, jointure always proffered greater numbers of cases than common law claims.

Jointure had more room for manoeuvre in-built than did freebench, being a contract rather than heritable right. Usually, the parents of prospective spouses organised their joint tenancy of a piece of freehold property. This would revert to the bride's ownership should she be widowed. The exchange made in a wedding contract was between a lump sum 'dowry' (not dower), or 'portion', from bride to groom – and the joint tenancy of some land (the jointure), from groom to bride. Theoretically, one's identification as a party participant in the marriage contract superseded any identity one had in relation to the world outside of the contract. Later that century, Bacon would argue that the 1536 provisions superseded old ungenerous prenuptial

[97] STAC 5/E6/38, A; B.
[98] See: Spring, *Law, Land, & Family* and Erickson, *Women and Property*.

agreements. Coke, too, praised the statute.[99] In actuality, Spring has argued forcefully, the Act ('the husband's charter') had a regressive effect on widow's prospects.[100] Any marriage settlement would forfeit a widow's right to a third of 'moveables'.[101] The 1536 act additionally enshrined that any jointure made for a bride before marriage would rescind her right to common dower.[102] Although the betrothed were equally party to the marriage contract, then, its existence precluded 'safety nets' otherwise operable for brides. It also (indirectly) shackled wives' agency as joint tenants or landowners. The overarching purpose of the Statute had been to abolish uses, which also meant that a husband's land was now his alone to alienate.[103] This had the effect of neutralising wives' influence on the life of an estate. Wives needed not now consent to sales of husbands' land.[104] Once married, husbands and wives would not operate their property as a dual entity.

The widow's provision', Spring writes, 'became a matter of contract pure and simple between bride and groom.'[105] It would be more correct in many cases to say that it was between their families; and that a bride's needs and desires were represented by the third party which negotiated her jointure. Elizabeth Rotherham deposed in 1593 that 'she cannot nowe partiquly sett downe uppon her othe what she was worthe in marriage', because 'the matter of her mariage proces was concluded & agreed uppon betwixt' her father and in-laws – 'without the troubling of her this dep[onen]t'.[106] Grooms, women were advised, 'stand sometimes bound *by the womans parents* to make their Wiues some Ioynture.'[107] In 1562 Isabell Kingeswell from Kirdford (Sussex) described how in her maidenhood, twelve acres of meadow and twenty of

[99] Spring, *Law, Land, & Family*, pp. 43; 48.
[100] Ibid., p. 47.
[101] Erickson, *Women and Property*, p. 24.
[102] Ibid., p. 47.
[103] Ibid., p. 43.
[104] Ibid., p. 49.
[105] Ibid., p. 48.
[106] STAC 5/H13/12, Depositions of Elizabeth Rotherham. See to STAC 5/S57/12, Depositions of Margaret Somerford.
[107] Italics added. T. E., *The Lawes Resolutions*, p. 182.

woods were conveyed to the joint holdership of she and Edward Lee 'for her Joynter'. 'Edwarde did accordinglie take her to wiff[,] and after died'. Isabell's father-in-law, 'in considerscon that [she] could not lawfully enioy the Joynter for diverse imperfeccyons in thassurance thereof, dyd by other lawfull Conveyance assure' it to Isabell for her lifetime.[108] A defect in her jointure contract would have endangered Isabell's subsistence if her father-in-law had not had the ability or willingness to rectify it. In 1582 Wiltshire, a dispute arose over whether Johane alias Carie's new husband John Hall 'hadd faythfully promysed to Johane and others her ffrynds' that he would give up all claim on Johane's estate – it was to be enjoyed only by her young son Richard. The case was brought against the Halls by Johane's own father and 'her brother on her mothers syde'.[109] This demonstrates neatly how families of origin used jointures to seek their own ends, even against the original bride's.

Maud, widowed by Thomas Leigh esq. of Isell in Cumberland before 1576, demonstrates again that jointures helped women insofar as their goals aligned with their family's. Her jointure constituted land in Norfolk held on trust by her brother Matthew Redman, for

> the use of Thomas Leigh & Maud his wife & to the heires of theire two bodies lawfullie begotten & for def[aul]t of such issue then the remainder to the right heres of Maude for ever[.]

This is a very standard formulation. But her brother refused to give over the necessary documentation to the new couple. When Matthew was ordered to surrender the deeds by the Star Chamber, on the day appointed for their delivery Thomas Leigh 'departyd this lyffe'.[110] Unable to affect the injunction under her own name, Maud was now stuck. Jointure disputes required that both temporal and spatial claims on land were negotiated with third parties who hungrily eyed up land earmarked to leave the patrilineal estate. Maud Leigh lived too soon to

[108] STAC 5/B66/18, A.
[109] STAC 5/H16/22, B.
[110] STAC 5/L34/14, B.

benefit from advice offered by *The Lawes Resolutions*: if an estate is 'to a Stranger to the vse of the *Feme,* it is a good Ioynture'. But 'If estate be conueyed to *Baron* and *Feme* to the vse of a Stranger, this is no Ioynture'.[111] Under Elizabeth, the making of jointures was not yet sufficiently codified to render discussion of personal conduct irrelevant to the court. Nevertheless, there were clear benefits of jointure in that it could be applied (more successfully than Maud's) to land held in trust. It also applied to leasehold land. When Isabell Kingeswell alias Lee (mentioned in the previous paragraph) claimed her woods and meadows in Sussex, she had to go to court in order to eject its tenants. If her original jointure had been valid, she would not have needed to. Now, though, it was a simple conveyance, and widows could not receive rents from land as common law dower.[112] Probably Nicholas Sparke had this in mind when he told the assizes that his sister-in-law Grace was claiming 'one quarters rent' from tenants on Cotley Wood, a little forested valley an hour's walk out of Doddiscombsleigh (Devon). Conversely, Grace reported to Star Chamber that she was collecting 'arrears' as administratrix to her late husband – a debt collection well within her remit as a common law widow.[113]

Before Alice Clarke's marriage, a jointure was decided between her father Thomas, and her groom Robert Hill. An indenture promised £100 to be paid by Thomas for Alice's portion. Robert allowed Thomas the 'use & behooffe' of his manors of 'Thucklebeere & Trowbridge' in order to generate £20 a year to give to Hill in lieu of the promised sum. Alice died only a short time after, but her father continued to occupy these lands without giving over these profits to Robert. A decade later Thomas died, and his executors discovered the indenture. Ellinor Hill of Taunton, 'wief and executrix of the late will and testament of Robert Hill esq.', showed herself very willing in 1586 to assert her claim to the debt detailed in the indenture. This being

[111] T. E., *The Lawes Resolutions,* p. 191.
[112] T. Stretton, *Women waging law in Elizabethan England* (Cambridge, 1998), p. 27.
[113] STAC 5/S58/28, B.

the jointure of Robert's first wife whom he married 43 years previously, she took a long shot. The confidence with which Hill nevertheless approached these unperformed 'promisses' is testament to the gravitational strength lent to patrilineal estates – and not wives, whose death was not disruptive – by marriage settlements.[114]

The new jointures were blind to any additions made to a husband's estate, so the bride's separate estate once decided would never grow.[115] '[H]ee which will wed shall doe well,' advised lawyers, 'to take as much as he can of his wiues marriage money before hand, with faire Indentures or good obligation for the residue.' Because as 'M. *Plowden*' assured, 'in that case he may haue action of debt, for euery deed sealed and deliuered carrieth sufficient consideration, to wit, the will of him that made it.'[116] Only one widow tried to remove herself from a jointure settlement. As the agreement was made well after the wedding, *contra* Plowden's counsel, she is likely to have experienced successes refuting it. Thomas Kellaway, 'one of the gent. pentioners attendinge on your maiestie', sued his 72-year-old grandmother Dame Anne Kellaway over his great-grandfather's estate across Wiltshire, Hampshire, and Devonshire (worth an opulent £500/pa) in 1582. The suit was crystallised by the Dame's bringing of a writ of dower against her grandson. Thomas grated against this, excusing that Anne had agreed to a retroactive jointure arrangement after some 'hard dealings' had with Thomas's father Francis. But before Anne's relinquishment of rights, in exchange for £60/pa in profits from the newly-settled land, had been signed and sealed, she decided instead to re-enter her dower lands for good. Thomas was frustrated to forfeit expensive bonds to various prospective buyers of his grandmother's old dower lands, which promised them a peaceful conveyance.[117] Grooms could apportion their wealth as they would like 'when they die', but

[114] STAC 5/H39/11, B.
[115] Ibid., p. 49.
[116] T.E., *The Lawes Resolutions*, p. 200.
[117] STAC 5/K1/39, B and I.

'women' were advised that they 'must have their wills when they live'.[118] Jointures represented women's own opportunity to create an independent income.

Following the Statute of Uses, 'a right over her husband's land' had become 'a return on her own fortune'.[119] This symmetry did not however equalise the independent financial security of husbands versus wives. The time which passed between a marriage settlement made and the death of a husband was disadvantageous to the sixteenth-century bride because she could not predict the effects of inflation. In 1600 yeoman Henry Greyshutt of Sutton manor (Hampshire) charged William Mill with ejection and perjury to the King's Bench. Forty years before, William's wife Alice had lent Greyshutt's father (her brother) £17, in return for which Alice would occupy thirty-two acres of his customary tenement until the debt was cleared. Three generations later and having long-since recouped the debt, the Mills still occupied this land despite the complainant offering to them the full £17 in cash several times.[120] One suspects that land leased out at the end of Mary and Philip's reign had gained significantly in sale value by 1600, and the Mills felt underbought.[121] Increases in landed worth like this one would not be reflected in a widow's return on her late husband's estate when it constituted an annuity. John Nicolls's family stressed that he was 'a mann of greate wealth & habilitye' thanks to the £200/pa turnover he extracted from his Suffolk lands. At his death he was therefore 'esteemed to be worth One Thowsand Pounds at the least', whilst his second wife Marion had brought little to the marriage. Marion retorted that she had brought Nicolls lands worth £70/pa, and a jointure agreement which provided this land be returned for her widowhood. John's 'poore children' said that Marion had appeared at John's deathbed with a jointure giving her John's

[118] Hazlitt, *English Proverbs*, p. 499.
[119] Ibid., p. 50.
[120] STAC 5/G18/23, B.
[121] STAC 5/G18/23, A.

chattells that John had 'on her marriage day'. They dug in hard, describing that this 'fforged' jointure was 'to the[ir] utter undoinge'.[122]

The biggest benefit of jointures has been easy to miss for historians. The misimpression exists that, 'while providing no comparable penalty for' adulterous husbands, the common law 'condemned the eloping wife to lose her dower *or* jointur*e*'.[123] Contemporary discussion of adultery, though, did not conflate these two marriage settlements. Women were advised that 'Dower was subiect to forfeiture in times past,' by treason in her husband, 'by the Wiues elopement, and euery question in the validitie of Marriage'.[124] A 1600 case is one of many which illustrates this nicely. At the time of Katherine of Throwleigh's marriage, William Knapman's inherited tinworks in Devon were jointured to her. She pleaded this jointure against Alexander Knapman – probably her nephew. His response was apparently to attempt to alter the 'churche booke' in the village by 'rasinge'.[125] That is to say, Alexander was seeking to 'maketh a scruple of Dower' by deleting Katherine's marriage from record in order to cause its annulment. This would save the tinworks for Alexander, because (as Coke had written) if the marriage 'be dissolved the dower ceaseth'. But, Coke continued, dower at the church door – meaning, jointure – always persisted, even in the event of adultery.[126] Personal disasters 'being wisely foreseene,' legal handbooks also described, 'women did learne to become ioynt purchasors with their husbands of such estates, as would auoid all weathers' including her own 'elopement'.[127]

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[122] STAC 5/S72/26, B, A, Rn.
[123] Italics added. Quoted from R. Houlbrooke, *The English Family 1450-1750* (London, 1984), p. 116. Houlbrooke cites K. Thomas, 'The Double Standard', *Journal of the History of Ideas* (1959), 20/2, although Thomas's conclusion that '[t]he wife lost her dower' is more limited (202). Brooke also cites T. E., *The Lawes Resolutions,* p. 146, which also mentions dower's, but not jointure's, forfeit.
[124] T. E., *The Lawes Resolutions,* pp. 182-3.
[125] Katherine was possibly here identified as 'Christian', marrying William Battishill: (ed.) J. L. Vivian, *The Visitations of the County of Devon - comprising the herald's visitations of 1531, 1564, & 1620*, (Exeter, 1895), p. 518; STAC 5/K11/34, I.
[126] Coke, *The first part of the Institutes*, sec. 36. This was not a separation *a mensa a thoro* 'as for adulterie', which could not dissolve the dower, but *a vinculo matrimonii* (see chapter five).
[127] T. E., *The Lawes Resolutions,* p. 183.

The magnanimous jointure was predominant enough by the 1570s that Dyer busted the myth that 'Ioyntures' could never 'bee conditionall'. Actually, he informed, they could so be 'if the Wife accept' at the time the jointure was drawn up.[128] The near-universally cited explanation for a discriminatory common law (which between adulterous spouses only disowned the wife), is that it orientated descent along the husband's bloodline. An adulterous wife might bisect patrilineal estates with bastardy.[129] However, jointures could reduce the possibility of alienation from the bloodline by isolating jointure land from hereditary descent. Jointure land in Burlingham (Norfolk) was for 'the use of Thomas Leigh & Maud his wife & to the heires of theire two bodies lawfullie begotten'. If the couple did not produce 'such issue', the land stayed with 'the right heres of Maude for ever'.[130] Over two decades later in Lincolnshire, Mary Gardyner née Laughten was assured 70 acres of 'meadowes & pasture' in Leverton upon her own betrothal. This was not heritable by her groom, 'nor any other… but was trewlie ment for the preservacon of the inheritance of the same land for your subiecte and her heires'.[131]

Differing consequences for infidelity explain why Star Chamber cases seem confused or forgetful about a couple's marriage settlement in retrospect. Given the right circumstances, heirs might unseat a (step)mother from their inheritance by alleging that her behaviour in wifehood contravened her rights to the estate – because, they pleaded, she only had common dower rights. Meanwhile the inverse claim might suit litigants in another case. Mary Gardyner (although nominally her second husband James) sued her stepmother Katherine as *prochain ami* of Mary's infant half-brother John Laughten. Mary described that she had been precontracted at aged eleven to Charles Smyth of Bleasby, 'a man of verye contentious and

[128] T. E., *The Lawes Resolutions,* p. 190. The condition at Dyer's hand was to widowhood rather than marital fidelity.
[129] Thomas, 'The Double Standard', *passim.*
[130] STAC 5/L29/2, I.
[131] STAC 5/G40/31, B.

quarilous disposicon and one whoe did much abuse your subiect, to the great greiff of her and her ffrends'. This contract consisted of a jointure arrangement to 70 acres in rural Lincolnshire 'for your subiecte and her heires' (described too in the preceding paragraph). However, Mary's choleric groom was eventually 'slaine in a desperate quarrell wich he began at Horncastle', and in 1596, Mary claimed her jointure.[132] By now, Katherine forcibly 'doth dwell & inhabitt & keep the possession thereof' those Leverton lands, 'in the right & behaulf of John Laughten her sonne, being a child of the age of six yeres'. For her part, Katherin denied the operability of the property as jointure – 'for what title could Charles make to the landes from Marye who never had the possession & was devorced'?[133] What she was referred to was Mary's own account in her bill, that 'growinge to yeares of hir discretion, and beinge not able longer to lyve in companye of Charles yt was agreed and conclewded betwene' their fathers that the betrothed separate 'by divorse had in the sperituall Courte'. Despite Mary's generic term 'divorse', it could only have been an annulment which secured her right to remarry to Gardyner. According to Coke's advice, an annulment theoretically left Mary's land intact for her to take home.[134] However, Katherine insisted that the land was not jointured, but freehold land entailed to Mary by her late father. Taken alone, would be no skin off Mary's nose, because 'dower ceaseth' entirely with *a vinculo matrimonii* – the annulment from Charles Smyth which she attested to.[135] In either case of jointure or common inheritance, she and her new husband James would be entitled to the 70 acres.

But Katherine and her counsel were playing a complex hand. That the land 'William Laughten was thereof sesed… & did att the time of his death dwell & inhabitte' was Mary's to inherit 'ytt were true', they conceded. But Katherine's counsel leveraged the fact that a wife

[132] STAC 5/G40/31, B.
[133] STAC 5/G40/31, A.
[134] STAC 5/G40/31, B; Coke, *The first part of the Institutes*, sec. 36.
[135] STAC 5/G40/31, B; Coke, *The first part of the Institutes*, sec. 36.

who left her husband 'and tarrieth with her adulterer' automatically 'loseth her dowrie'.[136] In order to prove that property 'ought to discend & come unto' young John as William's sole 'heire', Katherine needed Mary disinherited. To do this, she could convince the court that Mary's adolescent 'devorce' was not an annulment but *a mensa a thoro* 'as for adulterie'. Katherine pleaded that 'whatsoeuer' Charles's 'qualities were[,] non [were] so evill as anie of that' which belonged to her stepdaughter. The 'occasion of' Mary and Charles's 'dislike & divorce'

> did grow by Marye & such lewde companie as she contrarie to the dewtie of a wief did intertane & therby did abuse Charles Smyth [which] thes def[endan]t would haue suffered to haue in secret & is ashamed to utter & disclose that wich themselues nott beinge ashamed to comitt doe force & constrene this def[endan]t to publishe to the world[.]

Katherine nonetheless condescended the tell the court that 'in the absence of Charles her husband', Mary bore a bastard child 'through the lewde inticements' of another married man. Not only did this faithlessness 'to the great greife of Willliam Laughten & Charles Smyth' ensure that Mary 'was after devorced from' Charles, but she had next clandestinely married James Gardyner.[137] If Katherine's bill is to be believed against Mary's, Mary had earned herself a separation 'at bed and board' from Charles Smyth, which rendered her a landless adulteress.

If pre-empting an accusation of adultery, the suspect might neutralise its effects by altogether re-contextualising the original marriage. Soon after her husband John's death in Saxby (Sussex) in 1580, Mary Payne charged her stepsons with forging a will to give the appearance that 'hir husband had made no provision for' her. She had expected to be John's administratrix. In addition, she had witnesses attest to a jointure agreed between her father Nicholas Mabb and her late husband. Mabb 'in advauncement of this Compl[ainan]t his daughter' assured to the couple land worth £11/pa for Mary's widowhood, along with a 'one C

[136] Coke, *The first part of the Institutes*, sec. 36.
[137] STAC 5/G40/31, A.

lb' dowry.[138] She may well have regarded her jointure claim as her best bet in trying to secure her widowhood – if some of her stepsons' claims held water. Mary bore a child born six months after John's death. This was a counterintuitive cause to suspect Mary's fidelity, the Payne men now reproved. They objected that Mary's child was improbably legitimate because 'she had never any child before by [John] havinge bene married with him' for thirty years. And, too, despite their father having been 'so feble & diseased that he could neither fede him selfe nor apparrell himselfe' for a year before death, she had supposedly fallen pregnant with his child when he had only fourteen weeks left to live. For good measure they described how Mary was

> vehemently suspected so undutefull & vnlovinge a wife as she did rather frame her selfe to like moche better of the company of some others then she did of John beinge her owne husband[.]

One man with whom she continued to be 'to[o] famyliar' even after John 'forewarned her of him' was 'found harboured under her bedd'. [139] This was sufficient reason why Mary had been left entirely out of her dishonoured husband's will. How 'had he any cause to preferre such doubtfull issue as the compl[ainan]t now pretendeth that she then was privement enseint to any of his lands'? Mary had been *privement enceinte* (privily pregnant), at John's death. The law here was opaque; but there was an opportunity here to return to her own hands any land, forfeited under the name of dower, as freehold under the name of her newborn. Meanwhile faced with Mary's custody of the family home for a couple of decades more – and ultimately, splitting the estate with a new stepsibling – Mary's stepsons denounced the common law claim of both mother and heir. There are details in many cases like the Laughtens' or the Paynes', frequently 'far unfit for this honourable courte & very unsemelye for the plaintiff to use'.[140] They were not just narrative flourish, but cues for the court to adjudge relationships which were simultaneously personal (marital) and corporate (familial).

[138] STAC 5/P2/28, Rn and B, and 5/P40/17, I.
[139] STAC 5/P2/28, A.
[140] STAC 5/B7/36, A.

One unusual case is worth noting for what it says about the Star Chamber's reputation for processing marital dispute using land law. In January 1576 John Dewdney recounted that Crowhurst in Surrey 'Lente laste was infectd with the sicknes of Plague'. This was likely the 1575 visitation.[141] His brother Robert 'havinge onlie two yonge children livinge & lokinge still' to 'when either himself or one of his children should be taken with the disease'. Robert dictated a will to John, instructing 'Brother if I die take you all my goodds' worth £18 10s. Now, Johan Dewdney Robert's 'wiffe' disputed this supposed will. But John pleaded to the Star Chamber that his sister-in-law had 'most unnaturallie departed out of the house levinge her said two children dedd and her husband almost dedd withowt anie manner of succor or comforte'.[142] Resemblance between the Dewdney's circumstances and the law that a wife 'shall lose her Dower by voluntary Elopement, though her abiding be inuoluntary, and though she make none abode at all with her Adulterer', would be technical only.[143] John's counsel thought the court's impulse to literal interpretation strong enough to invoke common law dower rules against Johane's claim.

At first relying on common law dower, women were (almost) always financially dispossessed if the marriage was dissolved, and would always lose two-thirds of the marital estate when widowed. Differential treatment according to gender was thus inherent to the law. The universalisation of inheritance-by-will technically wiped the slate clean, rendering inheritance essentially gender-blind. The advent of jointure did the same. Some northern parts excepted, widows faced no legal obstruction to inheriting as much from their spouse as a widower would expect, but this was not the procedural reality. Part of the reason was that common law dower had not disappeared, incentivising adversaries to allege infidelity by wives,

[141] See R. Totaro, *The Plague in Print: Essential Elizabethan Sources, 1558–1603* (University Park, PA, 2010), ch. 4 for notes on these visitations, as well as instructions issued by the Queen in 1578 regarding the correct care of the sick and disposal of the infected dead; for which JPs were answerable to the privy councillors.
[142] STAC 5/D1/18, A.
[143] T. E., *The Lawes Resolutions,* p. 145.

and that 'for suche cause she oughte by the lawe to be barred and stopte of her title of dower'.[144] While common law dower was available, the Star Chamber continued to operate on a systematically discriminatory legal basis. As for jointures and inheritance-by-will, discrimination became structural rather than internal, but was no less operable. Most obviously, wives could not make their own wills, so husbands would not need to litigate in comparable cases against their late wife's family. (Although, the possibility is not precluded that men litigated over unfulfilled clauses in their late wife's jointure agreement. Future sampling of the records for widowers-as-complainants might help demonstrate the extent to which these disputes were gendered.)

Most pertinently, though, marriage and death settlements were not drawn up in a cultural vacuum. '[A] short Discourse cannot possibly make any plaine discouery of' possible widow estates and settlements.[145] In considering the law's treatment of Elizabethan widows, this is much the point. Widows' requirements were relatively static, in that they sought a time-limited portion of the family estate. But the ways in which their marriage agreements were (re)made and remembered were manifestly contextual. Systematic devaluation of women's personal estates was displaced from law and custom into documents written by ordinary people. Social expectations as to what constituted a 'reasonable' estate did not veer far from common law provision, demonstrating the tessellation of legal and social principles on the issue. Pleading tactics were consistently deployed along gendered lines in order to shore these up. The following section will examine reformulations within will disputes of the themes just discussed.

[144] STAC 5/M37/14, I. See: STAC 5/C20/23; STAC 5/R34/7; STAC 5/S33/31; STAC 5/W14/29.
[145] T. E., *The Lawes Resolutions*, p. 182.

ii. The Star Chamber will dispute

Twenty-six out of thirty-five sampled suits which had earlier come before an ecclesiastical court represent will disputes. They characteristically turned upon an allegation of perjury or forgery in a probate court. Seven sampled Star Chamber suits represent probate disputes originating in the Prerogative Court of Canterbury (which dealt with the wealthiest estates).[146] More usual was a generic 'ecclesiastical court', in Lichfield, Norwich, or another cathedral.[147] Last testaments could be written long before death felt close, but mostly they were written when it was absolutely imminent. Wills might be written by testators or dictated by their 'own mouth' to someone who would 'wryte in the name of god amen'.[148] Wills might even simply be heard at the deathbed by two witnesses, only afterwards transmuted into 'one writing in the forme and nature of a Will nuncupative'.[149] When the dying made a will, a visit to the probate court by relatives to gain a grant of probate or letters of administration was 'sensible or necessary'.[150] However – as the widow and 'Admynistratrice' of William Harryson of Greenwich pleaded in 1571 – probates needed to be acquired from the diocese in which testators died, unless their property lay outside of it. Whereas William 'in dede at the Tyme of his decesse had no goodes or Cattalles out of the dyoces of Rochester within wich dyoces' he had 'dyed', pretenders had proved a 'forged and pretensed Testament' under William's name in an alien prerogative court. Thus, said Elizabeth Harryson, the probate was 'voide in lawe'.[151]

[146] M. Prior, 'Wives and wills 1558-1700', in J. A. Chartres, D. Hey, and J. Thirsk (eds), *English Rural Society, 1500-1800: Essays in Honour of Joan Thirsk* (Cambridge, 1990), p. 207.
[147] STAC 5/E6/7; STAC 5/B7/12.
[148] STAC 5/M52/16, B.
[149] STAC 5/G27/1, B.
[150] Bonfield, *Devising, Dying and Dispute*, p. 227.
[151] STAC 5/H47/17, B.

An Elizabethan administratrix might too provide an inventory of the testator's goods.[152] In 1580 Sussex, the stepsons of executrix Mary Payne alleged that she had bribed a maidservant to convey away their dying father's goods before registering his will.[153] Several widows were accused along the same lines. In 1584, a witness against widow Anne Cheyney told London's Guildhall 'That the very apparell of [Anne's] husband the day of his decesse was of more valew then by Inventory remaynyng of Recorde in the Prerogative Court of the Busshop of Canturburye yt was appresed [appraised]'.[154] Deceit was possible at many junctures.

In 1599 witnesses were asked if, Isott Parryes 'beinge sicke and lyinge on her deathe bed', she 'say[d] in your hearinge that theire was a will[…] and willed you to deliver upp the same for quyetnes sake'.[155] Alice Randyll, having 'sue[d] forth lres of administration of her husbandes goodes' in 1579, refused to 'prove the will' because she did not want to deal with the other claims on his estate. [156] After all, many beneficiaries did not quietly agree that the administrator 'did exhibite a true Inventorye therof into the Ecclesiasticall Court', nor that 'a good Just and trew will' had been proved.[157] A cost-benefit analysis would have restricted the numbers engaging in litigation to enforce probate, but thousands of families and friends nonetheless did so before a will had the chance to be 'proved under the seale of the Ordenarye'.[158] The majority of Star Chamber will disputes involving church courts concerned those with some wealth. The overwhelming majority were brought by yeomen, and a handful by their inferiors. Joan Bendon's late husband, however, had been a husbandman, and Joan's son who was sued alongside her identified himself as a 'bryckelayer'.[159] One of the smallest causes at stake was London widow Alice Hales' £11 jointure. Seventeen percent of will

[152] Or, prove the relevant documents to a commission for the court: STAC 5/W14/29, Interrogatories to Ellen Abell.
[153] STAC 5/P2/28, A.
[154] STAC 5/C43/6, I.
[155] STAC 5/K14/7, I.
[156] STAC 5/R27/18, A.
[157] STAC 5/W14/29, Interrogatories to Ellen Abell; STAC 5/K14/7, I.
[158] STAC 5/C81/27; Houlbrooke, *Death, religion, and the family*, pp. 86-7; STAC 5/H49/7.
[159] STAC 5/S54/18, D.

disputes are initiated by gentry: Alice Cheyney was the widow of an esquire who died wearing twenty pounds' worth of clothes.[160] The yeomanry is most strongly represented in sampled suits. Yeomen's income was derived from their land, and was vulnerable to various 'natural misfortunates – a failure of heirs or the succession of a reckless spendthrift could ruin' them.[161] Their problems were possibly more salient around about the hungry 1590s – when Star Chamber business peaked.

When litigants had their complaint to the probate court stymied by their opponent, some complained of perjury or forgery to the Star Chamber. Typical are the gentleman brothers accused by their stepmother in 1567 of obtaining false witness testimony about the contents of their dead father's will in the London court of Arches.[162] Houlbrooke's study of death and probate uses depositions from the consistory courts in London and Norwich to conclude that 'after the mid-seventeenth century those courts lost much of their authority and coercive power'.[163] The present evidence, though, suggests that probate's relevancy was eroding at least 50 years earlier. Despite Helmholz's advice that historians 'must turn' to church records for evidence 'wherever… the meanings of the terms in a will [were] debated, or administration of an estate by the executioner was questioned', the Star Chamber also proffers reams of this evidence. Although secular, the Star Chamber used 'roman-canonical principles, with proof from witnesses and documents produced by the parties' that the probate court did.[164] It was a natural second home for will disputes.

As for the content of depositions in these cases – those that did have financial means to query a last testament might perceive plenty opportunity for foul play at the deathbed. Donne

[160] STAC 5/H60/23; STAC 5/C43/6.
[161] G. Batho, 'Landlords in England', in (ed.) J. Thirsk, *The agrarian history of England and Wales: 1500-1640* (Cambridge, 1967), p. 302.
[162] STAC 5/M18/1, Depositions of Margaret Drury; Interrogatories of Elizabeth Mervyn.
[163] Houlbrooke, *Death, religion, and the family*, p.87.
[164] R. H. Helmholz, 'Deathbed Strife and the Law of Wills in Medieval and Early Modern England', in (eds) M. Korpiola and A. Lahtinen, *Planning for death: wills and death-related property arrangements in Europe, 1200-1600* (Leiden, 2018), p. 242.

described dying alone a 'multiplied misery', although multitudinous friends and family 'seeking to influence [the testator] by request, advice, and exhortation' might be the alternative.[165] Possible queries to probate courts which disappointed parties could make included the testator's 'lack of mental capacity[,] or undue influence' over them, as well as allegations that wills were not 'compiled with the formalities of due execution'.[166] This litigation was fired by the English 'law's willingness to [take seriously] the oral statements of the last wishes of dying men and women'.[167] How seriously is suggested by Ales Arden's statement to the Star Chamber in 1590 that she knew her father's will to be 'trewe and perfecte' because when he died 'abowt January 1561… her said fathers will was in writinge & hearde [and] her father sayd that this defendant shoulde have all his landes' (she would have been nine at the time).[168] Nonetheless, 17.2 percent of oral wills submitted to Canterbury were nullified whilst only 7.4 of the written were.[169] When a nuncupative will was submitted to probate, the frustration of any who were disinherited by it was fresh. An oral will 'could only be proved by the recollections of witnesses' provided to the probate court by the executor.[170] Frustrated parties, claiming that the submitted account was perjurious, provided the Star Chamber with a competing attestation of events at the deathbed. This compelled retrospective analysis of stressed, enfeebled, and dying testators' last days and hours, which generated the proofs in this chapter.

Egerton recounted that when 'Executors offer the Will to bee prooued in the Ecclesiasticall Court', opponents might posit 'That the Testator was not *sanae memoriae*.'[171]

[165] John Donne quoted by D. Cressy, *Birth, marriage, and death: Ritual, religion, and the life-cycle in Tudor and Stuart England* (Oxford, 1997), p. 390; R. Houlbrooke, *Death, religion, and the family*, p. 92.
[166] Bonfield, *Devising, Dying and Dispute,* p. 230.
[167] H. Helmholz, 'Deathbed Strife', p. 240.
[168] STAC 5/E6/15, A.
[169] Bonfield, *Devising, Dying and Dispute*, p. 76.
[170] Ibid., p. 72.
[171] Egerton, 'Some Notes, and Remembrances', p. 288.

In 1589, Johane Bendon, of Kent, defended herself in such a case brought by her sisters Agnes and Phyllis Grymes. The women asked if their recently-deceased father Richard was

> of so great age, weaknes of memorie and symplenes of understanding sundrie yeares before his death, as he was sometymes found lyeng in the feild of Ensham, with his clothes on, frozyne to the grounde, and at other tymes, in diches w[i]ch water ranne over some parte of his Bodye?[172]

Johane admitted that their father 'at some tymes when he dyd drynke stronge drynke wolde be a runne with drynkyng therof[,] and he was in that sorte longe tyme before his death'. However, Johane also deposed that upon his death Richard 'dyd well know what he spoke and dyd, because he had no strong drink the night before'. Johane also countered that their father was of good memory before he died, despite being almost 80 years old. She recalled that 'comyng upp to [G]ryme with some candell or brothe for him', Johane found the parson Mr Walton taking dictation from Richard, who then instructed, 'Reade the will agene to Johan here'.[173] She was interrogated for this pivotal knowledge because she attended her father on his deathbed. In nursing the dying, 'the role of the wife, or other female kin, remained of prime importance' through the sixteenth and seventeenth centuries, these women providing around half the labour for such care work.[174] The rest might be provided by elderly neighbours like 75-year-old Sibill Bromefeild of London's Whitechapel, who testified in 1601 that 'duringe the tyme of the sicknes of Richard Whittingham… [she] did not then otherwise perceive by anie sighte speache or gesture of Richard but that he was… allwaies a sensible man'. The twenty-three-year-old servant June Spinke

> was with [Whittingham] at the tyme that he departed this lyfe [and] perceived that he contynued mindefull of God[,] for if anie bodie had said to him Mr Whittingham hold up your handes and remember God he would then presently hold up his hands and so he did even to the last gaspe[.][175]

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[172] STAC 5/S54/18, I.
[173] STAC 5/S54/18, Depositions of Johane Bendon.
[174] I. Mortimer, *The Dying and the Doctors: The Medical Revolution in Seventeenth-Century England* (Woodbridge, 2009), p. 143; see too D. Harkness, 'A View from the Streets: Women and Medical Work in Elizabethan London', *Bulletin of the History of Medicine,* 82/1 (2008).
[175] M. Pelling, 'Thoroughly resented? Older women and the medical role in early modern London', in *Women, science and medicine, 1500-1700: Mothers and sisters of the Royal Society* (Stroud, 1997), pp. 63-88, *passim*; STAC 5/A50/19, D.

In the 1567 dispute over Sir Mervyn's estate, the court recruited the facts of his widow's and daughter's attendance on his deathbed. Margaret Drury was asked,

> what place and parte of the chamber were [Lady Mervyn] and the priest when yow came in, what did the priest then, what did my ladye saye, whether were Sir Johns bedcourteynes then close or open, whether was he then sleapinge or slumbringe or wakinge, what said he to… yow when you came in, and what said my ladye and the priest to yow?[176]

The detailed recall of events surrounding Mervyn's nuncupative will demanded of both complainant and defendant in this case augmented their determination of the lawsuit. These Star Chamber causes sustain the 'impression' which Bonfield took from those in the Prerogative Court of Canterbury, 'that the testimony of women… greatly influenced, if not controlled, their outcome'.[177]

In a 1602 instance, John Copping died with tenements worth £4/pa in Kirston (Norfolk) and £30's worth of goods, leaving his wife Marie to fight with his mother Margaret for his estate. Marie recounted that when John had lain dying, by the 'indevours & the procurment' of his mother John bequeathed his estate to his brother Thomas. This was despite Thomas 'beinge nothing worth'. But months later John, in 'extremitie of sickenes', in front of 'divers credittable' people, reneged and asked that his lands be given to his six-year-old son 'as to the lawe of god & of the land he held himselfe bound to doe'.[178] Margaret and Thomas hit back that 'it was true that John Copping did revoke the will the twesdaie before his death,' but then at about nine o'clock the next morning Thomas

> brought his written will unto John Copping & tould him that he heard say that he had revoked the same will[,] who answered noe & said that that should be his will & noe other & that he did make Thomas his executor[,] and that John was of perfitt memorie[.][179]

[176] STAC 5/M18/1, Interrogatories for Margaret Drury.
[177] Bonfield, *Devising, Dying and Dispute*, p. 231.
[178] STAC 5/V1/22.
[179] STAC 5/V7/13.

‘Perfitt memorie’, ‘understandinge’, or at least ‘in this deponents iudgement of reasonable perfecte memory’, coded for acceptable testamentary capacity.[180] Marie’s witnesses, though, told the assizes (where the case came before it reached Star Chamber) that John was past understanding by the time he supposedly reinstated his brother as heir. He had been rendered ‘specheless & never spake another word’ before dying that Wednesday afternoon.[181] This case lucidly illustrates the necessity for plaintiffs to have had the testator’s last word, in order that they could have it as their own. A valid nuncupative (as well as written) will would supersede any before it. Unsurprisingly, when the Restoration Cavalier Parliament eventually debated reforms to probate primary concerns were to void changes to wills undertaken at the deathbed.[182]

Copping’s case also straddles both matters ultimately sought by probate testimony: it not only asked if ‘was the will-maker of sound mind’, but also whether ‘the will represent[ed] the volition of another rather than that of the will-maker’. At Canterbury, a full 24.3 percent of will contests cited ‘undue influence’.[183] After hearing various retellings of deathbed events, judges presiding over such allegations had to decide if any coercion had occurred, and if it ‘amounted to the requisite level of coercion given the will-maker’s proffered temperament’.[184] John’s mother Marie’s ‘indevours’ and ‘procurment’ was evidence for the crime. Determining exactly what coercive behaviour occurred might have been possible, although optimism about proceedings is hard to sustain given that it was highly interested family members who ‘proffered’ the deceased’s state of mind to the court. This would have had a large part in determining what coercive behaviours did, in fact, coerce the testator.

[180] STAC 5/A50/19, D.
[181] STAC 5/V1/22.
[182] Bonfield, *Devising, Dying and Dispute*, pp. 58-9.
[183] Ibid., pp. 75; 67.
[184] Ibid., p. 90.

iii. Fear, fraud, or flattery: pleading tactics in will disputes

In the stories explored here, the onus for coercion appeared to be on the adversary; the strength of their own volition, rather than the insufficiency of the will-maker's. This is illustrated by the choices litigant arguments made between fear, fraud, or 'immoderate flattery'. The legal definition of 'undue influence' dictated that at least one had been visited upon the testator.

Allegations of fraud, one of those three possible ways to disabuse a testator, required a serious falsehood to transpire.[185] Clear and convincing fraud does not undermine the credibility of its victim: to Elizabethans there was 'nobody so like an honest man as an arrant knave.'[186] Alice Gawen of Alvediston (Wiltshire) sued adversaries unapologetically for disinheriting her of the land she had conveyed to them for free as 'a matter of friendship'.[187] Generally, complainants against fraud and deceit repeatedly described themselves as something like 'a verie In nosent And simple parsone', while the fraudster was 'covetous', 'sinister', with 'unconscionable devises', and perhaps 'led by the Instigacon of the devill'.[188] Complainant voices recorded in the court are overall oddly jejune. There is no sense amongst them that scepticism was a valuable personal quality, even when doing business; fraud is the responsibility of the instigator only, depending entirely on the fraudster's capacity for 'indirect dealings'.[189] In this moral universe, alleging that fraudulent practices had been used to subvert testators and their wills was a strong and popular pleading. Marie's complaint entered relevant

[185] Ibid., p. 89.
[186] Hazlitt, *English Proverbs*, p. 309.
[187] STAC 5/G11/13, B. See
[188] STAC 5/R9/23; STAC 5/H45/3, B; STAC 5/A2/8, B; STAC 5/H6/40, B.
[189] STAC 5/H60/20, Depositions of Elizabeth Rake.

territory where she alleged that, when wrangling John's changes to his will, the adversaries then 'did get John before certen witnesses wich they had purpossley prepared to keep there counsell' (i.e. they had procured friendly witnesses to John's supposed alteration).[190] But, this also represented an attempt to bolster Marie's allegations of subornation. The falsehood alleged in most Star Chamber suits is, in fact, inherent. The suits denied the will and testimony provided to a probate court in the first place. The most common, specific, form fraud was alleged to have taken within these Star Chamber pleadings was forgery.

Marie Vineor née Copping (she had remarried by the suit's commencement) alleged additional types of 'undue influence'. Before his death, 'being a man but of a weake constitucon of body & of noe greate foresight,' Marie told the Star Chamber, her husband 'was drawne by the practise & devise of' her in-laws to alter his will in their favour. They then 'did soe invegle him as he John did kepe the same close for the space of a yere & more' – meaning that John kept these alterations secret from his wife. It was not until John 'fallinge verie sick[,] of wich sicknes he died… gretlie repenting himself thereof[,] did before diverse persons of good credite declare howe [the defendants] had Cunningly drawne him to doe the same'.[191] This illustrates well the 'immoderate flattery' pleading tactic which those seeking to allege undue influence over testators might use. Unlike fraud, the power of which might successfully be visited on anyone, 'immoderate flattery' functioned where a will-maker with 'weak judgement' gave a large bequest to someone, or 'when control by another overwhelmed the volition of' such a testator.

Citing a man's weak judgement was not a frequent tactic for complainants. Marie Vineor's description of her husband as having little foresight was atypical – and even then somewhat mitigated by his illness at the vital moment. In 1585 Mary Callow told the Star

[190] STAC 5/V7/13.
[191] STAC 5/V7/13.

Chamber that her mother-in-law had conspired to eject her from her copyhold in the manor of Culm Davy, Hemyoke (Devon). Ciceley Callow, knowing her son James 'a man easilie seduced', had him change the deed so the tenement reverted to herself rather than to Mary. This is not a 'will dispute', though, and there is no deathbed scene in this case. Instead, James apparently 'let him selfe be overun' by Ciceley, whose 'pestilent practice hath bestowed him your subiect knoweth not [where]'.[192] A further example of male poor judgement in the sample also does not actually concern a testator. Robert Maye of Salisbury was accounted by four witnesses in 1596 'verye weake & symple' and 'easilie terrified by threates'. His wife Ellynor 'daielie seeinge the weaknes & symplicetie of her husband' feared 'that he might be perswaded to deliver' a certain bond for £7000 to 'be voyded, to the hurte of her & her Child'. She burned the bond instead, 'throwinge boxe & all into the fire'.[193] Robert seems to have been around at the suit's commencement, unlike the dead John Copping or the absconded James Callow; but the Mayes were defendants rather than complainants, writing a story which excused the bond's absence. In only one out of the six descriptions of a man's unusually weak judgement was he a will-maker.

Much more often than this, flattery or fear was depicted extreme – 'immoderate' – enough to overwhelm a testator of sound judgement. Widow Margarett Robyns died in Mattesdowne (Gloucestershire) in 1590. Robyns promised kinswoman Sibell Cooke and her husband Thomas her house with some pasture for their cow. However, Robyns's other two son-in-laws 'dyd sende dyet to the howse', and 'Bottles of wyne', when Margarett was dying (and the Cookes safely 'in the fields making of haye').[194] They hoped to encourage Margarett to resettle the inheritance upon themselves. The complainants contended, then, that the briberies constituted 'immoderate flattery' of a testator. One witness for the defendants, however, was

[192] STAC 5/C74/29, B.
[193] STAC 5/H39/20, I; STAC 5/T2/33, Depositions of Ellynor Maye.
[194] STAC 5/C66/27, I.

'verely perswaded in his Consyence' that Margarett made a new lease to these supposed flatterers 'of her own free will & deposicion[,] being hardly used by Thomas Cooke'.[195] This witness said that fear of the complainants, not flattery by the defendants, incentivised Margarett. The Cookes retaliated by describing how Margarett was compelled by her daughter's warning, 'that if she did not make a conveyance of the premisses unto Giles her husband that he would not suffer [her] to lyve quyet'.[196] Guilt, the complainants contended, had supplemented bribery.

No male testators in the sample are influenced by gifts. A favour was, though, promised to Thomas Fisher when he lay dying in Kent in 1593. His supplicant was his niece Anne Russell, the Countess of Warwick, who promised 'that she wolde geve him countenance' should he agree to will some maintenance to one Andrew Fisher. Patronage was perhaps more believably appealing to a male testator than the material persuasions visited upon Margarett Robyns.'[M]uch trowbled' and 'unquyeted with those messages from the said greate personages', Thomas 'did oftentimes (dureinge his said sickenes) call upon the Countisse'. Evidently he considered Russell's chalice poisoned; the 'flattery' worked upon Fisher is hard to distinguish from 'fear'. No male testators apart from Fisher, though, were described by complainants as having been motivated by fear. Pleadings (in many sorts of cases) described women's fear much less gingerly. In 1586 Elizabeth Evans alleged that her sister and coparcener in Kinlet (Shropshire) Margarte Hill alongside her husband were 'Intendynge… to feare and force the def[endan]t to for goe her Rightfull... Interest'. In 1573 Elizabeth Abbott complained of a band of local men 'frightening' her into sickness because of the 'soddennes' of their entry into her Yorkshire freehold. Widow Agnes Hogge, also of Yorkshire (Selby)

[195] STAC 5/C66/27, D.
[196] STAC 5/C66/27, I.

complained a decade later that she 'beinge a sole woman and aged did sore feare' threats of eviction by some cousins. Men, meanwhile, had fear only for the crown or for God.[197]

Testators' minds were described as sturdy and self-possessed. The onus for 'untrewe' wills was thus displaced onto other actors. Almost all the sampled testators are men, and those that influenced them were often women. Legal contests over a deceased person's last will and testament frequently featured executors on one side, and near family who felt unduly treated by the will on the other. A testator's widow was accused of deathbed manipulations in half (51 out of 98) of sampled will disputes – although widows were represented in only about a quarter of *all* sampled suits. A widow was therefore doubly likely to be at the centre of a will dispute than any other type of sampled litigant. These cases represent around ten percent of all sampled suits pertaining to property. In one view, this is unsurprising. The number of married men who chose their wives to be their sole executrix, 'with the concomitant bequest of the residue' of their wealth, rose from 46 percent pre-Reformation to around 80 percent afterwards.[198] Erickson finds that this choice was more likely made among 'ordinary men', including yeomen, than those wealthier.[199] In Star Chamber, very few widows did *not* report that they were executrices, or an administratrix (if he died intestate) of their late husband's estate.[200]

Twenty-four of the 51 widows' will disputes were litigated against children (including children-in-law and stepchildren). One grandson sued his widowed grandmother over a prosperous £500/pa family estate.[201] In most of the remaining 51 will disputes which involve a widow, she faced siblings – mostly by marriage rather than blood. Out of *all* sampled suits in which family relationships between opposing sides are apparent, (step)mothers are sued or suing in 24.7 percent of these. Even more litigious are siblings (including in-laws, half, and

[197] STAC 5/A2/35, B; STAC 5/S21/10, A; STAC 5/H5/32, A. See for men fearing: the crown STAC 5/H60/36, A; and God, STAC 5/C7/9.
[198] Houlbrooke, *Death, Religion, and the Family*, p. 137; Erickson, *Women and Property*, p. 158.
[199] Erickson, *Women and Property* p. 157.
[200] STAC 5/H55/27 for one example. This indeed concerns a very wealthy widow.
[201] STAC 5/K1/39; See Erickson, *Women and Property*.

step siblings), who sued each other in twenty-eight percent of suits. Land disputes between two cousins, or those between claimants and their sibling's children, are significantly rarer (about seven percent each). This pattern conforms to the notion that land rarely descended to collateral males over lineal females.[202] An interrogatory in a 1584 property suit from Alverstoke (Hampshire) asks sceptically if Thomas Ffounutayne had willed his lands from 'heirs of his bodye' to those 'of his blood'.[203] Other attempts by secondary branches of the family include a 1564 dispute over lands in Wolferlow (Herefordshire). Elizabeth Davys wife of Richard 'yeoman of your chamber' claimed her father John Downe's land as 'next heire', but was challenged by a cousin. Husbandman Francis Downe pleaded rather weakly that he was 'all so of consangwynitie to John Downe and of the same name'. The issue probably weak, it did not progress further than Francis's answer.[204] Most times, whether will disputes or not, inter-familial disputes represented challenges along the same branch.

iv. Widows in wills; or, the wills of widows

Will-based claims on estates were very frequently – in around 60 percent of cases – countered with another will-based complaint; the content rather than the fact of wills tended to be disputed, unlike the other widows' estates which have been discussed. It might be expected that probate law would circumvent the sex-based discrimination inherent to common law inheritance. But wives could not legally make wills, unless special allowance had been made

[202] Spinckley, 'Spinsters with Land', p. 53.
[203] STAC 5/S26/5, I.
[204] STAC 5/D2/5.

in prenuptial agreements.[205] Only contested will in the whole sample had been written by a wife, Elene Brooke in 1583.[206] Widowers, then, would almost never defend comparable suits. Although singlewomen might make wills, and these might be subject to fraudulent alteration by male relatives, in the whole sample there is only one such case – Annabel Payne, who died in 1586 in her rural Cambridgeshire home.

In Payne's case, her niece Rose Taylor as well as a male relative was accused of forgery.[207] Perjury and forgery statutes technically bound all the Queen's subjects equally. When applied to testamentary cases, though, victims were disproportionately male and groups of perpetrators disproportionately including females. As Chart 6 shows, having remained fairly equivalent beforehand, from the 15th year of the Queen's reign (1573-4) the number of suits which involved at least one woman defendant had surpassed those sued by at least one woman. This remained true of the rest of the reign. By the 37th regnal year (1595-6) 100 suits were brought by at least one woman, and 137 suits were defended by at least one woman. In each of the first seven years of Elizabeth's reign, there were double the number of individual women complainants than defendants (visible in STAC 5's catalogue). The numbers at this stage were small, but apart from a couple of exceptional years women complainants remained more numerous than defendants. But a change was underway by Elizabeth's 21st year (1579-80), women defendants outnumbering women complainants with increasing, and then complete, regularity. By the 26th regnal year (1584-5) – immediately following the second iteration of the Fraudulent Conveyances Act – 44 women sued in the court whilst 61 defended; by the 36th (1594-5), 66 sued while 126 defended. The following year (1595-6) aced the general trend with 56 women complaining versus 148 defending. A substantial number of these women would have been defending themselves against allegations of altering wills. Will disputes first

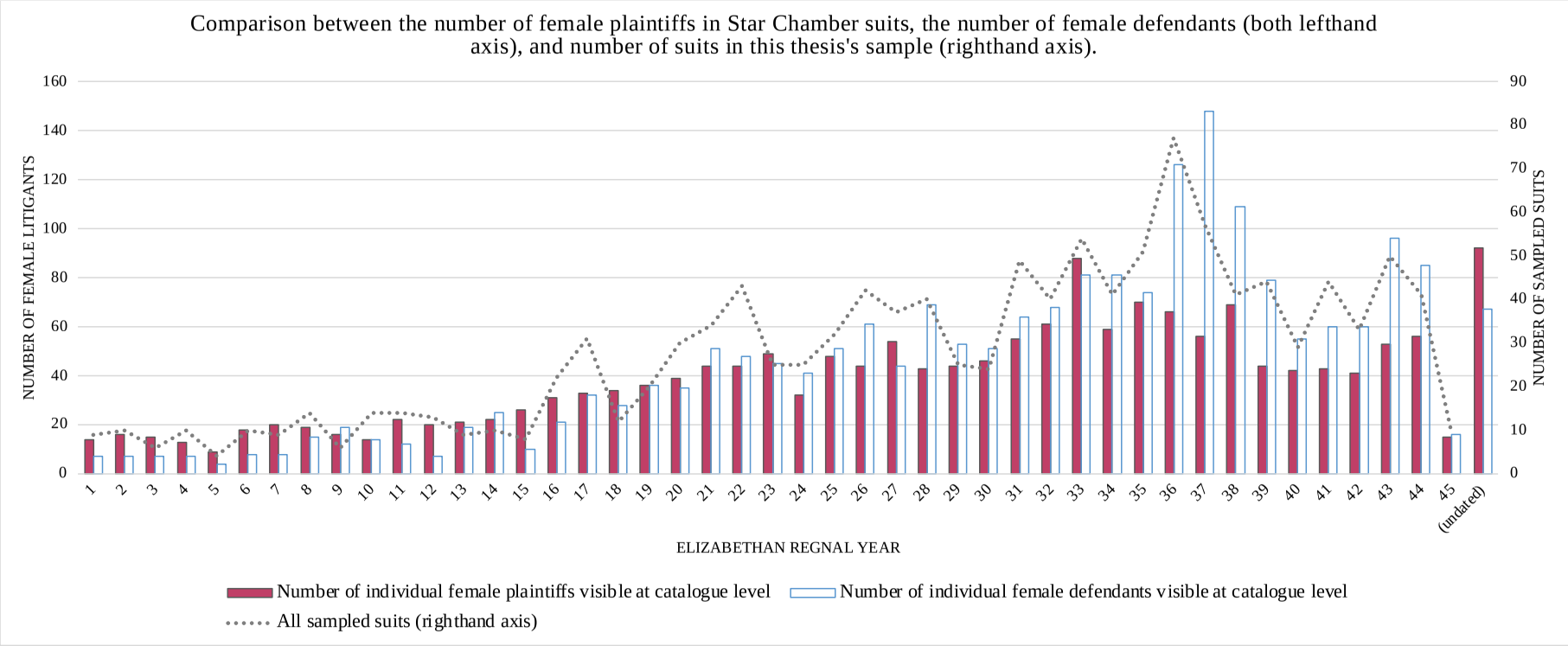
[205] Erickson, *Women and Property*, chp 8.
[206] STAC 5/B73/8.
[207] STAC 5/B66/2.

outnumbered forcible ejections in 1575, when women defendants began to equal complainants. The relative popularity of will-based complaints peaked in 1587-90, when only five sampled property disputes still featured a charge of ejection as opposed to twenty-nine which featured will disputes.

Perjury and forgery charges were clearly commensurate with the court's notion of women. The remainder of this chapter examines the ways in which wills were queried; which, as just described, had 'practical repercussions' in the appearance and consequent increase of female defendants and will disputes.[208]

[208] G. Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), p. 22.

Chart 6: Relative numbers of women acting as complainants and defendants per regnal year [Eliz.], as visible in the Hidden Archives STAC 5 and 7 (compiled by Amanda Bevan, Helen Good et al., TNA)



One early will dispute is typical of the 'genre', but atypical for its length and detail. Close examination of the case reveals tensions at the heart of will disputes – and especially, those between stepmothers and stepchildren. Sir John Mervyn died late on Tuesday 14th June 1566, in the parlour of his mansion house at Fonthill Gifford, a village fourteen miles west of Salisbury.[209] That morning, John sent his children away from the parlour while his second wife Elizabeth sat at his bedside along with parson William Gill. These two remaining took down the will which John dictated. Elizabeth and John had no children, but the latter had four sons from his first marriage, the eldest of whom – James Mervyn – the will entirely bypassed. Elizabeth, though, had been gifted the lion's share of Mervyn lands in Wiltshire, including both the Compton Basset and Fountell manor houses.[210] After his father was dead and the will proved, James sued his stepmother in the Star Chamber.

Elizabeth contended that the reason for James's disinheritance was John's 'greate displesure and unkyndenes against' his eldest son. Five years previously James had burgled jewels and money from the family home.[211] James insisted that he was 'thoroughlie reconsiled and perfectlie in Sir Johns good opynion and favour at or before the houre of his deathe'.[212] It would be easy too to put James's complaint down on to his conscience, which sought to prove that his father had not died without forgiving him. But in addition to the twenty-four widows disputing with children in the sampled will disputes, there was the same number again of widows disputing other relatives. And, there is almost the same number again of will disputes in which other women relatives are accused. Stepparents were only sometimes sued by resentful children, but were widows two-thirds of the time, and almost always women.

[209] STAC 5/M18/1, I.
[210] STAC 5/M52/16, B.
[211] STAC 5/M52/16, D.
[212] STAC 5/M18/1, I.

James Mervyn alleged that it was his stepmother Elizabeth, 'with owt the mynde or pleasure of Sir John… asked or foreknowen', who had asked his children to leave the bedside while the will was drawn that Tuesday morning.[213] Elizabeth had next invited Parson Gill into the privacy of her own closet, 'and theruppon… practised with William Gill to be of her secreate counsell and confederacy in the forging of a will'. Elizabeth had restricted James's access to his father, and to his will. Elizabeth had not recorded her husband's intentions but counterfeited them. A fundamental complaint against Elizabeth was secretiveness. This makes comprehendible a detail Elizabeth provided in her interrogatories which was an otherwise odd strategic choice for her to make:

> after the redynge of the will unto Sir John[…] dyd dame Elizabeth make lamentacon & saye that she shuld not only lose her husbond but also be left a thousand marks worse than she was whan she mett with hym[?]

Accused of embezzling her late husband, this seems a poor defence for Elizabeth. The document continues:

> Sir John herynge the same sayd unto her Fye besse Fye what meaneth this have I not left you well and theruppon [he did] recite particulerly all what he had gyven to dame Elizabeth by his said will[.]

This story strengthened the defence's position by demonstrating Sir John's just judgement, and lucidity in death. More pertinently, it proved how above-board Elizabeth's negotiations with her husband were. This was apparently important enough to risk highlighting how generous provisions had been for her. Ironically both plaintiffs in this case, as many others, employed the same argument: that at John's bedside, Elizabeth was his interpreter and mouthpiece. Parson Gill actually claimed that, were it not for the 'perswasion' of Elizabeth, the manor of Fountell Gyfford would also have been bequeathed to Edmond Mervyn's son, rather than being allowed to settle on James after his stepmother's death.[214] James, meanwhile, alleged that the '[death] Rattle beinge upon' his father, 'he harde Sir John Mervyn make' responses to his wife's

[213] STAC 5/M52/16, D.
[214] STAC 5/M18/1, D.

questions only ‘verye fayntlie’. The Mervyns had to depend on Elizabeth’s intercession in executing the family estate.

Two decades later, Mary ‘wief of George Peell of the parishe of St Annes London Joyner’ also appreciated the value of transparency to her defence against forgery charges. She had married her first husband, Gates, ‘midsummer three years past’, but he quickly became ‘sycke’, and Mary sent for a minister so that her husband could make his will. This sickness was apparently widespread enough to cause fear; having been sent for four times, ‘the Minister himself being then so ill at ease’ that he sent reply that ‘he could not wryte her husbands will but told hir that’ the couple’s manservant ‘Clement Blackewell might wryte’ it instead. ‘[W]heruppon’ Blackewell ‘did wryte [Gates’s] will, & withall told him what legacyes he would haue sett downe’. But Mary, she herself deposed,

> being there present beganne to mislike that [Gates] should sett downe any such legacyes as he then spake of in his will & told her husband that he dyd not duly regarde her poore estate & her husband cesed for that tyme to proceed any further in his will And on the next daie after her sd husband dyd cause his sd servant to wryte his will anew[…]

Mary felt that her husband had not allocated her a fair share of his estate, and he reconsidered his own choices in this light. Inviting her husband to redeploy his authority was deemed understandable. The next clause of this sentence, conversely, Mary thought better of because it was crossed out: Gates did ‘wryte his will anew’, ‘& therby dyd sattisfye this def[endan]t in the making of this will’. Evidently it would be unhelpful to Mary’s cause to suggest that her satisfaction was her husband’s primary motivator. The revised reason she gave, above these crossings-out, was ‘bycause’ Blackewell pointed out that the first draft was voided because it was ‘blotted & blurred’.[215] Like Dame Mervyn, then, Peell hoped to negate suspicion of any ‘fraudulent dealings’ by inviting the Star Chamber into her marital confidences. Staffordshire widow Ellen Abell was accused of secretly adding a beneficiary to her husband Thomas’s will;

[215] STAC 5/G14/15, D [miscatalogued as only Bill and Answer].

but instead of steering clear of the accusation, she admitted to having 'moved' Thomas when he was dying 'that he wold Intayle the lande uppon' a relative 'in such sort as in the will is expresd', although she never 'moved Thomas Whittingeten her husbonde to alter the will in Any other maner'.[216] Widows did not represent themselves as voicelessly compliant to their dying husbands, but as consciously negotiating a distinct, unequal, role.

The 'privitie of conversacon' between a woman and her husband, coupled with distrust, bred infinite interpretations of a testator's 'real' intent – and the dissonance between his intent and hers. Many others among the 51 sampled testators' widows were argued to have moderated their late husband's communications. In 1589 Anne Mackworth defended herself against the charge that she had altered documents from her husband's estate. Her accusers explained that George Mackworth had 'lyued so solitaryly & obscurly as that none had or might haue any accesse unto him but only Anne his wife or some that Anne woulde appoint for that purpose'.[217] Resonances with notions of a monarch's 'evil councillors' are apparent where wives co-opted the decision-making power of beguiled husbands.[218] Wives who made their husband's decisions for them were clearly objects of suspicion; but so were wives who co-opted too much responsibility when serving their households and husbands. The line between the two was very fine to invisible. In a 1584 dispute over a rich Wiltshire estate, one interrogatory asked if

> Alice Garrard in the use of Thomas [her late husband] did dispose of the landes & goods of Thomas at her pleasure or no and whether did Thomas intermeddle or no with the same or had anie thinge or commoditie by them… then what Alice gaue him[?][219]

One stepson deposed that he 'doth not knowe that the same alice had any other dealyng or entermedlyng with the goods or lands of the same Th[oma]s otherwise then as other women

[216] STAC 5/W14/29, Depositions of Ellen Abell.
[217] STAC 5/C22/32, B.
[218] Stretton comments on the tropes surrounding administratrices and malevolent influencers in Requests. *Women waging law*, p. 126.
[219] STAC 5/G18/16, I.

haue and do use'.[220] A yeoman witness, just as vaguely, 'saith… Alise to his knowlege dyd not otherwise dealle with hir husbandes landes or goods in his life tyme otherwise then as other women [^certenly] do with ther husbandes lands and goods'.[221] In 1588 Exeter widow Margarett was asked if she undertook a 'dylligent serche' of her late husband's study when he died, seeking to cancel various indentures to which his hand was 'sealed & suscrybed'.[222] The practical indistinguishability of spouses in everyday financial dealings could be co-opted to serve a range of narratives. In some circumstances this propinquity was used by couples to evade individual responsibility while both lived.[223]

Difficulty in assessing what transpired between husband and wife, in life and just before death, was difficulty inherent to widows' will disputes. It was easy to be suspicious when this was combined with inexactitude about the deceased's wealth. On John Nicolls's death bed in 1587 Suffolk, his widow Marion claimed, he 'confessed that he had fower score poundes in readie money, and asked this defendant his wieffe whether hee had soe much yea or noe', to which she 'Answered that it was trewe'. She denounced in the Star Chamber her stepchildren's claim that John had told Marion there was £1000 instead, hidden somewhere that Marion knew.[224] In 1585 the Randall family from Fisherton Anger (Hampshire) fell into arguing over the possibly imaginary claim to widow Randall – 'gammer Besse' – by maidservant Margaret Longe, that she had 'founde a bagg of Golde' in her master's bed while 'sweepinge'.[225] The unknowability of private conversations after the fact was compounded by the circular reliance for perjury convictions upon somebody's word.

This was true too of forgery. Egerton himself referred to the Star Chamber as 'the nurse of forgeries', warranted surely by its germination of legal issues 'lengthily debated for two

[220] STAC 5/G18/16, Depositions of Thomas Garrard.
[221] STAC 5/G18/16, D.
[222] STAC 5/W14/30.
[223] STAC 5/S1/9.
[224] STAC 5/S72/26, A.
[225] STAC 5/W38/12, B (1585).

entire days, and at last… adjourned to Michaelmas term because they wanted probation to prove forged deeds.' Another 1602 case continued for many years before resolving itself by redefining the crime: 'the ante-dating of a deed, if it be not to the prejudice of a third person, is not forgery'.[226] During the Easter term of 1570 the judge presiding over Dame and James Mervyn's case said simply that 'hee doubted whether the… will… was a forgerie or not, and therefore hee would not judge it'. He referred the case to another hearing.[227] The 'uncertain validity of land patents, deeds, wills and other legal documents' preoccupied Bacon as it did other 'reform minded' jurists 'of his generation.' [228] Widow Jane Deane was examined by Edward Coke himself about the forgery of her husband's name – on some indentures for £2000. Coke compared this handwriting against Basingstoke gentleman Richard Deane's will, but this was not definitive enough to avoid examining witnesses. Jane was asked:

> are the words viz. by me Richarde Deane subscribed to the morgage of the manor of Hingstonn [Hinxton] in the Countye of Cambridge here shewed forth unto you… written with the proper hande of Richarde And whether did Richarde use this form of subscribing of his name in such letters placinge the words, By me before his name, or if that he used not this forme, what forme of subscribinge did he use[?][229]

It was not unusual to preface a signature with 'by me' (or 'p[er] me') even in Star Chamber depositions sampled by this thesis.[230] Coke's involvement in this case demonstrates the prominence and the imprecision of forgery indictments in the court.

'Writing' even among the earnest 'implicated the recorder and reader in a series of problems of meaning'.[231] In 1603 Bristol, overseers for Alexander Staples, 'put to the will a seale… and did write or cause to be written the name of Alexander Staples' at its foot. They

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[226] W. Hudson, *A treatise on the Court of the Star Chamber,* 2nd edn, ed. T. Barnes (London, 1792; repr. New York, 1986), p. 156. For more examples of this indecisiveness, *passim*.
[227] BL Harl. MS 2143, fo. 13v.
[228] B. Shapiro, 'Sir Francis Bacon and the Mid-Seventeenth Century Movement for Law Reform', *The American Journal of Legal* History, 24/4 (1980), 337.
[229] STAC 5/A18/40, I.
[230] STAC 5/B70/38, Depositions of William Ffysher yeoman; STAC 5/B76/9, A; STAC 5/M25/12, Depositions of Thomas Walbutte silkworker, and Peter Dewes scrivener; STAC 5/L19/9, Depositions of Jasper Duckett gent.
[231] Smith's particular meaning is here transposed onto the general context. D. Smith, *Sir Edward Coke and the Reformation of the Laws: Religion, Politics and Jurisprudence, 1578–1616* (Cambridge, 2014), p. 150.

intended only 'to haue given more force to the will', which Alexander had not managed to sign himself in the throes of sickness. His wife then consulting with 'her Counsell… enforminge them… what dealings and proceedings had bene used', she was told that these 'addicons were rather preiudicall and hurtefull to the will then otherwise'. She 'then 'rayzed' the signature, for which service she was accused by the Star Chamber of fraudulent alteration.[232] '[I]t happeneth oftentimes,' West's *Symboleography* warned, 'that thinges well meant by the Testators, are euill and diuersly vnderstood by their posterity and suruiuors.'[233] In actuality, adversaries almost always 'vnderstood' testaments evilly, rather than only 'diuersly'; which speaks to the emotional charge of will disputes.

Nonetheless, within the legal process plain misunderstandings could invoke a forgery charge. In Shropshire gentlewoman Margaret Pleydell 'being then aloun with' her dying husband and 'being then very sorrowfull that her said husband should departe from her… dyd not regarde what was conteyned in ye will' which he read aloud. In 1590 she told the court that she 'Cannot call to her remembrance whether ye words supposed by the compl[ainan]ts bill to be insertid to the will were then inserted or nott'.[234] In 1601 Staffordshire, Ellen Abell was accused of adding the name 'Robert Goude', a 'straunger', to her dying husband's will as a beneficiary. She defended that 'she never knewe nor harde any Such man so Called', and that this must have been a mistake 'by the Regesters clarke as she taketh yt: ffor… neyther she nor Any other to her knowledge ever moved Thomas Whittingeten her husbonde to alter the will'.[235] '[I]t behooueth Notaries, and such as write Willes, to haue speciall care to set downe the Testators very sense and minde very plainely,' householders were advised.[236] In the end,

[232] STAC 5/S62/17, A.
[233] W. West, *The first part of symboleography, which may bee termed The art, or description of instruments and presidents. Lately perused and amended by William West of the Inner Temple esquire, first author thereof* (London, 1598), section 632.
[234] STAC 5/P27/15, Depositions of Margaret Pleydell.
[235] STAC 5/W14/29, Depositions of Ellen Abell.
[236] West, *The first part of symboleography*, section 632

writings were only as trustworthy as their author – and their scribe. A court judge, as reader, would have to determine the validity of writings using external evidence.

Pragmatically when it came to suing for estates, the passage of time between an event and its recitation to the Star Chamber could dilapidate cases. Ellen Abell (just discussed) was actually widowed by Thomas in 1575, although these forgery allegations were made against her by stepchildren in 1601.[237] 50-year-old Anne Hyltone from Salford (Lancashire), asked to identify the author of an old document, demurred that she 'could onest have wrytten and have redd some wrytten hand but nowe haith forgotten boeth'.[238] In 1593 yeoman's widow Alice Wyfold of Mattingley (Hampshire) was asked to recall 'William Nashe the blynde man grandfather to the pl[aintiff]', and his two sons. She obliged – William's second son Edward had been her first husband. The next interrogatory asked which of William's sons died before the other. To this she could not be sure, 'but she thinketh that hir sayd husband first dyed'.[239] Her vagueness about her family-in-law's major life events was understandable given that she had married Edward 'at least xlviii yeres agoe'.[240] The Star Chamber did not seem reluctant to pursue such a long-standing title claim against Alice as this – the suit went at least as far as examinations. Masters in Requests seemed happier to let a woman newly-emerged from *couverture* 'to pursue her action despite its vintage' than it was to let other litigants do.[241] The complaints involving Hyltone and Wyfold were two of the slowest to be brought, but there were plenty which took at least four years to become an indictment.[242]

All these practical obstacles to direct and accurate assessments of what testators wanted forced judges to look elsewhere for information with which to conjecture. As Jones has observed for Chancery in one of very few studies of early modern fraud, 'thought' was 'not

[237] STAC 5/W14/29, Depositions of Ellen Abell.
[238] STAC 5/S81/10, Depositions of Anne Hyltone.
[239] STAC 5/N8/9, I.
[240] STAC 5/N15/9, B.
[241] Stretton, *Women waging law*, p. 113.
[242] For e.g. STAC 5/G14/15; STAC 5/S5/39; STAC 5/T35/34; STAC 5/W58/7.

triable by direct evidence', so 'had to be proved from the surrounding circumstances'.[243] Assessments of character and relationships throughout the widow's marriage were the keystone of will disputes. The widow's side, too, explained that 'undutiful' children had only themselves to blame for disinheritance.[244] But children's arguments with their fathers were historical and perhaps therefore less convincing. In only one of fifty-five widows' will disputes did a father explicitly disinherit a child attending his deathbed ('I commande youe to put hym out' of the will), rather than 'hauing conuersation' with his wife 'concerninge his intencons… longe before his sicknes whereof he died'.[245] Stepmothers were very often entrusted with the unenviable role of messenger to disinherited children by their husbands. Possibly, too, a stepmother's relationship to her husband was regarded with more scepticism than parent-children bonds, which were regarded as inherently resilient (as evidenced earlier in this chapter. It cut both ways: Margaret Blackwey was described in 1580 'A moste hard unwomanly unnaturall & unmotherly parte towards the childe of her own bodey'.[246]). Many litigants did not anyway feel it necessary to demonstrate a weakening of their own relationship with their father – only a strengthening in their stepmother's influence over him (see Thomas and Johane Read's case below). Meanwhile, wives seemed more proximal to dying husbands than children; and, were the ones defending the will which she had tried to prove in probate. It was thus her bedside manner under scrutiny.

An easy way to undercut a widow's version of her late husband's will was to disparage their relationship. Robert Rampston died in a bed moved into his Chingford (Essex) kitchen in 1589. Before he did, he apparently left 'all his manors landes and tenants' to his wife Margarett; by his children's later account to the Star Chamber, on condition that she fulfil various obligations, which she did not. One interrogatory asked witnesses if, when Robert's will was

[243] W. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967), p. 423.
[244] STAC 5/G18/16, Depositions of Robert Garrard.
[245] STAC 5/M52/16, D; STAC 5/S62/17, A.
[246] STAC 5/B103/36.

'more often then once redd unto him' upon his deathbed, did he 'use any words of dislike of Margarett... that she had byn so obstinate and disobedient a wieffe unto him that yt was not for hir sake, that he delt so liberallie with hir as he did[?]'[247] From 1592 Staffordshire, a stepson's case along these lines was revealed to be a ruse. A servant to Anne and Humfrey Cotton, William Ball, had previously deposed 'that albeit' Humfrey

> seemed att the ensealinge of… the will to seale the same by his owne mynde and accorde[,] yett in truthe he did so most unwilling and forced by the manasings threatninge and hard dealinge of Anne[,] who kepte him withoute meate or drynke two dayes together until… he would assent[.]

Further, Ball had said that he was present once when 'Anne tooke up a fyre stycke wherewith she strooke humfrey that the Coles dyd flye'. Now the Star Chamber learned from another relative that Ball had 'had a Cow grasse and his daughter… another' from Anne's stepson in exchange for fabricating this lurid testimony.[248] This is the only occasion in sampled probate suits when testimony about the strength of a marital relationship was upended – and then, only because a third relative had a vested interest worth pursuing.

In Middlesex (1589) Johane Read's stepson Thomas described that Johane 'inveigled' her husband 'against his fatherlie affection', 'to alter & quite change frome the mutuall affirme & godly trust Reposed' between father and son. '[N]ext', by her subtell fraudulent & cosoning meanes',

> with drawinge hym in Religion frome god & your ma ties allegiance, she drewe hym… to convert, subvert & turne all & everie [his] premisses, consistinge in dedes, specialties & wrytings remayninge in the Fathers custodie… out of the name of ye subiect

and 'into her owne name', and her brother's.[249] Thomas Reade was thus expunged from his father's will, '& so stode when he died'. '[W]hose lamentable' death, Thomas charged, was

[247] STAC 5/R28/27, I.
[248] STAC 5/K4/4, B.
[249] STAC 5/R23/3.

caused by Johane's administering a poisonous 'drinke'.[250] (Disinherited children in five suits made the same allegation.) The affection of husbands 'once wrought', another pleading explained, 'readie passage [was] made for the rest of their trumperies'.[251] Husbands too much enthralled by wives quickly forfeited the whole of their self-mastery. This attitude was prevalent too in many, unrelated, causes. William Hawkyns complained that JP Peter Edgecome was accused of leaving 'poore masterlesse men' squatting undisturbed in Plymouth 'by the procurement of [blank] his wief who swayes greatlye with Peter in that and in the like accounts.'[252] That William was not able to supply Mistress Edgecome's name suggests the weight cultural tropes, rather than personal knowledge, lent to his dissatisfaction.

There was, however, a way to displace a husband's weaknesses onto his wife: women's sexuality effectively functioned in many narratives as the 'flattery' required to satisfy the legal understanding of 'undue influence' over testators. Widows were frequently implied to be lustful by temperament: Susan Pygott of London was asked in 1578 if she had committed any misdemeanors 'occasyoned by the company had betwene hir and one Robertt Nele gent.'[253] In sharp contrast, testators' own designs upon women are not mentioned. The implication is that the feeling these men had had for 'undue influencers' had been imposed upon them. In a 1593 Essex case Ursula Pendreth challenged her stepmother over property called 'Nyneberyes' willed by her late father Edward Lawrence. By Ursula's account, Edwarde was 'a verie simple and plain man verye easie to be seduced' by Joan Wright, and 'thought to be bewiched'.[254] Nicholas Streete of Bristol '[n]yneteene yeres nowe last past [took] to wief one Elizabeth Hickman a very young girl & hand maide to his former wief without any ualue or substance other then for shewe'.[255] The judgement implicit in four suits is that second wives must have

[250] STAC 5/R23/3.
[251] STAC 5/F19/2, B.
[252] STAC 5/H41/9, B.
[253] STAC 5/P11/12, I.
[254] STAC 5/P46/29, B.
[255] STAC 5/S62/17, A.

pursued the match because their own small estates rendered them otherwise unappealing prospects. The jarring lack of accountability for husbands' actions within Star Chamber stories was designed to preserve the apparent integrity of their judgement.

The intentions ascribed to widows were almost always mercenary – they were after all being accused of embezzling estates. In a very recognisable early modern cliché, while one's late father was 'a verye frugall provydent & sparinge man', one's stepmother was motivated to retain hard-gained goods (not by frugality but) by her 'covetous Humour'.[256] Will disputes might superficially set the aims of late husband and widow against each other; widows were subverting the householder's original plan for his estate. But fairly obviously, an interest in personal financial security was universal. Litigants in this chapter's first section therefore argued that a widow was enjoying more of the marital estate, or for longer, than she 'should'. Litigants could also demonstrate that it was widows' *attitudes* (rather than behaviours) towards money which was antithetical to their late father's. A widow 'Seeakinge to defeate & dysinheryte the Compl[ainan]t of the sayed Landes and Inheritance' did so 'Covetously & greedely'.[257] Lady Mervyn, to take another instance, had for 'lucrs sake… bene corrupted'.[258] Widows' subjectivities thus were of interest to the court.

On occasion, though, wives were shown to have an exterior motive for derailing their husband's bequests. These women had redirected a husband's attentions away from his children because her attentions were in turn redirected away from her husband. This would be a third party: children, lovers, or new husbands. When Alexander Staples lay dying in August 1590, his wife Elizabeth Staples née Hickman, personally 'valueless', tried 'to get and acquire unto her self & to her children all or the greatest parte of' Staples's estate.[259] When Ellen Abell – discussed earlier – defended the accidental insertion of the name 'Robert Goude' into her

[256] STAC 5/S72/26, B; STAC 5/C43/6, I.
[257] STAC 5/R26/2, B.
[258] STAC 5/M52/16, Rn and B.
[259] STAC 5/S62/17, A.

husband's will, her stepchildren conceived that she had a sexual relationship with him: 'what myslike', witnesses were asked, 'haue you uttered of the famyliarytie betwene Ellen Abell and Robert Goude[?]'[260] These women were vectors for lateral wealth transmission, cutting across (patri)lineal descent. The dying householder Edward Randyll was laboured upon for three days to get him to concede 'not onlie geve greate & large legacies' to his second wife Alice, but also 'unto all [her] bastarde children'. One former draft of the will had only 'geven unto' Alice 'suche legacies… as her perverse & croked disposicion desarued'.[261] A widow was unwise to appear 'determined to bestowe herselfe againe in marriage'.[262] '[I]f she was as lovinge as she was covetous', one disgruntled heir argued, his stepmother would not have obtained the letters of administration within twenty hours of her bereavement.[263] When accused of spoiling various chattels belonging to her late husband's estate, Martha Harforde allegedly 'Cutte three Redds sike Curtaines of sarcenet and did gyve part thereof to John Aberforde to drawe oute his hose'.[264] This gently implies Martha's intimacy with Aberforde. The trustworthiness of a widow was weakened when her loyalty to an estate was divided.

The belief that widows had the systematic advantage in probate disputes is voiced three times in documents, although it not possible with the present source base to test. In 1578 Margaret Somerford was required to deny 'that any advise or counsell hath byn geven' to her by lawyers that the most promising course of action would be to forge her husband John's will.[265] Back at Fonthill Gifford, 'Mr Blanchard my Ladies Solicytor' advised one Mervyn brother 'that yt was best that this examynant… should stick unto my Ladie in this matter against James, for he said she coulde over throw the Supposed will yf she Lysted'.[266] The implication

[260] STAC 5/W14/29, Depositions of Jone Cowper.
[261] STAC 5/R27/18, A.
[262] STAC 5/M49/40, A.
[263] STAC 5/P2/28, A. Another suit suggests that 'abote a monethe after the death' was more respectful. STAC 5/S54/18, Depositions of Richard Mylles.
[264] STAC 5/H17/33, I.
[265] STAC 5/S57/12, Depositions of Margaret Somerford.
[266] STAC 5/M52/16, D.

that widows held the cards in these suits is hard to reconcile with some other evidence. Anne Cheyney, like many women 'sythence the deceasse of her late husband is and hathe ben greatly threatened by dyvers persons to be arrested, imprisoned, sued, or vexed, by manye and sondrye Suyts, quarrels and Accons'.[267] The three widows here did not defend their own interests until they were sued themselves – in the Star Chamber (like Anne Cheyney) or first in the probate court (like Lady Mervyn).

This section has brought to light litigation which might surround human death. Some of its cause and character might be expected to be familiar, even universal. Mismatches between different individual's experience of the same relationship – and, their estimations of how it should be expressed materially – created friction in many families 'around the deathbed'. It would be easy to pin children's complaints against stepmothers entirely on dissatisfaction or guilt about their relationship with recently-dead fathers. However, the Star Chamber is packed full of plaintiffs who were dissatisfied with the terms of wills, and who were not the deceased's children.

This chapter has shown that gendered social expectations influenced how dissatisfactions with wills would be translated into litigation. The women sued in probate disputes were sometimes stepmothers, but had almost always been wives. If 'death threatens the continuity of the eternal social order', in the early modern context it destabilised family estates.[268] A wife managing a husband's death – a peculiarly vulnerable moment in patriarchal households – was discomfiting because she had an opportunity to usurp his authority.[269] A wife could do harm by taking 'away all the substance of her said late husband falslie and untruly

[267] STAC 5/C43/6, I.
[268] M. Murray, 'Primogeniture, Patronage, and the Displacement of Women', in M. Ferguson, A. Buck, and N. Wright (eds), *Women, property, and the letters of the law in early modern England* (Toronto, 2004), p. 129.
[269] It was on his deathbed that famous recusant Dorothy Lawson converted her husband to Catholicism. P. Collinson, ''Not Sexual in the Ordinary Sense': Women, Men and Religious Transactions', in his *Elizabethan Essays* (London, 1994), p. 128.

contrarye to his will and mynde in his life'.[270] As much as the deathbed negotiations between husband and wife gave the appearance of mutual obligation, the fact that the wife was the one who lived to tell their tale gave the 'contract' more the appearance of a 'covenant' – in the Elizabethan Protestant context, a promise which required the recipient's complete trust. Elizabeth Dunn of Thornton (Lincolnshire), found herself owing usurer Richard Read £240 in debt and interest for the £90 borrowed by her husband Cuthbert before his death. Out of the 'dewtifull good will that she bore to her husband' Elizabeth 'sins his deathe paied to the uttermost… by her owne travaill & labour she hathe gotten'.[271] Loyalty was needed from the widow as much as from the wife. Arguments over deathbeds exemplified an impasse formed by a reliance upon, yet simultaneous *dis*trust of, women's intimacy with their husbands.

v. Conclusions

Due to various technical changes in the court's jurisdiction, this chapter has argued, widows came to Star Chamber less and less to defend customary entitlements, and more to uphold what might be termed 'inheritance-by-will'. This was frequently represented their late husbands' last will and testament. Alternatively, widows might cite prenuptial arrangements – also appearing in the Star Chamber with increasing frequency – to affect more favourable divisions of their late husband's estate. Inherently gendered property sanctions against adulteresses meant that morality had long informed the Elizabethan landed economy, but

[270] STAC 5/T35/34; Nor was this lost on some Wiltshire copyholders, who knowing that their landlord was dying, 'conspired to regain [some] enclosed common'. J. Hawarde, *Les Reportes Del Cases in Camera Stellata, 1593 to* 1609, ed. W. Baildon (London, 1894), p. 51.
[271] STAC 5/D22/12.

jointures could offer a technical means of support for oneself if a marriage had proved a failure. Widowed stepmothers and adult stepchildren were more likely than most to participate in bitter will disputes in the Star Chamber. While 'every man should dispose of his owne, as himself beste lyked', actually determining definitively what his 'lyke' was after he had already died, was near impossible.[272] Unavoidably, as Bonfield observes for the seventeenth century, this resulted in decisions to override wills which 'substituted for individual volition society's conception of preferred property-devolution patterns'.[273]

These patterns privileged inheritance by adult children and paternal families over single women. Even when applying technically sex-blind statute or contract law to women's property causes as the century progressed, the court continued to be a repository for contemporary, gendered, cultural assumptions. The reason for this was because as the popularity of these various 'inheritance-by-will' devices grew, so did new methods of challenging them. 'Self-help' methods of property transmission and new substantive law could be used to re-coup inheritances after the testator's death – opportunities which straightforward entitlements by birth or custom did not allow.

English laws validating last-minute testaments taken in the privacy of the home opened up these determinations to more contest. As the court itself admitted on 12th May 1596 at a 'hearing between Susan Tilman, widow, plaintiff, and Edmond Tilman' her stepson, '[t]here is no proof of the forgery, but probabilities, presumptions, absurdities and inducements'.[274] Extensive narrativization and moralisation of the life and choices of one's adversaries was increasingly warranted in pleadings – partly to satiate legal requirements that testators were influenced by fraud, fear, or flattery.[275] No wonder women such as Elizabeth Clapton of Essex,

[272] STAC 5/F28/28, Answer of Judith Smyth.
[273] Bonfield, *Devising, Dying and Dispute*, p. 82.
[274] Hawarde, *Les Reportes*, p. 41.
[275] Surely not coincidentally, the Restoration-era rehaul of the Statute of Frauds was partnered with a comprehensive reconsideration of probate business. Bonfield, *Devising, Dying and Dispute*, p. 63.

to avoid 'Intermeddlinge' with her husband George's will when he died in 1573, withdrew from executorship of her husband's will to her 'kynsfolkes & nere frends… until the tyme of' her remarriage.[276] Property disputes 'which often had no clear victims or perpetrators' were by will disputes provided with more manageable targets for plaintiffs, who used stereotypes about greed, manipulation, and inconstancy befitting women argue their case.[277] Star Chamber probate-related pleadings were shaped, and final decisions influenced, by collective cultural imagination outside the courtroom. This point will be developed further by the next chapter.

[276] STAC 5/C35/32, B.
[277] G. Walker, 'Keeping it in the Family: Crime and the early modern household' in H. Berry and E. Foyster (eds), *The Family in Early Modern England* (Cambridge, 2007), p. 71.

Chapter five

Fraud and deceit: women and the godly commonwealth

'Women in mischief are wiser than men.'[1]

Old English proverb

Star Chamber stories were increasingly symbiotic with morality tales outside the courtroom. Both were, of course, informed by scripture. Stretton and Kesselring have argued that sixteenth-century changes to the legal system 'benefited wealthy, well-connected women while others saw their rights deteriorate'.[2] The last chapter's issues, conversely, 'tended to cut across class lines'.[3] Probate suits appealed to a common denominator – Christian morality. God is a frequent and recurrent character in Star Chamber stories: mentioned either in passing, when litigants reference 'the lawe of god & of the land', or more directly, as when in 1595 He intervened to prevent a murder, 'dauntinge theire most bloodye harts turninge theire evill into feare and horror of theire consciens' so that the miscreants 'desisted from that plott'.[4] This chapter takes as its starting point the salience of Protestant theology to everyday life and culture in Elizabethan England, keying particularly into historians' assertions that this was finely 'attuned to the ubiquity of lies'.[5] The latter point was especially important in the many sampled

[1] W. Hazlitt, *English Proverbs and Proverbial Phrases*, 2nd edn (London, 1882), p. 499.
[2] T. Stretton and K. Kesselring, 'Introduction: Coverture and Continuity', in their edited collection *Married women and the law: coverture in England and the common law world* (Montreal, 2013), p. 10; Paraphrased by B. McDonagh in her *Elite Women and the Agricultural Landscape, 1700-1830* (London, 2018), p. 31.
[3] P. Crawford and S. Mendelson, *Women in Early Modern England 1550–1720* (Oxford, 1998), p. 388.
[4] STAC 5/V1/22; STAC 5/H64/7, B.
[5] For the formation and spread of religious culture see M. Spufford, 'The importance of religion in the sixteenth and seventeenth centuries', in (ed.) M. Spufford, *The World of Rural Dissenters: 1520-1725* (Cambridge, 1995), T. Watt, *Cheap print and popular piety, 1550-1640* (Cambridge, 1991), and N. Jones, *The English Reformation :*

suits which concern offences committed against the judicial apparatus – especially perjury, but also other deceitful (and vexatious) crimes which were broadly construed as fraudulent practices.

An appreciation of this historical context allows this chapter to take a different historiographical tack to Barnes's work on the Star Chamber. He thought that existing scholarship was flawed because in its imagining, '[t]he Chancellor's 'conscience' still does service for his brain'. Barnes advised that the Chancellor's choices and judgements in the court should be understood as logical, rather than situational or arbitrary.[6] This chapter argues that cultural, structural, discriminations – endowed to the Chancellor's thinking as well as his contemporaries – must be understood too. Picking up from the quantitative changes in the presentment rates of women described in the penultimate section of chapter four, this chapter will offer qualitative analysis of pleadings in presentments. Firstly, it will lay out how relevant statutes encouraged the court to be attentive to defendants' interiority (including motivations). It then proceeds to imagine, as this thesis's introduction posited, how religious 'discourses… facilitated complaints' against criminal acts and 'how these discourses operated differently for women and for men'.[7]

i. From force to fraud

religion and cultural adaptation (Oxford, 2001); A. Hadfield, 'Lying in early modern culture', *Textual Practice,* 28/3 (2014), 357.

[6] T. Barnes, 'The archives and archival problems of the Elizabethan and early Stuart star chamber', *Journal of the Society of* Archivists, 2/8 (1963), 346.

[7] G. Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), p. 22. She focusses on 'violent' rather than just 'criminal' actions.

As already outlined, plaintiffs keen to exploit the court's old powers to settle title disputes would, after the 1550s, need to 'discover' some criminal activity by their opponent in order to get their case before the judges. The shift from plain ejection to 'will disputes' initiated by this changed the content of interrogatories. The former asked deponents to recall who had held the land as many as five generations ago. In a typical 1562 suit, half of the interrogatories administered by John and Agnes Browne to widow Isabell Kingeswell were spent tracing the passing of land between three generations. Similarly, five out of twelve questions posed to Margaret Lewys's ejectors (1563) concerned the land's history.[8] That same year, Richard Dorrington sued his mother for withholding manorial land in Cornwall from his inheritance. He alleged that Jane's servants had forcibly reaped from his land 'a hundred bushells of wheate', and also that she ignored a 1556 Star Chamber decree. Parties were more regularly burgled for legal documents during the first half of Elizabeth's reign. In 1566 Maude Luke's stepchildren 'dyd strike' her, 'holdinge her by the Armes, untyll' they 'had unlocked and broken up the lockes of any cupbordes, or lockers' of her Derbyshire home in pursuit of the deed to their dead father's land. Whereas by 1586, Alice Waight's stepson in Kent was instead leveraging the 'Ecclesiasticall Courte for the disproof' of his father's will, 'intending therby… to avoide' it.[9] Later causes focussed much more on deathbed events or those immediately following it, and the motivations of one's covetous opponents. This is partly the reason why Waight's type of suit – will disputes between (step)parents and (step)children – appeared five times more frequently in the 1580s than the 1560s. Joan Vyne's 1559 complaint was unusual for an early one, in that it mentions her late husband's last will. Her 'own naturall' eldest son Richard falsely informed the Ordinary of Surrey that his father had died single and intestate. However, a forcible trespass accompanied the perjury: Richard 'clymd over the walls' of Joan's

[8] STAC 5/B17/16, I; STAC 5/L37/23, I; STAC 5/H13/19, I.
[9] STAC 5/L6/40, I; STAC 5/W58/7, B.

home to journey to the Ordinary – with Joan inside 'fast locked and bolted where she sate weping'.[10]

The presumption of women's physical weakness endured throughout Elizabeth's reign in Star Chamber tropes of 'stone-throwing' and 'casting' of hot water, as opposed to direct combat. In 1564, Mary Hamner was forced to admit that her maidservant used arrows to defend their home in Lightwood (Staffordshire) against ejectors. The servant, Mary said, asked for an immediate ceasefire so that she might 'undo the unlawful act', but, the gang leader Sir Thomas Hanmer refusing, his manservant soon died.[11] Seeking to downplay the violence, Mary 'feminised' force by demonstrating mercy. The stories men told about violence among themselves were less coy. They also rarely admitted that women had caused them significant injury.[12] In an exceptional but early (1564) complaint, two JPs recounted that Elizabeth Harper of Leicestershire had issued them the very real warning that she would 'styck an arowe in theyr bellye' with 'vii or eighte shief arrowes well hodded under her belt' if they approached. Most women did not wield such sophisticated armoury. The JPs also provided some details more familiar to male allegations against violent women: Harper had amassed 'a hott spytt redd hott in the fyre hott scalding water and xx ty or xxx ty bolder stones layd together into chayres wich stones throwen with violence wolde have kylled a man'.[13] A stone was apparently the natural weapon of women not only in Star Chamber but other common law courts.[14] Thrown or dropped from a distance (then gathering its own force), possibly the danger of the assault could be ascribed to the tool rather than its user.

There were tactics which plaintiffs used to complain of women's violence whilst simultaneously minimising it. This tallied with contemporary writers' derision of women's

[10] STAC 5/V3/16.
[11] STAC 5/H4/14.
[12] Or, indeed, that men had. See STAC 5/B12/23, A; For more on men's accounts of their assault by women see G. Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), p. 80.
[13] STAC 5/H61/33, A.
[14] Walker, *Crime, Gender and Social Order*, p. 79.

anger as 'insignificant, without force, and childish', which was despite (Gwynne Kennedy points out) elsewhere writing reprovingly of its danger.[15] Suing from Herefordshire in 1560, gentleman Nicholas Cramphorne accused yeoman's wife Amy Spencer of assault, during which, 'lyfting up of her leggs to spurne at' his labourer, 'sometime as highe as his Codpece and sometime higher she caught sum falles', which Richard 'did rebuke her thereof'.[16] Margaret, Alice, and Johane Dicconson from Lincolnshire attacked Thomas Emerson in 1572 with little regard for their 'womanhode', pulling him 'by the privie partes of his bodie'. Thomas was not too embarrassed to describe that his attackers 'lefte him there lying upon the grounde as A deade man [and] he haith contynuallie sithence languished in extreme payne'.[17] Both episodes condemned the assailants for their 'unwomanly' manner whilst not detracting from the physical strength of male victims. Force applied just once (but, cunningly) to the right place can incapacitate the most masculine of bodies.

Men might, though, rely on the incriminatory power of women's scolding words, instead of alleging blows. These could be infantilising rather than harbingers of physical danger. In 1601 London William Jones was subject to charivari for his affair with a local wife. Amongst the merry neighbours who crowded outside his window, Mary Hopkins was overseen 'bidding him to take his rapier and dagger and she Hopkins would take a broomestaffe and a twigge and whipp his tayle'.[18] In 1599 Joice Gardiner procured an assault upon messengers who tried to serve process on her to appear in Yorkshire's ecclesiastical courts. Her would-be adversary Anne Penrice complained to the Star Chamber that Joice had threatened that the messengers would be 'kepte men as shee did kepe boyes' – that 'the bringers of that process to her howse shoulde be well beaten for ther labour'.[19] Words like these relied on humiliation,

[15] G. Kennedy, *Just anger: representing women's anger in early modern England* (Carbondale, 2000), p. 20
[16] STAC 5/S81/33, A.
[17] STAC 5/E4/34, B.
[18] STAC 5/J17/8, Depositions of Clement Willyams.
[19] STAC 5/P32/37.

which may have been to the disservice of their recipient but also were to their speaker. These women's power was restrained to the domestic, naïve, or comic.

However, as Star Chamber business grew there was shift in focus in pleadings from violence to 'covin', which had begun at least as early as Elizabeth's first Parliament. Following the instatement of statutes already described, in 1585 a commentator could write that 'all the causes of this Courte bee… eyther from fraude, or force, or from both of them together'. Indeed, crimes were 'forged oute of fraude'.[20] It would be a mistake to imagine that non-violent crime rendered the accused somehow less 'criminal'. Earlier in the century Elyot was warier of wrongdoing 'by craftie engynne imagined, subtilly prepared, couertly dissembled, and disceytefully practysed' than violence, because 'no man may by strength withstande it, or by wisedome eskape it'.[21] The novel statutory bases for 'crimes of covin' may account not only for rises in Star Chamber litigation from the 1580s, but also for the perpendicular decline in ejectment and trespass causes in the Queen's Bench and Common Pleas. Brooks thought the decline in violent trespass resulted from the 1536 Statute of Uses forcing 'a shift away from business about land' across the board.[22] Knowledge that a qualitative transition from 'violence' to 'covin' was underway might have ameliorated Brooks's perplexity that the Statute of Uses did *not* also result in a dramatic fall in Star Chamber business.[23] In truth, new substantive property crimes of 'covin' meant that there was not a decline in land-related business, but instead a change in its form and destination. This is, in fact, what Brooks speculated later on in his career: that those trespass cases leeching out of the common law courts were moving into

[20] Add. MS 24926, 'A Discourse of the Courte called the Starre Chamber made the xxth daie of Marche 1585', fo. 22.
[21] He also paraphrased Cicero to the effect that 'iniurie, which is contrary to iustice, is done by two meanes, that is to say, either by violence or by fraude, fraude semeth to be proprely of the foxe, violence or force of the lyon, the one and the other be farre from the nature of man, but fraude is worthy moste to be hated.' Sir Thomas Elyot, *The boke named The governour, devised by Sir Thomas Elyot, knight* (London, 1531), pp. 206-7.
[22] C. Brooks, *Pettyfoggers and Vipers of the Commonwealth* (Cambridge, 1986), pp. 70-1; 70.
[23] Brooks, *Pettyfoggers and Vipers*, p. 93.

the Star Chamber (and Chancery). Perhaps, he tentatively suggested, this 'was accompanied by a significant change in [the] nature' of land-rights litigation.[24]

That a transition was ongoing under Elizabeth I is reflected in John Ragg of Leicester's pleading that his opponent sought to deprive himself '& his brethren ther old estates *either by fraud or vyolence*'.[25] Other charges are also frozen mid-transformation from force to fraud. Richard Harford's will instructed that his goods 'shoulde remayne unwasted or unconsumed without any fraude nor guyle' by his widow Martha.[26] Some hybrid charges were spawned by an increasingly reflexive legal apparatus. The court was caused to 'severely' punish a 'cunning riot': defined as when 'two men come to do an unlawful act, and after them come two more by agreement, not to be there four at once,' so as to avoid satisfying the statutory definition of a riot (three, makes a crowd…).[27] The idea that two women working together to pull down a hedge would be 'saued harmeless' is explicit in Star Chamber suits from Suffolk and Somerset.[28] Confidence in this myth possibly informed Alice Morrice from Swaton (Lincolnshire) in her 1601 denial that she could 'by the Lawes of this Realme be charged with any riott'. Alice agreed that she had been with both Robert Carrington and William Morrice at the scene in question, but stated that she was William's wife – not a spinster as the complainant had said.[29] Hence, her argument's weight rested equally upon both her own legal non-persona and the 'rule of three'.

There was of course a much more pragmatic way in which Star Chamber complaints could conflate force and fraud, which was simply to charge different defendants with different crimes. Twenty-four bills each named more than seven distinct charges. Bills like James Bell's

[24] C. Brooks, *Lawyers, Litigation and English Society Since 1450* (London, 1998), p. 18.
[25] Italics added. STAC 5/R34/19, B.
[26] STAC 5/H55/27, B.
[27] W. Hudson, *A treatise on the Court of the Star Chamber,* 2nd edn, ed. T G. Barnes (New York, 1986), p. 83.
[28] STAC 5/M9/3, I; STAC 5/H61/39, A; The Levellers were later advised to use this tactic during commons disputes in Lincolnshire. J. Walter, ''Law-mindedness': Crowds, Courts and Popular Knowledge of the Law in Early Modern England', in J. Begiato, A. Green and M. Lobban (eds), *Law, lawyers and litigants in early modern England: essays in memory of Christopher W. Brooks* (Cambridge, 2019), pp. 172-4.
[29] STAC 5/B101/6, Depositions of Alice Morrice.

and George Fulhurste's, both submitted in 1598, proved especially capacious with upwards of ten different charges ranging from abduction to forging a parish register to stealing the complainant's hat. The large groups targeted by some suits has already been discussed.[30] Pleadings were stories, with distinct narrative acts as well as characters. A manuscript treatise on the Star Chamber submitted that 'Riotte we borowed of the frenche rioter which is to brawle, or scolde, because most comonlye outragious deedes doe followe contentiouse, and scolding wordes.'[31] As such, the Star Chamber's jurisdictional foundations accommodated 'women's weapons' as well as men's.[32] Anti-social sentiments – cunning – preceded or succeeded violent behaviours. Often what united the protagonists of each of these was a charge of conspiracy; a vague term encapsulating allegiance and fore-planning which 'provided a tough paste to stick together' issues and individuals.[33] People therefore needed not to embody the other sex; they just had to be able to conspire with one or more of its members.

These attitudinal changes can be demonstrated using numbers. Skelton's examination of all Star Chamber causes brought in Elizabeth's first year turned over zero allegations of fraud, whereas amongst all suits from Elizabeth's 44th year she found forty.[34] An estimate suggests that this represents around six percent of all suits in 'Anno Reg. 44', as the bills style it. Broadening the scope of 'fraud' to include the inherently fraudulent crimes of forgery and perjury, as well as fraudulent conveyance which presumably comprise the suits Skelton counted, this thesis counts that 38.9 percent of suits taken from Elizabeth's 44th year contain one or more of these charges. The proportion of sampled suits per year which contain these allegations also remains fairly consistent after Elizabeth's twentieth regnal year (although

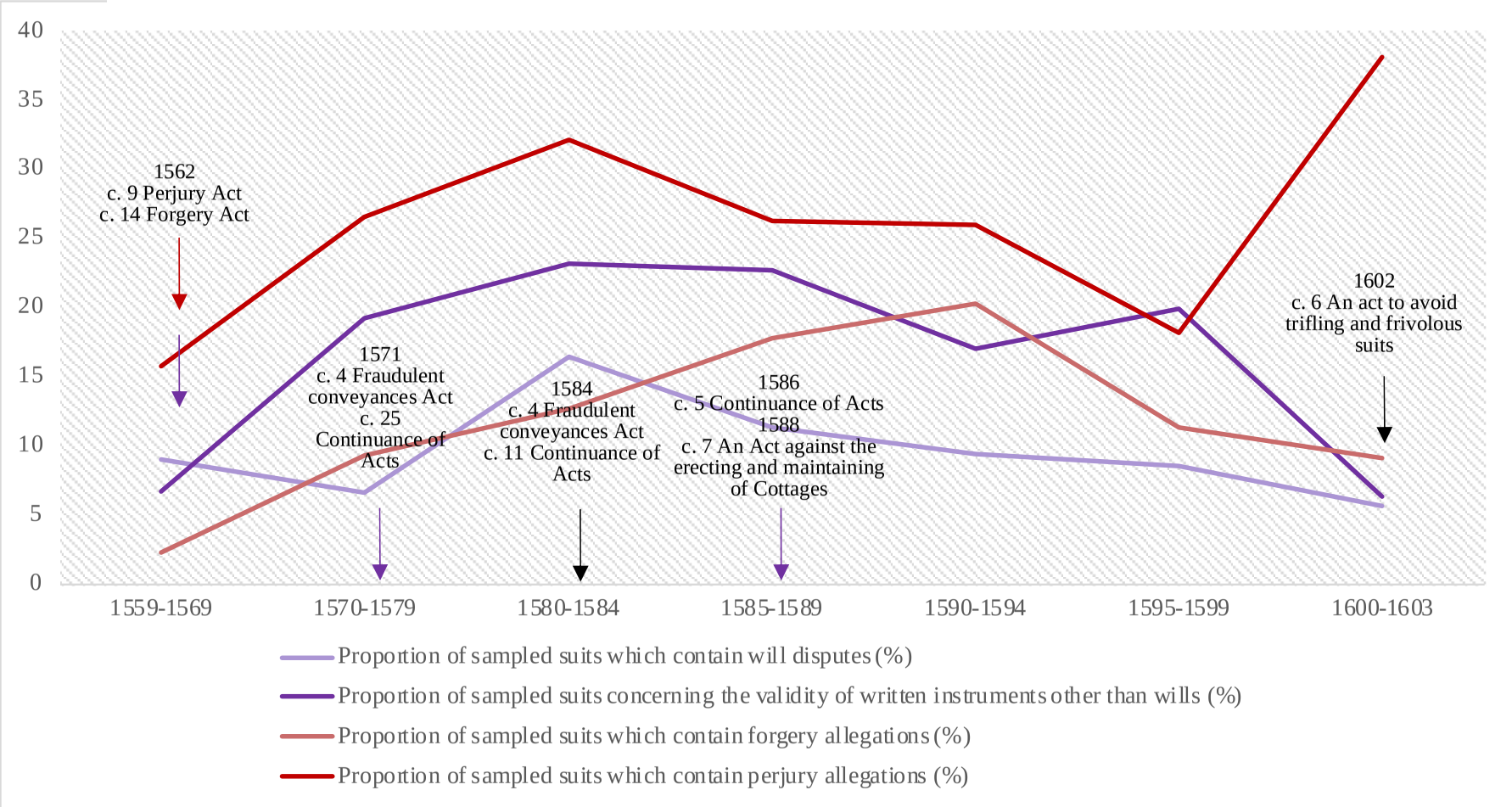
[30] STAC 5/B63/37, B; STAC 5/F3/30; See too STAC 5/T4/1 for ten defendants from at least two households.
[31] Add. MS 24926, fo. 21.
[32] See K. Stavreva, *Words like daggers: violent female speech in Early Modern England* (Lincoln, NE, 2015).
[33] T. G. Barnes, 'Due Process and Slow Process in the Late Elizabethan-Early Stuart Star Chamber', *The American journal of legal history*, 6/3 (1962), 232.
[34] E. Skelton, 'The Court of Star Chamber in the Reign of Queen Elizabeth' (unpublished MA thesis, University of London, 1930), p. 113.

experiencing a temporary hike at the beginning of the 1590s). This is strongly suggestive of the centrality of fraud to women's involvement with (substantive) law, and as the previous chapter has described, the STAC 5 catalogue reveals a steady incline in the number of women defendants until a peak of 148 women defendants in 1595. Chart 7 shows the correlation between sampled suits representing will disputes (often including both perjury and forgery charges), the forgery of other documents (deeds, indentures, leases and occasional official documents such as church registers), and perjury. Suits concerning new crimes against justice begot more discussions and suits, as the application of statute was fine-tuned. This was no small cause of the sixteenth century's heady rise in litigation. The relative proportional decline in all these allegations from their zenith in the 1580s seems very probably to be a result of the increasingly wide ambit of the court – both because of increasing statutory powers, but also if Barnes is correct because of its increasing confidence in using their discretion to interpret those statutes more widely.[35] Numerically, though, these charges were pretty consistently gaining traction amongst Elizabethan complainants.[36]

[35] T. G. Barnes, 'Star Chamber and the sophistication of criminal law', *Criminal Law Review* (1977). See too W. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967), pp. 430-51. An interesting exception is the small rise in the number of suits which concerned misuse of the judicial apparatus.

[36] The origin of the steeper (proportional) drop from 1600 onwards is not certain, although it is very possible that much of the testamentary and forgery business was 'redirected' into perjury allegations (for unclear reasons). Also partly responsible is the Act against 'frivolous' suits, which may have encouraged clerks to remove complaints to the common law courts instead. J. A. Guy, *The court of Star Chamber and its records to the reign of Elizabeth I* (London, 1984), p. 9.

Chart 7: Proportion of suits throughout STAC 5 sample which concern spoken or written testimony or documents, by type of dispute



The diversification of Star Chamber offences reprieved men from protecting their masculinity, via omissions or evasions, when describing fights with women. The new statutes dealt with crimes of 'cunning' rather than 'force'. These were products of the morally weak, who tricked upright, honest people: when litigants described their deceased fathers as 'a playne meaning man easye to be abused', such innocent plain-dealing was virtuous rather than naïve.[37] Fault was laid with the perpetrator, who had often 'conceived some secreate inward malice' against victims.[38] Allegations of fraudulent uses of justice, or deceit were proved by the immorality of the accused, so later Elizabethan suits assessed litigants' behaviour in relation to godly authority. The court 'actually invited' plaintiffs to spotlight 'bad character or immoral behaviour' in opponents, singling these out rather than excavating the rights to, or history of, the family estate in contention.[39] All this was fostered by a milieu in which 'moral evaluations… came to play a major part in the self-classification of the middling sort'.[40]

ii. Perjury in Protestantism

Bills end with a summation of the crime committed, pointed out that this was against 'your Majesties Lawes', and appealed on the behalf of the wider community as well as complainant. Crimes had also been committed to the 'lewd and perilous example' of all the Queen's subjects,

[37] STAC 5/M25/1, B.
[38] Guy says of Tudor law '[p]recise on felonies, it was vague and outdated on misdemeanours, for [it] was made for an age of force rather than of cunning.' J. A. Guy, *Tudor England* (Oxford, 1988), p. 327; STAC 5/T15/6, B.
[39] C. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2009), p. 396.
[40] J. Barry and C. Brooks, *The Middling Sort of People: Culture, Society, and Politics in England, 1550-1800* (Basingstoke, 1994), p. 15.

whom, the plaintiff warned, might be encouraged to commit copycat crimes or worse.[41] An appeal that crimes were 'most p[er]nicioius in a good governed comon wealth' was a popular notion for Star Chamber bills throughout Elizabeth's reign.[42] There are, though, some changes over time to be observed in these addresses to the court; pleadings were becoming more pious. Out of all sampled bills brought in the first five years of Elizabeth's reign, numbering thirty-two, there are only two mentions of God. Both are in the main body, not the closing remarks, of a bill which alleged perjury.[43] One 1564 bill brought against a Modbury (Devonshire) perjurer pleaded the significance of its own case in entirely 'secular' terms: 'periuries & vntrue oathes haue ever benn hatefull considering the manifold inconveniences and grevannces which growe to your Realme and the subiectes thereof'. In 1561, riots in Somerset disrupted 'the tranquyllytie and quyet estate of the Common Wealth of this Realme': meaning, they were 'inimical to the state or to the general welfare'.[44] Forcible entries in 1564 Wallingford (Oxfordshire) were to the terror and fear of 'the contrye' and also 'againste your highnes peace crowne & dignitie'.[45]

A full half of the *latest* thirty-two bills in the sample, conversely, end with some sort of an appeal to God's laws as well as the Queen's. The 'offences' were 'to the offence of Allmightie god and the good and politicke government in this your Majesties well governed Realme'.[46] This was particularly true of bills alleging crimes 'againste the lawes of god & contrary to all your heighnes lawes & statute ordeyened against' perjury.[47] Sampled bills submitted in 1603 and 1602 used other language foreign to early pleadings. Crimes were 'contrary to equitie and good conscience', and against laws 'ordeyned for the reformation of

[41] STAC 5/L46/40, B.
[42] STAC 5/T2/27, B.
[43] STAC 5/H6/40, B; STAC 5/T8/24.
[44] STAC 5/W15/18, B. Quote from P. Slack, *Reformation to Improvement: Public Welfare in Early Modern England* (Oxford, 1998), p. 7. For more on the language of 'Commonwealth' leading up to Elizabeth's reign see ch. 1.
[45] STAC 5/B26/34.
[46] STAC 5/D22/26, B.
[47] STAC 5/K12/9, B. See Slack, *From Reformation to Improvement,* ch. 1.

offenses', or 'so carefully and provydently made'.[48] Always a court administering the monarch's justice for the benefit of the people, by James's reign the Star Chamber was just as assuredly a conduit for God's justice, too.

The pleadings became more pious, but did the court? Here there is not enough room to parse the different theological strands of Star Chamber personnel in the latter half of the sixteenth century. But it is unlikely such detail would challenge the supposition that many understood that the court's vocation was to preserve the *godly* commonwealth. One 1582 prayer for Civil Magistrates sought 'continuallie the furtherance of thy Gospell, and to doo that that shall be most to thy honor and glorie'.[49] For Star Chamber judges, Christian duties were not separable from the 'secular'. For Coke, 'the King is the Head of Justice, and a protector of the innocent'.[50] '[Y]our Majesties… lawes' were inherently 'most godly', and 'Wicked ungodlye practyses' hurt 'the godly Realme'.[51] In addition to this important point, the Queen invited the first bishop to sit on her Privy Council in 1586.[52] Bancroft, and also Whitgift as Archbishop, were recorded as being in attendance more frequently than most other Star Chamber judges from 1594 onwards.[53] This was long before the court was publicly criticised as 'a tool for the enforcement of controversial religious policy at the behest of the bishops', but not so long before (the 1620s, when) jurists wondered if Star Chamber 'bishops went beyond the law'.[54] More heavily than some felt comfortable with, religion had a hand in Star Chamber justice.[55]

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[48] STAC 5/B9/34, B; STAC 5/U1/5, B; STAC 5/A2/18, B.
[49] Anon., *The monument of matrones conteining seuen seuerall lamps of virginitie, or distinct treatises; whereof the first fiue concerne praier and meditation: The other two last, precepts and examples…* (London, 1582), p. 733.
[50] Sir Edward Coke, *The third part of the Institutes of the laws of England: concerning high treason, and other pleas of the crown, and criminal causes* (London, 1644; repr. London, 1817), p. 143.
[51] STAC 5/T36/13, B; STAC 5/C35/17, B.
[52] A. Gajda, ''A Wall of Defence unto This Realm': William Cecil, Conformity and the Protestant State in Early Elizabethan England', *The English Historical Review*, 139/596 (2024), 72.
[53] J. Hawarde, 'Table of Councillors and Judges Sitting in the Star Chamber', *Les Reportes Del Cases in Camera Stellata, 1593 to* 1609, ed. W. Baildon (London, 1894), pp. lxv-lxxv.
[54] I. Williams, 'Contemporary knowledge of the Star Chamber and the abolition of the Court', in K. Kesselring and N. Mears (eds), *Star Chamber Matters* (London, 2021), pp. 199, 215.
[55] For instance, the Star Chamber's 1586 decree gave press licensing over to bishops: M. Morrisey, 'Episcopal chaplains and control of the media, 1586-1642', in H. Adlington, T. Lockwood, G. Wright (eds), *Chaplains in Early Modern England: Patronage, Literature and Religion* (Manchester, 2013), p. 64.

While this chapter deals with 'deceit' and 'fraud' pretty broadly, it forefronts their most basic rendition – lying. Charges of all sorts of deceitful practices comprised between thirty-three and 43 percent of sampled suits each year throughout Elizabeth's reign. Meanwhile Skelton found that, although only a lone case against perjury existed in the court's first year under Elizabeth, by her last regnal year one eighth of its business concerned perjury.[56] In this thesis's sample, twenty-seven percent of suits contain perjury charges, suggesting that women were more than doubly more likely to be involved in perjury suits than the average litigant. In their 1588 pleadings John and Anne Hope looked to the judges to address perjury, 'that moste odious & abominable vice in theis dayes more often comytted then in former tymes it hath bene'.[57] After the court's abolition, Hale reported that 'there had been in a few years more perjuries and frauds unpunished, than there had been in an hundred years before.'[58] Evidently, the perjury statute remedied a deficiency in law, and allegations were not regarded as merely frivolous.

During the Tudor period and in this chapter, perjury retained 'its traditional elastic meaning of a lie under oath', not just referring to witnesses' lies in the courtroom.[59] This gave Star Chamber judges ample space for interpretation. It would surely be impracticable to indict for perjury all accused who had denied a charge against them, but ultimately were overruled by the court's judgement.[60] However, Hale decided against 'the def[endan]t Buckle' in Michaelmas 1560 for 'periurie'. Having originally been 'examined in open Court att the heareing of a Cause for Ryotts & other misdemeanours', and 'denying the offence, wich stood proved against him', Buckle found himself 'Comitted & to stande on the Pillory with paper'.

[56] Skelton, 'The Court of Star Chamber', p. 103.
[57] STAC 5/H1/30, B.
[58] Sir Matthew Hale quoted in P. Warwick, *Memoirs of the reign of King Charles the First* (Edinburgh, 1813), p. 192.
[59] M. Gordon, 'The Invention of a Common Law Crime: Perjury and the Elizabethan Courts', *The American Journal of Legal History*, 24/2 (1980), 145-170, 150.
[60] M. Gordon, 'The Perjury Statute of 1563: A Case History of Confusion', *Proceedings of the American Philosophical Society,* 124/6 (1980), 441.

This was the usual punishment for the offence, but what was noteworthy about Buckle's case was that he had been adjudged for perjury 'without Bill or other grounde'.[61] The court apparently exercised its prerogative power sedulously, at least in protecting its own procedures from perjury. Lying to the court via a third party in order to avoid presentment occasioned a charge of perjury in at least ten times in the sample.[62] From Church Lawford (Warwickshire), Francis Bawmford was accused in 1578 of perjuriously reporting that his wife Katheryn was 'not able to travell with owt great danger' when in fact she was 'of stronge & good Constitution of bodie... weadinge in the feeld' on the day her appearance at Chancery was due.[63] At least sometimes, then, it was appropriate for Star Chamber to prosecute perjury about non-attendance to other courts. There were plenty of other oaths within Tudor judicial machinery to dishonour, this being 'the age par excellence of the English state's use of' them.[64] Skelton found in STAC 5 a perjury upon oath before a commission.[65] Corruption and extortion by an official, said Coke, 'is another great a Misprision, because it is accompanied with perjury', as they disregarded their oath of office.[66] Star Chamber's preoccupation with perjury was more multivalent than might be presumed.

Perjury had traditionally been the domain of church courts. In 1565, debate 'by the counsel of the parties before the Council of our Lady the Queen in the inner star chamber' over *Onslowe's Case* concluded in 1565 that despite being expressly named in the statute, the court could not try perjury. The justices' opinion was ignored, however, and Star Chamber prosecutions continued.[67] The 'laicization' of perjury indictments – their movement into the

[61] BL Harl. MS 2143, fo. 12r.
[62] STAC 5/B50/3; STAC 5/B75/29; STAC 5/C8/38; STAC 5/C23/5; STAC 5/K14/2; STAC 5/M33/11, B; STAC 5/P60/33; STAC 5/R41/22; STAC 5/S76/33; STAC 5/W14/29, Interrogatories for Elleyn Whittington et al.
[63] STAC 5/W46/11.
[64] P. Zagorin, *Ways of Lying: Dissimulation, Persecution, and Conformity in Early Modern Europe*, (Harvard, 1990), p. 224.
[65] Skelton, 'The Court of Star Chamber', pp. 107-8.
[66] Coke, *The third part of the Institutes*, p. 149.
[67] Coke, *The third part of the Institutes*, p. 164; Gordon, 'The Perjury Statute', 439. *Onslowe's Case* concerned perjury at the King's Bench.

non-canonical courts – Cavill understands as relating to the Reformation clergy's ceding of its own authority over individual conscience.[68] Across the early modern era, Houlbrooke argues, lawyers 'replaced the clergyman as the main source of professional expertise in matters testamentary'.[69] Star Chamber pleadings demonstrate, though, that in the sixteenth century 'laicization' of perjury did not equate to its secularization. Concordant to Star Chamber's absorption of perjury was 'the notion, most clearly set out' by Nicholas Bacon in 1571, 'that Parliament's principal role was its concern with legislation for the commonwealth'.[70] More specifically, government sought 'a purified godly commonwealth' – so plaintiffs and counsel could not but appeal to the court's religious sensitivities against perjury.[71]

The cultural context which determined ideas about covin was steeped in scripture generally and the Genesis in particular. This creation story, Philip Almond tells us, 'legitimised particular authorities and institutions' in the post-Reformation world and also 'explained the nature of humans in their present physical, moral, social, and political conditions.'[72] Material histories have found 'valences, cushion covers, table carpets, the surfaces of caskets, book covers, and even items of clothing' which were decorated with biblical images – 'the great majority' of which were drawn from the Old Testament.[73] Naomi Tadmor has noted that paintings of Adam and Eve were popular enough in post-Reformation England to have adorned middling homes. The poorer stuck broadside prints up on their walls, which 'served the function of daily reinforcing religious truths'.[74] Star Chamber litigants, counsel, and judges all drew on the same archetypes.

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[68] P. Cavill, 'Perjury in Early Tudor England', *Studies in Church History*, 56 (2020), 189.
[69] R. Houlbrooke, *Death, religion, and the family in England, 1480-1750* (Oxford, 1998), pp. 108-9.
[70] T. E. Hartley, *Elizabeth's parliaments: Queen, Lords and Commons 1559-1601* (Manchester, 1992), p. 14
[71] M. Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000), p. 10.
[72] P. Almond, *Adam and Eve in Seventeenth-Century Thought* (Cambridge, 1999), p. 2.
[73] A. Morrall, 'Representations of Adam and Eve in Late Sixteenth and Seventeenth-Century English Embroidery', in C. Brusati, K. A. E. Enenkel, and W. Melion (eds), *The Authority of the Word: Reflecting on Image and Text in Northern Europe, 1400-1700* (Leiden, 2012), p. 313.
[74] N. Tadmor, 'Women and wives: The language of marriage in early modern English biblical translations', *History workshop journal*, 62 (2006), p. 16 and P. Crawford, *Women and Religion in England: 1500 to 1720* (London, 1993), p. 86.

'Lying, as the Bible tells us, began almost at the very beginning,' when the devil-as-serpent persuaded Eve to eat fruit which God had forbidden humans.[75] Adam soon fell into temptation, and the pair hid from God before he expulsed them from Paradise. Throughout his *Institutes,* a theme unifying Coke's discussions around perjury was its capacity to 'attaint and overthrow the innocent', an abuse possible by both lay and official components of a participatory legal system. That a perjurer could misappropriate judicial apparatus for the conviction and execution of the innocent 'aggravateth and increaseth the offence; for that the King is the Head of Justice, and a protector of the innocent'. The judgement for such a perjurer was 'grievous and terrible,' overturning their world as if to bring the right one back to its feet: 'their trees rooted up and arrased, and their bodies to prison: all things retrograde, and against order and nature, in destroying all things that have pleasured or nourished them'.[76] Few passages in the book sound so primordial. Cast out of Christian society, if not Eden, one manuscript treatise on the Star Chamber described how, 'for some haynous ofence, as forgery, or periury, the sentence for ever disableth the oathe, testimony & Credit of the partie'. This author was referring to the social meanings of testimony, effectually forfeited when a Star Chamber sentence was 'publiquely read at the Assizes of ye County where the ofence did arise'.[77] More technically Coke explained that the perjurer 'shall lose the freedom or franchise of the Law, to the intent that he shall not be put or had upon any Jury or Assise'.[78] The amputation had to be complete, because lying was fatal to justice.

Indeed, perjury was widely feared. A Star Chamber perjury indictment was narrativized in one pamphlet, *A Fearefull Example, Shewed Vpon a Periured Person*. This was written

[75] A. Hadfield, *Lying in Early Modern English Culture: From the Oath of Supremacy to the Oath of Allegiance* (Oxford, 2017), p. 2. 'Sathan was the first lyar and murtherer from the beginning': H. Holland, *The historie of Adam, or the foure-fold state of man, vvell formed in his creation, deformed in his corruption, reformed in Grace, and perfected in glory* (London, 1606), f. 7v.
[76] Coke, *The third part of the Institutes*, p. 143.
[77] BL, Harl. MS 6448, 'A new Discovery of the singuler Jurisdiccon of the high Courte of starre Chamber, and of all matters apperteyning therunto, the Eminent Judges of ye Court and the Officers thereof' transcribed in Skelton, 'The Court of Star Chamber', appx 1, pp. lix-lx.
[78] Coke, *The third part of the Institutes*, p. 143.

anonymously in 1591, and is one of few printed works extant from before the seventeenth century which references the Star Chamber. The pamphlet was one 'sordid Elizabethan anecdote of retributive justice' among many which were published in a sensationalist 'true crime' genre 'deeply rooted in the religious outlook of most contemporaries.'[79] On the 14th May of that year, it described, John Picher was sentenced to lose his ears on the pillory, 'being with his consort found guilty of periurye'.[80] In early modern English pamphlets described by Alexandra Walsham, blasphemers were struck with physical ailments, like Anne Avery's for blasphemy, 'cast[ing] vp at her mouth (that vessell of sinne) the filth and ordure of her body in great quantitie'.[81] Picher's punishment was in some way even more intimate. Immediately after his condemnation in the Star Chamber, God, 'the better to make his odious offence seene,' made Picher's 'owne conscience witnes against him, that he was woorthy of death'. On the way out,

> with his own hands [Picher] attempted to strike the fatall strokes that might suddenly haue shortned his own life: and this he chose rather to perfourme by the perswasion of his owne conscience, then to sustaine the shame which the Law hath iustly awarded for so detestable an offence.[82]

Picher's attempt to stab himself was successfully averted, however, so that he could be 'given to the warden of the Fleete, forthwith to see the execution doone' as the 'the Lord Chancellor, the Lord Archbishop his grace of Caunterburye, the two Lordcheefe Justices' in the Star Chamber had just adjudged.[83] That self-annihilation was a perjurer's providential comeuppance seems in one view absurd – this punishment could only damn Picher's soul, not reform it. The real resolution in this story was for its audience, who knew the difficulty inherent in catching out liars. Elyot reminded in line with Cicero that 'those iniuries be moste to be feared agayne

[79] A. Walsham, *Providence in Early Modern England* (Oxford, 2001), p. 65, 106.
[80] *A Fearefull Example, Shewed Vpon a Periured Person [J. Pitcher]* (London, 1591), p. 2.
[81] T. I., *A world of wonders. A masse of murthers. A couie of cosonages containing many of the moste notablest wonders, horrible murthers and detestable cosonages that haue beene within this land* (London, 1595), fo. 31. Used by Walsham, *Providence*, p. 99.
[82] *A Fearefull Example*, p. 4.
[83] *A Fearefull Example*, p. 3.

the whiche can be made no resistance'.[84] It was a necessary comfort to imagine that 'everlastyng payn prepared in helle' for 'perjured men, for false witnes berers, for false condempners of innocent and giltles men' and all those who prevent crime's dis-covering.[85] The judiciary was hugely and uncomfortably dependent on the word of ordinary people – who vented their anxiety on perjurers in splenetic pamphlets.[86]

As well as being corrosive to the kingdom, perjury was trespass against God and also oneself. There is also a way to make sense of Picher's perspective: unlike theft or assault, which had obvious victims and material consequences, 'a Lie faces God, and shrinkes from Man.'[87] Most everyday liars were luckier than Picher and evaded human detection – but all would be witnessed by God. That Picher's punishment played out *within* himself was fitting. Deponents would describe a perjurer as having 'foresworne her selfe'.[88] Cranmer evoked a similar image in warning that falsehood 'shall entre into the house of the false man and into the house of the perjured man, and it shal remain in the middest of his house and consume hym'.[89] Lies beget lies, and sin might beget sin enough to preclude redemption. Salient too is an observation upon perjury – 'a very strange sinne' – made by famous puritan divine Perkins two years later: 'the perjured person doeth not onely sinne himselfe, but withall he endeavoureth to intangle God in the same sinne'.[90] Perkins was indicating towards the fact that a perjurer provided false testimony upon oath. In 1593 Judith Smythe of Maidstone was 'produced as a wytnesse' at the King's Bench, '& taking her Corporall othe uppon the evangelist before yor Mties said Justics

[84] Elyot, *The boke*, p. 206.
[85] T. Cranmer, 'Against Swearyng and Perjury', *Certain Sermons or Homilies (1547) and a Homily against Disobedience and Wilful Rebellion (1570)*, ed. R. Bond (Toronto, 1987), p. 133. Walsham finds a Wiltshire girl admitting perjury for fear of divine retribution. *Providence*, p. 99.
[86] Cranmer paraphrased Paul, who pointed out that 'in al matters of controversy betwene two persones, whereas one saieth yea, and the other nay, so as no due profe can be had of the truthe, the ende of every suche controversy muste be an othe ministered by a judge'. 'Against Swearyng and Perjury', p. 129.
[87] Francis Bacon, 'Of Truth: I', in *Oxford Francis Bacon, XV: The Essayes or Counsels, Civill and Morall*, ed. M. Kiernan (Oxford, 2000), p. 9.
[88] STAC 5/L36/14, Depositions of Ellen Shipman.
[89] Cranmer, 'Against Swearyng and Perjury', p. 134.
[90] W. Perkins, *A direction for the government of the tongue according to gods word* (Cambridge, 1593), p. 23.

& Jurye' but apparently 'then & ther by the instigacon of the devil' provided false testimony.[91] An even commoner formulation was that the perjurer 'beinge sworne uppon the hollie evangelishe to speake the truthe and nothinge but the truthe… not havinge the feare of god before his eies' lied anyway.[92] By swearing using God's name that their lies were true, perjurers implicated Him in their crime. A sin of this magnitude deserved death.

The psychic tension of bearing witness found resonance in contemporary theology. The Reformation was heralded by a belief in 'justification by faith alone'. Salvation could no longer be conceptualised as a bargain – a deal made between God and humans, the latter of whom would do good works on earth in return for heavenly reward. Now salvation was just a gift given to humans by God, via Christ's sacrifice. Christians' enjoyment of this gift despite their 'utter impotence and depravity' was thus entirely 'upon the mercy of its Maker and Redeemer.'[93] The 'very strange sinne' of perjury and fraud provides a superficially clear analogue with the inherently imbalanced power of a promise. With only 'Almighty God to witness, that his testimony is true', courts simply had to entrust judicial decisions to litigant testimony. Anxiety about this fact underpins the illusion, mentioned in the last chapter, that a perjuring woman had a high chance of 'getting off' the charges 'yf she Lysted'.[94]

Another high-strung bow for Elizabethans was the Protestant conscience – the only sure judge of perjury. Unlike the supposed 'invention' of the self sometimes attributed to the sixteenth century (as it has been to multiple eras), the related 'growth of Protestant interiority' has proved a less contentious concept.[95] While the old religion provided believers with confessors to attune the conscience, the godly feel the spirit move within them to be sure of

[91] STAC 5/F28/28, B.
[92] STAC 5/H60/4, B.
[93] Walsham, *Providence*, p. 9.
[94] STAC 5/M52/16, D.
[95] S. Greenblatt, *Renaissance self-fashioning: from More to Shakespeare* (Chicago, 1980); Quote from E. Longfellow, 'Public, Private, and the Household in Early Seventeenth-Century England', *Journal of British Studies*, 45 (2006), 320.

salvation.[96] An 1582 'praier against lieng and euill imaginations' asked God to 'cleanse my hart… and giue me a cleere conscience [and] a tongue to tell the truth; seeing that there is nothing hid, that shall not be discouered.' Only if He did 'search my thoughts,' could He 'renew in me thy holie spirit.'[97] That there was 'an increased interest in lying as a subject and a practice' is unsurprising given the pervasive fear that one might be mistaken about one's own salvation – that one was not godly, but instead 'cold, lukewarm, doubtfull and doubledealinge'.[98] This fear was a reflexive one for the judiciary too; Lambarde scolded justices that 'whensoever it cometh to our lot to undertake anything for the common good and public benefit… [we do it] rather to perform some custom than to discharge any conscience'.[99] What mattered was not just that the court acted a part, but that it truly cared to provide godly justice. The gendered implications of this stress on individual relationships with God have been discussed briefly in chapter three. Theoretically, as long as a Christian 'toucheth with his hand some part of the holy Scripture' in court, they could be bound by their conscience in a corporal oath.[100] 'Bracton', Coke reported, 'saith that an alien born cannot be a witnesse: which is to be understood of an alien infidell'.[101] Acceptable witnesses to the Queen's justice fall on the right side of a line dividing heretics from believers, not men from women, because 'all women, including wives, bore personal allegiance to their sovereign under common law'.[102] They could be trusted to fear retribution by God and the crown for deceit.

[96] Walsham, 'Ordeals of Conscience', p. 33.
[97] *The monument of matrones,* p. 173.
[98] Hadfield, *Lying in Early Modern*, p. 242; Nicholas Bacon in parliament, quoted in P. Collinson, 'Sir Nicholas Bacon and the Elizabethan Via Media', in his *Elizabethan Essays* (London, 1994), p. 141.
[99] W. Lambarde, 'Charge for Sessions of the Peace (1587)', in *William Lambarde and local government,* p. 86.
[100] Coke, *The third part of the Institutes*, p. 165.
[101] Sir Edward Coke, *The fourth part of the institutes of the laws of England* (London, 1644; repr. London, 1797), p. 278.
[102] B. Todd, 'Written in Her Heart: Married Women's Separate Allegiance in English Law', in K. Kesselring and T. Stretton (eds), *Married Women and the Law: Coverture in England and the Common Law World* (London, 2013), p. 164.

But while there was theory, there was also practice. England's judicial apparatus was decidedly informed by the earthly-born characteristics of plaintiffs. William Lambarde (a close friend of Egerton's) advised JPs to consider a suspect's

> [p]ower to commit the act, which is to be considered, by his 1. Wit: subtiltie: courage of mind: meete to enable him. 2. Strength, or swiftness of body, to warrant him… [And the suspect's] will to doe the fact, which is gathered by… 1. The disposition of the person [and] 2. Sexe: for some offences are more commonly found in one Sexe, and some in the other.[103]

Extrapolating from one's knowledge about the propensities of women to certain types of sin was good practice when assessing culpability for crime. How far individuals adjudicating in the Star Chamber relied on such precepts is not immediately accessible, but it can be inferred that gendering one's judgements was not necessarily regarded as prejudicial. In these early days of fraud, the 'intention to fraud' – an element of which existed already in 'malice aforethought' – had not yet ('as in later law') been 'subordinated to the fact'.[104] Whereas fraud would later be punished only to the degree that it had cost the complainant damage, in Elizabeth's Chancery – and, one can infer, other equity courts – deciding cases of fraud 'entailed a weighing of the relative moral position of the parties'.[105] Contemporary evidence for this is found in Coke's published recollections. One Star Chamber judgement assigned damages to be repaid 'according to the value of [the complainant's] goods riotously taken away by the defendant'. Coke recalled that

> the plaintiff caused two men to swear the value of his goods, that never saw nor knew them; and though that which they sware was true, yet because they knew it not, it was a false oath in them, for which both the procurer and the witnesses were sentenced in the Star-chamber.[106]

[103] L. A. Knafla, *Law and Politics in Jacobean England: The tracts of Lord Chancellor Ellesmere* (Cambridge, 1977), p. 48; W. Lambarde, *Eirenarcha: or Of the Office of the Iustices of Peace, in foure Bookes* (London, 1581; repr. 1607), p. 216.
[104] K. Kesselring, 'Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England, c.1500-1680', *Gender & History*, 27/2 (2015), 253; Jones, *The Elizabethan Court*, p. 423.
[105] H. Mare, 'Fraud and Dishonesty in King's Bench and Star Chamber', *American Journal of Legal History*, 59 (2019), 231; Quote from Jones, *The Elizabethan Court*, p. 426.
[106] Coke, *The third part of the Institutes*, p. 167.

Intent and motivation, not outcome, was being judged. Perhaps not coincidentally, Egerton's 'astute judgement of individuals was considered by opponents to be one of his most prized assets'. This was worrying for many litigants given that Egerton represented 'the more reactionary social thought of the period' – that poorer people posed an increasing threat to royal authority, for example.[107] (In 1596, in the same breath that Egerton tried to banish 'base fellowes' from the section of the Star Chamber occupied by gentlemen audience members 'of good account', he also did all women.)[108] In summary, not only was there opportunity but plenty of encouragement for lawcourts to re-enact cultural assumptions in justice.

As Star Chamber suits have been chosen for their inclusion of women as plaintiffs, defendants, or sometimes witnesses, a direct comparison of the ways in which men's and women's perjury and subornation was presented to the court is not this chapter's priority. The following section will instead frame Star Chamber perjury suits using contemporary religious culture.

iii. Women's lies

Complainants, defendants, and witnesses could all perjure themselves. An obvious motivation to perjury was, in the course of a suit, to alter the facts of the case and so its eventual outcome. Robert Hudson complained that twenty-three-year-old spinster Susan Edsell had helped orchestrate a disseisin of his home in Binsted (Hampshire) also stealing a clock, two jerkins,

[107] Knafla, *Law and politics*, pp. 90, 115.
[108] Hawarde, *Les Reportes*, p. 39.

and ‘a wallett’. Edsell, however, ‘gave in evidence unto the Jury’ at the next Quarter Sessions ‘at the castell of Winchester’ that Hudson had ‘clappe[d] the legge of Suzan between the doore and the threshall and therby Suzan tooke hurte’. She repeated to the Star Chamber that, yes, she was ‘brused and lamed’. Injured, she said, she could not have broken down Hudson’s door as he alleged. She claimed instead that she had re-entered the property ‘throughe a hole in the wall before made by a dog’.[109] The ‘Bill for Punishment of Perjury and suborned Witnesses’, which had been introduced by Reform-minded Walter Haddon before 1563’s parliament, included witnesses (rather than just plaintiffs, like Edsell) for the first time.[110] Suits relied upon witness testimony, ‘the Want whereof, especially in matters of Frauds and Deceits, (being like Birds closely hatched in hollow Trees) *was a Mean that Truth could not be found out*’.[111] This shaped Star Chamber’s interests distinctly from those in ordinary common law courts, which relied upon juries.[112] The act encapsulated oaths taken for proofs, whereas previously judicial perjury had applied to answers; perhaps what pushed the crime permanently within the purview of secular courts.[113] In 1595 at Edward Talbot’s suit, his sister-in-law ‘Marie countesse of Shrewesbury’ was ‘examyned’ as witness ‘upon hir honor’.[114] These commissioners were taking a chance on the countess by not administering an oath, given that (as was confirmed by the court under James I) ‘when a peer affirms anything which is not true upon his honour, there is not any remedy’.[115]

Most people coming to Star Chamber *were* ‘examined upon hir oath’, and evidently took its invective against perjury seriously.[116] The spiritual pressure of perjury forced actions

[109] STAC 5/W3/1, I and D.
[110] Hudson, *Crime and Consequence*, p. 34.
[111] *An inquiry into the history and abolition of the Court of Star-Chamber : Upon the principles of law, and the constitution, particularly as it relates to proscecutions for libels: With notes, references, and observations* (n.d.), p. 83.
[112] P. Cavill, ‘The Prosecution of Heresy in the Henrician Reformation’ (unpublished paper, delivered 19 January 2023, Early Modern Britain Seminar, Oxford University).
[113] Cavill, ‘Perjury in Early’, 189.
[114] Hawarde, *Les Reportes*, p. 13; STAC 5/T12/16.
[115] Gordon, ‘The Invention’, 154.
[116] Quote from STAC 5/W81/11, D.

to escape it. Young maidservant Elizabeth Daniell 'lept into a depe drawe well to drowne her selfe' because, according to her master, her recent perjury at the Middlesex assizes laid 'heavie in her hartt wich did greviouslie torment her'. Dragged to bed, she allegedly apologised to her victim, then died within three days 'to the pitiefull example of lyke offenders'.[117] Others were less concerned by examinations – perhaps especially as they approached death; a note by the commissioners in one 1592 London suit informs that they went to the house of 85-year-old John Prysley, being 'lame & ympotent', but he refused to answer their interrogatories.[118] However, death might have the opposite effect on others. Johan Edgley's final hours – at home in Leicester – were recounted in 1586. A relation was at 'her deathe bead & there herde Johan Edgley cry out that shee was damned body & soule worlde without ende'. [B]eing demanded' why this was, she

> answered yt shee thought her selfe damned because shee beinge executor of Robert Rissham her brothers will had translated her brothers will wherby the landes wer geuen to the heires males & shee had altered it to the heires generall[.]

Racked with guilt over altering the clause, she 'desirde her brother Smythe to helpe to right yt yf he coulde'. Richard Smythe evidently thought her anguish believable enough that the Leicester assize would help him rectify the will accordingly.[119]

The fear of damnation in the 'worlde without end' steeled witnesses Elizabeth Kingeswell and Wilfred Coles against cajoling from their mistress Margaret Holgrave to 'disavowe and affirme the contrarye to that wich they had before deposed' in the 1574 will dispute of Alice Hales, widow to a London citizen clothworker. Holgrave's relative was the master of Bridewell, who took them in to his gaol and threatened 'yt onless they wolde promise

[117] STAC 5/T34/28.
[118] STAC 5/F20/7, C.
[119] STAC 5/E6/12, A and B.

to' change their testimony, 'they sholde there be whipped and receyve soche punishment as ys afflycted to soche offendors as' resided there. But

> beinge not so farr moved with the threatninges of those punishments as they wolde be therby drawne to indanger their consciencs towards god and to incurre the danger of lawe [they] did refuse to assent[.]

This was a brave show, although the pair were eventually persuaded by the terror of earthly punishment which proved unbearably 'more imminant' than the 'terrible punishment' ordained by God for bearing false witness.[120] Margaret predicted that her servants would choose to leave her employ rather than endanger their souls, so she pulled the dubious favour with Bridewell's master in order to heighten her servants' earthly stakes. None of the witnesses in the three examples above contextualised choices within their social realities in order to forgive themselves their sin. God's judgement was the immediate (if not imminent) consideration.

The demography of Star Chamber witnesses was distinctive. Whereas ecclesiastical courts saw a grouping of witnesses around their earlier and later (60 or older) years, the age range for witnesses in the present sample (90 files which included witness depositions) was more varied.[121] The average ages of witnesses were 40.4 for women and 41.9 for men (although it must be remembered that many witnesses provided their age rounded to the nearest ten.) These mean averages hide broad ranges. In 1591 Margery Poyner was 87 when she attested to knowing 'Elizabeth Blower dwelling or abidinge with one mistresse dudley abowte threescore yeres past' nearby her home in Shropshire. 'And afterwards', Blower 'went to London and Remained and was married'. Understandably, though, Poyner reported 'that afterwards what became of her she knoweth not'.[122] At the other extreme Elizabeth Marston was only nine when she told Star Chamber about a fight she had witnessed between Jane Kempson and Elizabeth

[120] STAC 5/H60/23.
[121] A. Shepard, *Accounting for Oneself: Worth, Status, and the Social Order in Early Modern England* (Oxford, 2015), p. 22.
[122] STAC 5/H1/2, Depositions of Margery Poyner.

Robins in 1596 Staffordshire, and servant John Vynnsent of Uplyme (Devonshire) was twelve when he attested against some rioting in 1582. [123] Nevertheless, these ranges should not obscure the fact that Star Chamber had a healthy preponderance of 'mid'-aged witnesses. The median age of women witnesses was, in fact, thirty-eight.

The six suits which had witnesses testify to manorial custom did conform to the pattern more usual for premodern lawcourts. For example, Edward Lawrence was 80 when he offered an opinion as to a remarried widow's continued occupation of copyhold in Netherbury (Dorset).[124] But the overall profile of sampled witnesses hints that the Star Chamber valued personal knowledge of events, rather than 'the memory of man'.[125] About 60 percent of all sampled witnesses were from the yeomanry or 'below', and an additional nineteen percent were identified as a spinster, singlewoman, or the widow or wife of somebody whose status was unprovided. The profile of witnesses was not dissimilar to that of defendants and plaintiffs. Both this and the relatively low median ages of witnesses makes sense given that witnesses were often litigants' neighbours, business partners or relatives. In other suits – those over village scuffles or riots – there was a range of social statuses representing the whole community. The judiciary, meanwhile, was tasked with including all subjects within its jurisdiction. The allegiance of 'subjects of what quality, profession, or sex soever', underlines Todd, was 'written by the finger of the law in every one of their hearts.'[126] The audience to an assize trial concerning Margaret Knowles' title to Galley Common – just outside of Nuneaton, Warwickshire – were examined by the Star Chamber in 1589. Those watching the assize trial had included five labourers, 75-year-old 'hogghearde' William Pearche, several yeomen, Birmingham mercer John Shylton, Ambrose Cave 'gent.' aged 50, and 'Mary Broomfeelde

[123] STAC 5/K7/16, Depositions of Elizabeth Marston; STAC 5/T6/29, D.
[124] STAC 5/S28/36, D.
[125] A formulation which described testimony, often from older members of a community, to local customary rights. A. Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013), p. 95.
[126] Todd, 'Written in Her Heart', p. 164.

wife of William aged fortie'.[127] These were all witnesses to the Queen's judiciary. Star Chamber justice involved a cross-section of society because its causes related to individuals' experiences as subjects.

Women witnesses often testified to events within homes. In keeping with ecclesiastical courts, between a third and a quarter of witnesses in a sampled Star Chamber suit are female, including many wives – marital status was no bar to taking official oaths.[128] In a 1593 will dispute Johane Armstrong, a wife in Bishopsgate (London), attested to her friendship with Elizabeth Hunt who had lived before her death in 'the blewe bell' Inn. Armstrong's confidences with Hunt rendered her helpful to the prosecution in the suit, who had Armstrong depose that Hunt 'dyd desire that (during her lyef) a poore woman might have [20]s yerely owt of [her] landes in Fetter Lane'.[129] Many other women witnesses were servants.[130] Thirty-year-old Anne Avis was asked by the court if her master, who was suspected of breaking enclosures in rural Suffolk, had been in bed all of the night in question. Although he had called her to take his 'chamber vessell' early the following morning, Avis 'colde not trewly despose' if he had been there in his bedchamber since dusk.[131] Recounting a 1568 abduction before it was heard by the court, a plaintiff explained that his daughter was betrayed by a 'servante cawled Elyn Browne', from whom the kidnappers could 'understand of all suche secaryttes [sic] as was done from tyme to tyme in my howse and also to be an instrumente to worke ther porposes in all things'.[132] That many disagreements or crimes took place within (or just beyond) the home goes some way to explaining the trend (in both courts). Meanwhile unofficial oaths were sworn with regularity by people in homes and taverns as well as at market – despite warning against both

[127] STAC 5/K12/31.
[128] P. Crawford, '"The poorest she": Women and citizenship in early modern England', in M. Mendle (ed.), *The Putney debates of 1647: The army, the Levellers, and the English state* (Cambridge, 2001), p. 205.
[129] STAC 5/T4/22, D (miscatalogued as Answer and Bill only).
[130] Walsham finds that 70 percent of singlewomen among her sampled witnesses from 1550 to 1728 are servants. A. Walsham, 'Worthless Witnesses? Marginal Voices and Women's Legal Agency in Early Modern England', *JBS*, 58/4 (2019), 724.
[131] STAC 5/M9/3, Depositions of Anne Avis.
[132] SHC LM/1036/25, Account of the abduction of 'my daughter Mary Tyrell'', 1568.

permutations of 'swearing' carelessly on God's name.[133] Servants of gentleman Richard Stringfelow's house in Southampton deposed to the clandestine match between their daughter Elizabeth and John Frye. In a nearby field, it was reported, Frye asked Elizabeth, 'have you any lyking to marye with me[?]' The answer was important, he said, because 'the same was for terme of life and not as after the manner of a pleadge'.[134] Tellingly for the uneasy relationship between ecclesiastical and Star Chamber jurisdictions, these intimate testimonies strongly resemble marital contract litigation before the church courts.

The author of the first human disobedience of God's law was up for theological debate.[135] True, the first 'rebellion, the roote of all vices and mother of all mischiefes, was' by Lucifer.[136] But Lucifer's culpability was intertwined with Eve's, for though Lucifer tricked Eve into eating the forbidden fruit, 'when shee had eaten, shee gaue [it] to Adam.'[137] But, had Eve really been tricked, or was it 'her ambitious minde' and her body ('a pot on fire full of lusts'), which was to blame when she 'saith in her heart, this forbidden fruit was good for meate'.[138] How far could Adam really be blamed at all for the Fall, just for trusting Eve?[139] Although theologians tended to agree that both were partly to blame, the notion that Eve's daughters were culpable for the corruption of godly men persisted in popular culture.[140] Poet Edward Gosynhyll ventriloquised women in a 1557 ballad: 'Because that Eve our prime parent / the wyll of god dyd ons transgresse / [men] blame all women in lyke consent / and make them

[133] J. Spurr, 'A profane history of early modern oaths', *Transactions of the Royal Historical Society*, 11 (2001), 49 and Cranmer 'Against Swearyng and Perjury', p. 128.
[134] STAC 5/S18/30, D.
[135] P. Almond, *Adam and Eve in Seventeenth-Century Thought* (Cambridge, 1999), p. 195.
[136] T. Cranmer 'An Homilie Against Disobedience and Wylfull Rebellion', in *Certain Sermons or Homilies*, pp. 209-10.
[137] G. Babington, *Certaine plaine, briefe, and comfortable notes vpon euery chapter of Genesis Gathered and layde downe for the good of them that are not able to vse better helps, and yet careful to read the word, and right hartily desirous to taste the sweet of it* (London, 1596), p. 35.
[138] Holland, *The historie of Adam,* f. 9v.
[139] A. Willett, *Hexapla in Genesin & Exodum: that is, a sixfold commentary upon the first two books of Moses* (London, 1608; repr. 1633), p. 39.
[140] Almond, *Adam and Eve*, p. 196 and see pp. 189-90 for many examples of Stuart authors on men's susceptibility to women's charms.

selfe alwayes fauteles'.[141] These ideas were also written between the lines of Star Chamber pleadings: Tempest Parker of Lancashire was accused by William Nowell in 1600 of having insinuated 'her selffe into & nere the companie of' his seventeen-year-old son, 'shewinge hym such Countenancs and speeches and Leyinge such baits as such lewde weomen use to intrapp men and to drawe theym to theire desires'. He was only a 'simple boy' not having yet tamed the excesses of adolescence, so 'seeing the bait not feareinge the hooke' was now stuck in a disparaging marriage.[142] In the Genesis, it was because 'Adam did… incline unto her, of a loving mind,' that he 'was therefore enticed' into disobedience.[143]

The stepmothers and widows of the previous chapter who divided and disintegrated patrilineal estates were couched in these tropes. A point of discussion amongst theologians was whether Eve may have knowingly misinterpreted God's warning against the Tree of Knowledge when she was in conference with Satan – and thereafter, with Adam.[144] There is a correspondence between Eve who wilfully misinterpreted words and perverted her role as helpmeet, and those women who sought to disrupt their husband's intentions for his immortal estate.[145] A last testament's efficacy arose 'by mans will which receiueth full strength by and after the Testators death, and not before, and therefore is called a last will.'[146] The widow of John Dunn from Thornton (Lincolnshire) was keen in 1574 to emphasise her faithfulness to her husband after his death. John owed the alleged usurer Richard Read £90 when he died – but widow Dunn 'by her owne travaill & labour' paid off these debts out of 'the feare of God

[141] E. Gosynhyll, *The prayse of all women, called Mulierum pean Very fruytfull and delectable vnto all the reders* (London, 1557), f. 6v.
[142] STAC 5/N5/4, B; For mastering adolescent excess see A. Fletcher, 'Manhood, the Male Body, Courtship and the Household in Early Modern England', *History*, 84/275 (1999).
[143] Willett, *Hexapla in Genesin*, p. 39, and Babington, *Certaine plaine, briefe*, p. 41.
[144] Ibid., p. 39.
[145] For the patrilineal estate as immortality, see M. Murray, 'Primogeniture, Patronage, and the Displacement of Women', in M. Ferguson, A. Buck, and N. Wright (eds), *Women, property, and the letters of the law in early modern England* (Toronto, 2004), p. 128.
[146] W. West, *The first part of symboleography, which may bee termed The art, or description of instruments and presidents. Lately perused and amended by William West of the Inner Temple esquire, first author thereof* (London, 1598), section 633.

and dewtifull good will that she bore to her husband'.[147] A good wife served not just her husband but his *will* – she was not just his servant, but his emissary.[148] In doing so she resisted her natural proclivity to faithlessness; the proclivity which was prelude to humanity's first disgrace.

The knowledge of Star Chamber women witnesses of sexual relations might be the court's only access to evidence which was pivotal to a case. A thirty-eight-year-old wife living in Little Wolford (Gloucestershire) deposed in 1600 that Agnes Hawten had been 'deliured of a childe borne liuinge' on August 4th. The 'child so soone as it was borne was receaued into a boule naked without any Clothe… aboute it by the Grandmother'. There 'the child so remained naked in the boule till it was seene stirre by some of the women present'.[149] These details were known only to inmates of that female space, the birthing room. Amongst some 1595 allegations of defamation and perjury in Sherborne St John (Hampshire), joiner William Hasker was asked whether local Joane Oaks, suspected of adultery, had been 'serched by women and founde nott with Childe'. Hasker was asked to relay 'what answere' Oaks had given 'the women that serched her and howe long is it since she was so serched'.[150] Kermode and Walker have acknowledged 'tensions in attributing 'honesty' to women' who deposed about 'sex and its repercussion, pregnancy'.[151] Although not appearing in the court themselves, women were necessary nodes for the transmission of evidence – even though they were inherently unreliable.

[147] STAC 5/D22/12, B.
[148] A wife should 'wholly… depend vpon him, both in judgement and will'. W. Perkins, *Christian oeconomie: or, A short survey of the right manner of erecting and ordering a familie according to the scriptures* (London, 1609), p. 132.
[149] STAC 5/H15/24, Depositions of Margarett Ockeley.
[150] STAC 5/H41/7.
[151] J. Kermode and G. Walker, 'Introduction', in J. Kermode and G. Walker (eds), *Women, Crime and the Courts in Early Modern England* (London, 1994), pp. 14-5.

Women's power was both conceived and constrained by the 'privity' of their knowledge and 'corporeal uncertainty' itself.[152] For instance, 'women's little secrets' might be used tactically against keepers to alter courtroom events.[153] In 1584 Anne Garrard, from Thornill (Wiltshire), was examined by the Star Chamber for failing to appear in Chancery upon process served. She answered that she did not attend court because

> she then was so far gon with childe as that in this def[endan]ts consyence she was not able to travayle so great a Journey as from this def[endan]ts howse to London with oute p[er]ill and danger of hir life[.]

Her mother-in-law, who had also been served, explained for her part that she 'dyd not then appere' because 'she was then weake having a swymmyng in hir hedde' – hysteria caused by vapours rising from the womb.[154] The women's opponent evidently thought that Star Chamber would find these excuses suspect. This self-defeating chariness resulted from a culture which lauded (for the 'grace of modesty') women who 'being diseased with the dangerous Ulcer in the secrets… have rather chosen death, then to submit themselves to the sight and handling of a Chirurgeon' – but simultaneously used 'legerdemain' as a euphemism for sex.[155] The court might be respectful or suspicious of women's secrets. In 1585, after a scuffle near Worsley (Lancashire) over a cottage which Anne Styroppe and her husband claimed as their tenement, Anne told neighbours it had caused her to have a spontaneous abortion. Her adversaries in the Star Chamber, though, had witnesses interrogated whether 'you heare[d] Anne Styrroppe reporte after the' riotous trespass 'that she had noe styll borne Childe', and also that the vicar

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[152] C. McClive, 'The Hidden Truths of the Belly: The Uncertainties of Pregnancy in Early Modern Europe', *The Society for the Social History of Medicine*, 15/2 (2002), 210.
[153] See S. Broomhall, 'Women's Little Secrets': Defining the Boundaries of Reproductive Knowledge in Sixteenth-century France', *Social History of Medicine*, 15/1 (2002).
[154] STAC 5/G18/16, Depositions of Alice Garrard; W. Salmon, *Paraiēremata, or, select physical and chyrurgical observations containing divers remarkable histories of cures, done by several famous physicians, and above seven hundred eminent cures in the most usual diseases happening to humane bodies* (London, 1687), p.7 for 'swimming', and B. Brogan, 'His Belly, Her Seed: Gender and Medicine in Early Modern Demonic Possession', *Representations,* 147 (2019) for the link to hysteria.
[155] C. Agrippa, *The glory of women*, trans. E. Fleetwood (London, 1652), p. 9; D. Cressy, *Dangerous Talk: Scandalous, Seditious, and Treasonable Speech in Pre-Modern England* (Oxford, 2010), p. 70.

had refused to church her.[156] The attempts of Anne's opponents to use male suspicion against her were in vain; they lost the suit and paid £50.[157]

In 1590, Warwickshire yeoman wife Margerie Eyles complained that she 'ought to haue halfe hir Fathers Land which he died seysed of'.[158] But her opponent asked witnesses if it 'was not the comon voice or speech, amongest the weomen & other inhabitants of Bilton' at 'the birth & baptisinge of Margerie' that she 'was the onlie begotten childe of Thomas Smith, and not of henry Arden'? Further, 'did not the mother of Margerie give out' the same information?[159] Thomas Wister of Draycott 'saieth that he hath heard woemen saye that' this was correct.[160] Information networks like these constituting local women were an important part of news circulation and reputation-building. Withington has pointed out for a civic context that 'public opinion' was gendered female as gossip was.[161] Perkins advised regarding 'the evill which any man shall knowe by his neighbour,' that one should refrain from speaking out 'unlesse in his conscience he shall finde him selfe called of God to speake.' He thus offered *men* generous leeway 'to admonish his brother of any fault for his amendement'; this was justice.[162] Some women who spoke out, though, were not adjudged 'honest and modest' enough to be 'defenders of public virtue' – instead, they gossiped.[163] Carrying the weight of those connotations, it is easy to imagine how the same mechanism which supplied witness testimony might itself foment discord.[164]

The manner in which women shared gossip might also make her 'a comon scould with her neighbours'. The scold was 'the rotten core of the disordered household and hence of the

[156] STAC 5/H15/24, I.
[157] K. Kesselring, *Star chamber reports: BL Harley MS 2143* (Kew, 2018), no. 675.
[158] STAC 5/E6/7, Interrogatories administered to William Steane.
[159] STAC 5/E6/7, Interrogatories administered to complainants.
[160] STAC 5/E6/7, Depositions of Thomas Wister.
[161] P. Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge, 2005), p. 211.
[162] Perkins, *A direction for the government*, p. 73.
[163] STAC 5/E4/2, B; K. Stavreva, *Words like daggers*, p. 51.
[164] For more on women's 'common voice' incriminating them see A. Wood, *Faith, Hope and Charity: English Neighbourhoods, 1500–1640* (Cambridge, 2020), pp. 81-9.

dissolute community'.[165] Against Phillip Phillip's 'sclander' Jane Hall defended that she was 'of a verye quiett and honest conversacon and behaviour towards and amongest all her neighbours *and all other yor Maties Subiects*' (and, 'never was a scould').[166] Spinster Grace Grudgery was presented for defaming Joan Furlong as a 'common skolde and an unquyett brawlinge woman'.[167] In 1592 Staffordshire, Anne Cotton was anxious that she had no title to her dying husband Humfrey's land. Maidservant Dorothy Heyes heard Anne scold Humfrey, 'thou old churle thye never did the[e] good[,] and that he should' will her land 'whether he would [i.e. wanted] or not'.[168] Humfrey had ignored Anne, but one witness advised Humfrey to give her what she wanted, not because she was anxious but 'or ells he should never be in quyet tyll he had done the same'.[169] Targets of scolding might contrast her 'unquietness' to their own orderliness, and turning complaints against their scolding speakers allowed hearers to disengage from their own responsibility.

An accusation against Mary Hill for barratry was supported by remarks about her 'lewd and bad conversacon', demonstrating the multivalent meanings of 'bad' speech.[170] Unsurprisingly, plenty of commentary on women's verbal incontinence came to Star Chamber. Various defendants' 'vilde words' were 'not beseeminge womanhood' and were reproved for lacking 'womanly shame'.[171] Garrulousness denotes triviality, and surely offered litigants an easy way to dismiss opponents' grievances rather than answering them on their own terms. Margrett Higgines recounted that, outside of the court, she saw Agnes Gardyner railing against a yeoman neighbour 'saying that he [was] the father of manye Children', meaning, illegitimate

[165] M. Ingram, 'Law, litigants and the construction of "honour": slander suits in early modern England', in Peter Coss ed., *The Moral World of the Law* (Cambridge, 2000); Quote from Walker, *Crime, Gender and Social Order*, p. 101.
[166] Italics added. STAC 5/S40/29, B.
[167] STAC 5/F28/26, B.
[168] STAC 5/K4/4, A.
[169] STAC 5/K4/4, B.
[170] STAC 5/H45/3, A.
[171] STAC 5/B73/22; STAC 5/J17/8, Depositions of William Paschall.

children, when his brother interjected and 'willed hir to goe home and washe her dyshes'.[172] In response to Fortune Chambers's bill, which looked for her portion of her dead husband's estate in Barkway (Hertfordshire), Stephen Skipworth answered that Fortune 'accordinge to her owlde guise doeth in this complaint of her both pinche & whine and might as well have complayned of the man she never saw as of this def[endan]t'.[173] Although plenty of language in sampled suits is derisory, the trivialising 'pinche' and 'whine' is unusual. It drew upon the early modern conflation of women and children, dismissing dissatisfaction as temperamental rather than a response to injustice.

A more specific charge available against gossipers and scolds was encouraging others' suits ('maintenance'), or 'barratry'. According to Coke, a barretor (who could be indicted by 'a general averment' as when 'a party is a common scold') was a criminal 'busy-body'. The barrator was a 'mover or stirrer up or maintainer of suits'. One especial interest of barrators was taking possession of lands or goods 'which are in question'. Coke pondered the etymology of 'barrator' before deciding that 'in the law of England, this word *barret* doth signify a quarrel' instigated 'not only by force, but also by subtilty and deceit'.[174] In both her 'deede and Lewde words' Mary Creede of Quidhampton (Wiltshire) exhibited barratry in 1585.[175] The barretor operated by 'brawls and frays', or, alternatively, 'by false and malicious scandals, he endeavours to rob his neighbour of his good name'.[176] There was plenty of room here for a woman defendant, particularly one who litigated over property; indeed, the word had a female equivalent, barratrix. In 1599 Anne Lingard 'was[,] att a private sessions holden att

[172] STAC 5/H15/24, Depositions of Margrett Higgines.
[173] STAC 5/C35/2, A.
[174] Was it French for 'deceiver', *barrateur*, or Latin for 'vile knave', *baratro*? Sir Edward Coke, *Reports of Sir Edward Coke, Knt. In Thirteen Parts* (6 vols, London, 1826; repr. New Jersey, 2002), iv, pp. 212-3.
[175] STAC 5/C6/11.
[176] Was it French for 'deceiver', *barrateur*, or Latin for 'vile knave', *baratro*? Coke, *Reports of Sir Edward Coke*, iv, p. 214.

Middlewiche in [Cheshire]… endicted and presented to be a commen barratrix and a brawler and chider'.[177]

That miscreants were not punished at the parochial level as scolds but as barrators speaks to the crown's broad interests. As Bacon opined in James's reign, 'Seditious Tumults, and Seditious Fames, differ no more, but as Brother and Sister, Masculine and Feminine.'[178] The potentiality for force and that of words to wreak dangerous chaos on the state was different in quality rather than magnitude. In 1593 Richard and Katheryne Massel denied that they had falsely indicted Mary Hill, wife of William citizen innholder of London, 'for beinge a Comon Baratrix' because (the Massels doubled down) 'Marye hathe byn and yet is an intermedler with suyts of other menns, whereat in neyther she or her husband is any waye lawfullye interessed'. As such, she was 'more busye then is fytt or convenient for a woman to be'.[179] The Massels indicated towards concern for the integrity – the 'convenience' – of legal procedure. Elizabeth I's judiciary 'had begun to sharpen the common law offence of barratry as an abuse of the law'.[180] In 1603 Egerton ordered a 'clamorous and impudent' wife to be whipped for vexatiousness, rather than leaving discipline to the charge of her husband (in whose name the suit was brought). Her conduct was the immediate concern of the state.[181]

So, the *modus operandi* of barretors was the 'sowing of calumny, rumours, and reports, whereby discord and disquiet arises between neighbours', whereby they achieved their own ends.[182] Half of forty value-judgements directed at women in the sample take issue with the fact of her protestations – often, but not always, in the form of her litigation. Roger Blackwey sued his widowed mother Margaret for the copyhold of two cottage tenements in Huntington

[177] Chester, Cheshire Archives, QJF 29/2/36. For another see W. Hardy, *Middlesex county records. Calendar of the sessions books, 1689-1709* (London, 1905), p. 5.
[178] Bacon, 'Of Seditions and Troubles: XV', in *Oxford Francis Bacon*, p. 43.
[179] STAC 5/H45/3, A.
[180] D. Smith, *Sir Edward Coke and the Reformation of the Laws: Religion, Politics and Jurisprudence, 1578–1616* (Cambridge, 2014), p. 67.
[181] Hawarde, *Les Reportes*, p. 161.
[182] Coke, *Reports of Sir Edward Coke*, iv, p. 212.

in Shropshire. These had been left to him, he said, by his father. But Margaret denied him the bequest and vexatiously suited him to impoverishment, forcing him 'to forsake his… poore wief & children[,] A moste hard unwomanly unnaturall & unmotherly parte towards the childe of her own bodey'. Margaret's litigation was also without respect for her 'selfe or her yeares[,] being a very aged woman'.[183] In 1589 John Gavell testified that if 'Johan Bowyer & her two Systers had not alltogether sued' their neighbour John Jobson for a four-acre copyhold in Kingston-upon-Thames (Surrey) 'as they dyd', but if only 'Johan Bowyer & her then husband' had done instead, then Jobson would have allowed the land to be 'recovered' long before.[184] No more information in the documents contextualises these comments, as if the notion that Jobson should respect less women's suits was self-explanatory. In one much more explicit case, Audrey 'Mother' Sweyland was derided in 1590 for trying 'to sue anie man', which was 'a fowle shame'.[185]

Women bolstered their defence with the admission that they were just 'a symple woman unlearned', deposing only as their 'Learned' 'Sollicitors & Counsellors' had told them.[186] Margery Cole and Cicely Shatteswell replied that the case against them sought 'to catch some advantage in manie crosse interrogatories against them being simple women'.[187] In 1571 defendants Margaret Bruer and Margaret Blythe, along with Nicholas Crewe, pleaded that their depositions should be excused their shortcomings on the grounds that they were extorted with 'overthwart questions and many strange Interrogatories'. These had comprised 'prysones of woordes and termes unknowen [and] preiudiciall unto theyme'.[188] Ignorance seemed a safer defence than righteousness.

[183] STAC 5/B103/36, B.
[184] STAC 5/B80/12, I.
[185] STAC 5/S79/33, B.
[186] STAC 5/C67/36, Answer of Anne Fletcher; STAC 5/J3/4, Demurrer of Mary Wante; STAC 5/S5/36, B; STAC 5/L29/8, A.
[187] STAC 5/D11/21, A.
[188] STAC 5/H51/30, A.

Accusations of 'suborning' witnesses – persuading them to perjure on one's behalf – were about thirty percent more frequent in the sample than those of maintenance, although both were about six times less frequent than perjury charges. As discussed already, knowledge circulated among one's adversaries and then presented to the court as witness testimony might easily persuade one that subornation was underfoot. Technical failures in the justice system also generated suspicion. Witnesses informally claimed expenses from the party they deposed for, before as well as after the fact.[189] 'Mrs Joyce Francklande als Francklyn', it was alleged in1594, had 'geven and bestowed upon' manservant Robin Robinson 'somes of money… over and Above your ordinarye waigs… to deale favorablye in the Suyte' she fought at 'the Ecclesiasticall Courte of tharches at London'.[190] Robinson deposed that Joyce's witnesses had only been given 5s reimbursement for travel from Hampshire.[191] Litigants might find indirect evidence that subornation had 'happened'. After a riot in Little Wolford (Hertfordshire) ended in the assault of Agnes Gardner so that her feet swelled, her husband John 'was toulld' that the injury 'came by the beatinge of Mr Anker Brent' by locals – who 'nowe deney it to him'.[192] In other words, Brent had paid them off. Not only the wealthiest 'did secretlye and underhande laboure and perswade with divers persons to witness depose and geve in evidence upon their Corporall othes'. Staffordshire couple Robert and Dorothy Blunt sought to have John Crichley judged 'guiltye' of robbing £16 on the highway. Among 'witnesses' whom the Blunts approached in 1599 to perjuriously condemn Crichley was Elizabeth Smudge, who 'some tyme was a servant and did dwell with' him. They told Smudge 'she shoulde be well rewarded with money and other things', and, 'hauinge geven her good store of wyne and stronge drinke, Elizabeth did… consent theirunto'. However, 'afterwards Elizabeth beinge moved in

[189] Jones, *The Elizabethan Court*, p. 237.
[190] STAC 5/F4/18, I.
[191] STAC 5/F4/18, Depositions of Robin Robinson.
[192] STAC 5/H15/24, Depositions of John Gardner.

conscience and knowinge the innocencye of [Crichley], did denye and utterlye refuse to testifie'.[193]

This episode supports Hillary Taylor's recent identification of cash rewards as a frequent reason for perjury in the Star Chamber.[194] In 1594 John Paris reported to the Star Chamber that Thomas Osborne had been denounced when he appeared in Chancery 'by a gentleman of verye good worshipe', who had called out 'thou olde periured caytife go home and praye to god to geve the[e] grace to repent ther of thy periury before thou dyest'.[195] 'Caitiff', though generally derisory, implied a wretchedness closely associated with penury.[196] The Star Chamber worried that 'yf it be most true that guiftes and bribes will perverte the Judgement even of the wisest[,] then how can it be otherwise but that the commune man shalbe drawen aside, and corrupted therby?'[197] Perjurers were known to 'sinne in betraying the innocent, sinne in betraying of their own soules', 'for a little peece of Siluer like Iudas'.[198] However, in the present sample, litigants were likely to claim that their female opponents had suborned and perjured for 'friendship' – personal loyalty – rather than 'for money or the loue of money'.[199] After all, God had damned women to 'desire' their husbands.[200]

True, contemporaries understood that widows in particular often suffered uncomfortable financial positions, and also that desperation could be compromising: 'neede will make the olde wife trot'.[201] Shepard finds women witnesses had their honesty questioned

[193] STAC 5/C75/26, B.
[194] H. Taylor, 'Labourers, legal aid and the limits of popular legalism in Star Chamber', in Kesselring and Mears, *Star Chamber Matters.*
[195] STAC 5/O5/32, A.
[196] OED, https://www.oed.com/view/Entry/26097?redirectedFrom=caytif#eid (24 March 2023)
[197] Add. MS 24926, fo. 18.
[198] *A Fearefull Example*, p. 5.
[199] STAC 5/B80/12.
[200] A. Fletcher, *Gender, Sex, and Subordination in England, 1500-1800* (New Haven, 1995), p. 76; Almond, *Adam and Eve*, ch. 6.
[201] W. Vaughan, *The arraignment of slander periury blasphemy, and other malicious sinnes shewing sundry examples of gods iudgements against the ofenders. as well by the testimony of the scriptures, and of the fathers of the primatiue church as likewise out of the reportes of sir edward dier, sir edward cooke, and other famous lawiers of this kingdome* (London, 1630), p. 126.

much more regularly than did men counterparts, linking this trend to their perceived financial neediness.[202] The default complaint against women's subornation, however, was not necessarily that opponents' motivations had been mercenary. Most suborned women were not anyway widows. Just under 46 percent of around 2,100 women defendants coming before the Star Chamber were married.[203] Of all sampled women defending against a charge of perjury, though, almost 59 percent are married. Perhaps a trick of the light cast by the legal 'fact' that husbands controlled the purse strings, pleadings give the impression that men were better suborned by 'moneys' than were women.[204] Thomas Yates, a citizen tallowchandler living in London's Billingsgate, was sued by George Spencer in 1597 for reporting to the Guildhall that George's wife Johane had 'lyved incontynently with John Milner'.[205] Yates, George said, had taken beggar Anne Arrowsmith into his house, and then had had her depose in his support.[206] Despite her supposed economic status, Arrowsmith herself was asked if she had been 'disbursed money for the penninge writinge or engrossinge of the said Interrogatorries', but nowhere (in nine questions administered to her by the Star Chamber) if Yates had paid her money *to* her for deposing. She was asked only whether the '(by the procurement of Thomas Yates) yow appeared voluntarily without p[ro]cess', phrasing which implied Yates had suborned by aligning her *will* with his own – as did the interrogatory which asked if she thereafter 'endevored to suborne any person' for Yates.[207] A male suspect in the case, however, was simply asked if Yates had given him cash to depose.[208] Demonstrating the inextricability of a wife's financial and emotional identity with her husband's, Yates defended that Arrowsmith was married to 'a porter or laborer' named Flower. Anne herself flatly denied perjury; along

[202] Shepard, 'Worthless Witnesses?', 721.
[203] See chapter one for these numbers. Above, p. 46.
[204] STAC 5/S26/13, I.
[205] STAC 5/S26/13, I.
[206] STAC 5/S34/25.
[207] STAC 5/S64/4, I.
[208] STAC 5/S26/13, I.

with identifying herself definitively as a haberdasher's wife, not a labourer's, nor a beggarly lone mother.[209] This is one of few instances when a litigant corrected a *depreciation* of their social status.[210]

That the sampled suits pay more attention to social, rather than material, rewards likely because there are more socially and economically equitable relationships in the present sample than Taylor's. She aims to recover the material and social contexts which informed poorer litigants' choices to depose. As such, she uses 'cases in which there was a marked socio-economic disparity between those accused of perjury and the' suborner (while the suborner's original suit is pitched against a 'relative peer').[211] The fact that wives were disproportionately represented amongst women accused of being suborned partly results from their presumed capacity to have their allegiances divided between origin families and husbands, as explored in chapter two. A typical if unusually well-detailed probate suit from 1567 demonstrates the pertinency of social rewards and pressures to Star Chamber's understanding of women's perjury. Gentleman brothers were accused by of obtaining false witness testimony about the contents of their dead father's will in the London court of Arches.[212] The brothers' sister Margaret Drury had at first provided depositions 'in the Archesse' aiding their stepmother's claims on the family estate. But she was brought a second time 'unto her Interrogatories' at 'the sp[irat]uall Courte at Poules' by her brother James. James had offered to give Margaret's husband £300 on the condition that she provide bespoke testimony: 'wherupon' Margaret would be 'examyned with suche answeres written [i.e. preprepared]' by James 'as she shold make to every Interrogatorye'. Uncovering this ploy, the prosecution alleged that Margaret eventually yielded, retracting her original testimony and falsely confessing that 'she [had]

[209] STAC 5/S64/4, D.
[210] STAC 5/S26/13, D.
[211] H. Taylor, 'The price of the poor's words: Social relations and the economics of deposing for one's 'betters' in early modern England', *Economic History Review*, 72/3 (2019), 831; 832.
[212] STAC 5/M18/1, Depositions of Margaret Drury; Interrogatories of Elizabeth Mervyn.

deposed apon the Reporte of [her stepmother] and not of her owne knowledge'.[213] Coke reminded that witnesses 'should wish the victory to the party that right hath, and that justice should be administred' – but not everybody could live by their own principles.[214]

Whereas those examples show women forced by fear to renege on previous depositions, men like yeoman Robert Keene might do so in exchange for 'a mare and a colt'.[215] The only confession submitted to Star Chamber found by this project was a wife's; Jone Holt confessed 'to most falst uniust and corrupte periurie in deposinge in hir examynacon tooken by one of the Examinors of the quenes Maties highe Court of Chancerie'. She had falsely informed Chancery that one Jane Wright, a London clothworker's wife, had been born *before* her father's death – meaning that Wright had wrongfully forfeited her claim on the family estate. Jone did not suggest that any money had changed hands. She offered in some mitigation of her offence that her suborner had 'perswaded hir thereunto' by 'affyrminge that hir Sister Margerie Lowe… had before that deposed to ye same effect'.[216]

As chapter two shows, women's perjury tended to be contextualised within the interests of accomplices.[217] Women's susceptibility to the desires of those around them had roots in the Genesis but was sustained by less edifying literature throughout the period. One popular true-crime pamphlet narrated the story of 'Mistresse *Mascall*', a London widow 'supposed to be left rich at her husbands discease'. The villain of the piece was a thief who joined forces with a woman named by the author only 'the cunning Cosoner'. Having insinuated herself into widow Mascall's trust by pretending a mutual friend, the cozener was led by Mascall 'vp into her house,' and 'according to the folly of all simple women' gossiped blithely by the fire with

[213] TNA STAC 5/M18/1, I.
[214] Coke, *The fourth part of the institutes of the laws of England* (reprint; London, 1797), p. 279.
[215] STAC 5/P37/31, D.
[216] STAC 5/W2/30, A [Misdated 1597 in catalogue]. In May 1588 Jone's husband submitted a denial, and Jone her confession. Her counsel were possibly willing to take the chance because Wright had already received her favourable verdict at Chancery, which decision was validated by the case's dismissal. Kesselring, *Star chamber reports*, no. 618.
[217] See chapter two.

the criminal. The cozener asked Mistress Mascall to show her where her money was safekept so that the women might 'present vnto the King of the *Feries*' payment for useful prophetical services. Mascall assented when the cozoner 'went to a bible that lay vp on the table and swore by the contents of it neuer to open it vnto any' Christian person – before, of course, stealing it all.[218] Mascall is robbed by her own credulity, but both women in this story are guilty of disloyalty – to other people, or to God. As Cavill observes in a slightly different context, 'oath-breakers and heretics had faithlessness in common.' [219]

It was not only wives who were assumed to be 'both easily influenced and vulnerable to coercion'.[220] Mary Mutlowe insisted that during examinations taken by commissioners at Bosbury (Herefordshire) in 1584, she had been 'standing Indifferent without Corruption parciality, or affection' towards her old mistress Martha Harford, the party under investigation.[221] During the Lancashire case regarding injuries sustained by Anne Styrroppe (described earlier this chapter), Margaret Smythe 'reported synce the death of Anne that she would confesse all the troth towchinge the death of Anne soe she might be quyet from trobles'.[222] Smythe's concern for the present brought her both suffering and its resolution. When servility was both temperamental and occupational, one witness was left beyond the pale. Margerye Newton was a servant 'never maryed, and yet brought forthe a chylde,' who deposed against Elizabeth Becher's 1584 claim on her late father's estate. Newton, Becher claimed, 'ys of so symple understandinge, as she hathe as lyttle reason to decerve anything as she sheweth honestye in so manyfeste and wyllfull procuringe of her self'. Newton was too profligate with her troth to be trusted in any context.[223]

[218] T. I., *A world of wonders*, fos 19-20.
[219] Cavill, 'Perjury in Early', 188.
[220] S. McSheffrey, *Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia, 2013), p. 51.
[221] STAC 5/H55/27, A.
[222] STAC 5/H15/24, Interrogatories.
[223] STAC 5/B64/9.

As suborned witnesses and perjurers, women could be fearful. But they could also be flatterers. This was reflected later in Lambarde's advice to JPs that the crimes were 'either': 'forcible (or impulsiue) as, for reuenge of former displeasure, or vpon sudden offence; or persuasiue: as for hope of gaine, whereof [the perpetrator] is needie, or greedy: or for the eschewing of any hurt, whereof he was afraid.'[224] The character of womanhood in Star Chamber material was animated by the latter motives, which necessitated employing others 'to bringe her purpose to passe'.[225] In the course of a 1594 Gloucestershire ejection dispute, Robert Smyth was accused of perjuring himself 'by the subornacon of Johan his wyffe'.[226] Eve was, of course, both tempted and tempter. Suborners were no less sinful

> then *Periurers* themselues: nay, they encurre a farre greater punishment, because they occasion the losse of other mens soules, namely, of the suborned persons, besides the losse of their owne soules.[227]

On 24th October 1576, George Grene, a London skinner, produced a 'faulse deposytion' to the Lord Mayor's Court about an acquaintance who had recently died, William Goresuch. Grene swore that Thomas Unwin was owed 'One Hundreth Poundes', to be recovered 'againste Gorsuches widdowe' Alice. Grene had been assured by Thomas's wife Katheren 'that yf you wolde take yor othe… to recover the debt… she would warrant you' a reward. The 'wardens of the Skynners' thus 'compelled [Alice Goresuch] to enter into bond to Lawrence Unwin… for paiement'.[228] A 'needie or greedie' woman need not use force.

It was Katheren's son Ellis, though, who was accused of being 'the principall dealler and devisor of the same Indentures' which he drew up 'for the devidinge of the money' between Grene and the Unwins. This was an unusual instance, in that the person forging documents was any more an instigator of the crime than their accomplices. Joan Arden's crime was described

[224] Lambarde, *Eirenarcha*, p. 216.
[225] STAC 5/S40/29, I.
[226] STAC 5/H77/19.
[227] Vaughan, *The arraignment of slander periury blasphemy*, p. 124.
[228] STAC 5/A27/40, I.

in generic terms as undertaken 'by a colerable practyse and Confederacye together with' two male allies. Although referred to as 'the instruments of her devise', the three are culpable for a 'counterfeted & forged a will [with] the names of Certayne wyttnesses therunto annexed'. When Alexander Staples lay dying in Bristol in August 1590, his 'valueless' wife Elizabeth 'to get and acquire unto her self & to her children' Staples's estate, 'did forge [^or procured to be forged], a will or writing and putt [^or procured to be putt] an hande & seale to the likenes of the hande' of Staples.[229] To procure, or to 'do', a forgery was much of a muchness.

This ensured that charging women for forgery was within the realms of possibility, as the clear overall impression given by this thesis's sources (as elsewhere) is that women's literacy was generally lower than men's.[230] About 93 percent of women witnesses sampled provided initials, 'hir mark', or nothing, at the foot of her depositions.[231] Only ten women signed depositions with their full name, including three gentlewomen (but no lady), one Dutchwoman, and the Countess of Shrewsbury.[232] Interestingly, the same number of middling wives also did so, including three whose husbands worked in the cloth trade, suggesting that women were more likely to learn literacy 'on the job'.[233] 50-year-old Salford (Lancashire) widow Anne Hyltone deposed 'that she could onest have wrytten and have redd some wrytten hand but nowe haith forgotten boeth'. However, she continued, she 'verelie thinketh she can know the hand wrytinge of her late father [^if she do see yt] bicause she kept his shope being a mercer'.[234] Probably more women could read, although there are many passing mentions in

[229] STAC 5/S62/17, A.
[230] For women's literacy, see M. Spufford, 'First steps in literacy: The reading and writing experiences of the humblest seventeenth-century spiritual autobiographers', *Social History*, 4/3 (1979), and her 'Women Teaching Reading to Poor Children in the Sixteenth and Seventeenth Centuries', in M. Hilton, M. Styles, and V. Watson (eds), *Opening the Nursery Door: Reading, Writing, and Childhood 1600-1900,* (London, 1997).
[231] For example, STAC 5/M18/1, D and STAC 5/H75/2, D. This roughly accords with findings elsewhere about the ability of women to sign their names: Spufford, 'First steps in literacy', 409.
[232] STAC 5/C40/36, Depositions of Elizabeth Mallory; STAC 5/T18/40, D; STAC 5/H60/20, Answer of Ellen Bryncknell et al; STAC 5/S79/6, Depositions of Rachell Clarke; STAC 5/O2/15, Depositions of Sara Debehault; STAC 5/T12/16. However, Alse Harte was a servant. STAC 5/T6/29, D.
[233] STAC 5/B109/22, Depositions of Helen Key; STAC 5/R18/4, Depositions of Joyce Cockerham. STAC 5/B80/19, Depositions of Margaret Bowes a clothworker's wife.
[234] STAC 5/S81/10, Depositions of Anne Hyltone.

the sample of documents having 'bene distinctley read unto' women, which along with her mark or seal stood for her agreement to them.[235] But as husbandman John Bodnam's signature and his wife Joan's mark show [Fig. 2], across the social scale women would likely rely on the collaboration of male friends and family in forging hands – if not priests and clerks. Star Chamber's jurisdiction thus necessitated that women 'procured' others to crime.

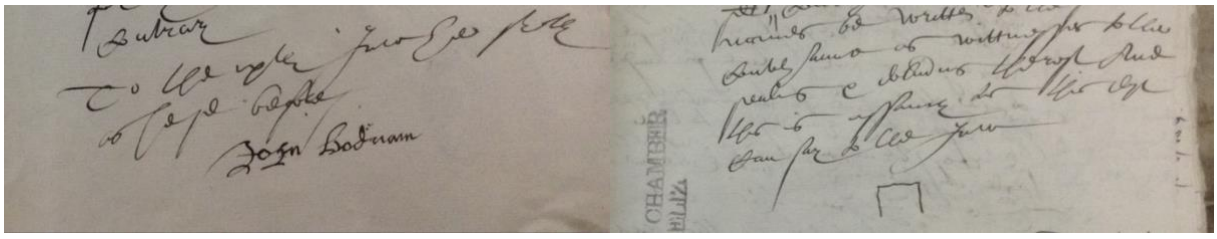

Figure 4: Witnesses John Bodnam and his wife Joan from the city of Gloucester signed their 1590 Star Chamber depositions with a signature and mark respectively. STAC 5/C66/27, Depositions of John Bodnam husbandman (left) and Depositions of Joan Bodnam wife of John Bodnam (right).

The court's inclusion of women as co-conspirators reflected the biblically-sanctioned social role for women as helpmeets. In Star Chamber stories, women's appearance as a vector between different interest groups was a frequent consequence of litigation which looked beyond household hearths to individual family members – as well, perhaps, because in the garden of Eden Satan began 'his battery where the wall is weakest,' and 'he knew that euen then the woman was the weaker vessell.'[236] The manner, meanwhile, of women's actions in these pleadings was determined by cultural tropes of women as myopic and inconstant. Although the court's procedures technically dealt with women as individual sinners and subjects, therefore, its practice was shaped by the tension between women's subjecthood and the social expectations that women be subordinate.

A related facet of the sources that are discussed in this section is the idea of justice. If public denunciations of other's bad behaviour by men constituted justice, that by women was instead factious and self-serving. Crudely, men were concerned with external realities –

[235] Quote from STAC 5/B5/37, Answer of Cicily Ascue. See also STAC 5/A50/19, Interrogatories administered to Robert Harrison; STAC 5/C16/31, I; STAC 5/J18/24, B.
[236] Holland, *The historie of Adam,* f. 7r.

commonwealth rights and obligations (or material bribes). In several stories about women who disregarded their duty to the commonwealth by perjuring themselves, however, their loyalties were to their conscience – to God – as against their personal affections for people.[237] Jone Holt, mentioned earlier, felt her own perjury 'soe burdensome in hir gyltie consience she is most penetent and Sorrowfull'.[238] In 1581 witness Elizabeth Ryngstead came to Star Chamber 'to confesse' that her original deposition in a suit that was underway had been false, and to resubmit her testimony as she now 'truly sett forth'. The complainants accused the defendants of threatening Ryngstead until she reneged on her first story, but these defendants maintained that it was 'the remorce of Conscience yt did cause Elizabeth willynglie to utter the truthe'.[239] Women like Ryngstead were divided between their communion with God and their earthly concerns.[240] The sample gives the impression that this rift was more strongly felt by women than men: whereas only one man sampled reneges on a former perjury, six women do. According to complainants in one case, a vicar had taken care to warn their female opponent 'to accuse noe person uniustely,' upon which 'Anne [did] then confesse that… parte of her accusacon was untrue' – little force, fear, or flattery was needed for Anne to repudiate her former alliances, apart from her own Christian conscience.[241] The Star Chamber's concern for conscience will be explored further in the next chapter. Before then, however, the following section considers some final permutations of Elizabethan women's fraud.

iv. Counterfeiting women

[237] A crude split between (male) external and (female) internal motivations is apparent where Shepard writes: '[w]hile women were active in policing moral hierarchies, men appear to have borne primary responsibility for the policing of social hierarchies'. *Meanings of Manhood in Early Modern England* (Oxford, 2003), p. 183.
[238] STAC 5/W2/30, Answer of Jone Holt.
[239] STAC 5/V4/1, Rj.
[240] More on this tension in P. Crawford, *Women and Religion in England: 1500 to 1720* (London, 1993), p. 90.
[241] STAC 5/H15/24, I.

In 1594, North Harrison of Over village (Cambridgeshire) confessed that he 'did make a newe bonde for the payement of twentie marcks to Robert Rivers from… Widowe Wimple and sealed it, and set a stroke thereunto for Joane Wimples marcke'.[242] The idea that a forger might work 'through' someone else was frequently literalised. Examiners in will disputes asked if the defendant 'caused a pen to be put into the dead mans hand, and his hand beinge in another mans hand that could wryte caused his hand to suscrybe his name to the dede'?[243] Early modern 'hands' were forced, rather than forged. Imagery surrounding the crime of maintenance was similarly inspired,

> being deriv'd of the latine words *manu tenere*, because he that mainteyneth taketh in hand (as it weare) and holdeth, the cause of another man, as faste as yf it weare his owne proper: and therefore maintenance is a kinde of Conspiracie[.][244]

Indeed, women's innocent dependency on men's access to letters (of the law) might expose them to the charge of maintenance, barratry, and general vexatiousness. In 1590 Simon Forman advised his neighbour Audrey, 'Mother Sweyland yow had best provide for your owne quiettnes... who answered that she would be glad to be quiett for she was olde and trouble was not meete for her'. Forman advised that signing a general release for an £100 debt was 'the onlye way to bringeher owte of trouble' to which she agreed, saying 'she was well pleased yf that would bringe her owt of trouble'. When 'Forman affirmed yt would doe', she 'saide I am contented so to do and yf my brother clerke hath done anie thinge in my name lett him answer the same as he thinketh good'. Forman wrote the release onto parchment and then read it aloud to her so that she could set her seal to it. Now swindled of her debt repayment, she was also

[242] STAC 5/G19/40, Depositions of Thomas Jackson.
[243] STAC 5/N8/13, B.
[244] BL Add. MS 24926, fo. 7.

accused of barratry.[245] From 1590 Lincolnshire, a witness for Margaret Fenton's adversary deposed that Margert's son John 'did saie that he was to solicite and followe his mothers causes in this honorable courte for that his mother was olde'.[246] The implication of maintenance seems itself waspish, but it is easy to imagine neighbours resisting enthusiastic efforts of adult children to reorder their parents' affairs to most profitable advantage. Reasons to imagine this might have been truer when a widow, rather than widower, was involved were explored by chapter four.

That women opponents were not 'really' movers of their own suits was not an unusual accusation, and other explanations could underlie it. Elizabeth Lee from Oxfordshire sued William Danton *in forma pauperis* for a 1598 ejection in which Danton's servants attempted to force 'unlearned' Lee to seal an obligation before she was 'rescued by her men'. Danton retorted that the real cause being pursued was that of lawyer James Ridder, who was 'shadoinge himselfe under the compl[ainan]ts povertie beinge of her selfe a sillie woeman and in manner of an Innocent'.[247] George Dunston's 1602 bill described that after his marriage to Anne fell apart, her friends worried that he would persist in 'enfors[ing]' his wife to live quietly with him again in Maidenhead (Berkshire). Avyce Sponge, who had recently complained that George was precontracted to her in the ecclesiastical courts, was the 'daughter of a pore labouringe man' procured by his wife to contrive a (dis)solution.[248] In 1596 Lord Keeper Egerton and Treasurer Burghley complained that

> a man has come with a 'curtizan' or 'drabbe' to the Common Pleas, and said that she was his wife, and so acknowledged a fine with her as with his own wife, whereas in truth she was a drab and a courtesan.[249]

[245] STAC 5/S79/33, B.
[246] STAC 5/F29/5, A.
[247] STAC 5/L25/26, B and A.
[248] STAC 5/D22/26, B.
[249] Hawarde, *Les Reportes*, p. 53.

Possibly this was an attempt to retain land belonging to a deceased wife (although no instance has been sampled here), or this tactic was used to avoid travel of both spouses to London.[250] The response of Egerton and Cecil, that 'for the danger and 'communitie' of this, the greater punishment is necessary', shows that impersonation was fairly well-known – or was thought to be.[251]

As such the men were products of a wider 'cultural fascination with ideas of hypocrisy' and 'dissimulation', stoked by 'the proliferation of religious identities during the Reformation era [which] contributed to this by threatening to undermine all of those identities'.[252] The brashest incarnation of fraud in the sample was also a function of women's sexual inconstancy; and which was tenable enough to support an outright confession from the woman concerned. Cicily Ascue of Stoke Golding, Buckinghamshire, submitted her answer to opponent Thomas Benchmore's bill separately from her husband in 1592. Benchmore's complaint described that he had sought 9s rent from his tenant Cicily Ascue at her home on 29th October. Being led by her into a downstairs parlour, Thomas claimed, Mistress Ascue invited him 'downe upon the bedde imediately'. The two 'unseemelie imbraced and in Shamefull manner demeaned them selves,' when Cicily's husband Edward entered upon the scene 'with his dagger drawen'.[253] Finding Thomas 'fast holden by Ciceley upon the bedde,' Edward pronounced 'oh villaine art thowe ravishing my wyfe[?]'.[254] Edward demanded of Thomas, 'what wilt thowe geve me[?] [S]peake or elles I will kill thee'.[255] A terrified Thomas acquiesced, promising, 'save my life and I will give thee' property deeds. But later, with the benefit of hindsight, Thomas doubted

[250] That is, given the technical necessity for wives to litigate with him. Elizabeth Randall claimed that she had to leave London to go 'home to gyve her childe suck' in Wiltshire while her husband produced her answer for her: STAC 5/W38/12, A.
[251] Read as 'commonness'; Hawarde, *Les Reportes*, p. 53.
[252] L. Dixon, 'William Perkins, "Atheisme," and the Crises of England's Long Reformation', *JBS*, 50/4 (2011), 791.
[253] STAC 5/B5/37, Answer of Edward Ascue.; 'Imbraced' likely meant sex, *see* B. Capp, *When gossips meet: women, family, and neighbourhood in early modern England* (Oxford, 2003), p. 245.
[254] STAC 5/B5/37, B.
[255] STAC 5/B5/37, Answer of Edward Ascue.

the sincerity of both Ascues. He complained to the Star Chamber that he believed he had been 'slandered as an adulterer with Cicily by reason of the fowl' heist staged by the couple.[256]

Cicily's answer denied that she was guilty of the 'consultacons and conspyraces' Thomas accused herself and Edward of, but it was superficially shamefaced. She gave her answer, she said, 'so farre as she may with all due reuerance to this honourable courte and as the modestie of a woman and womanhodd may permitte'. She confessed that she 'hathe fraylely throughe faire and longe allurements fallen and forgotten to lyve within the compasse of godds holly lawes and Statutes'. The 'allurements' were Thomas's, who 'hadde labowred the unlawfull assent of this defendante to his wicked luste and desyer three quarters of a yeare and more'. Knowing of 'unkyndenes varyance and striffe betwene' the Ascues, Thomas 'stirre[d] uppe' Cicily's suspicion that Edward would leave her destitute, and impressed upon Cicily that, from Thomas, 'neither shee nor her children shoulde lacke any thinge.'[257] Nonetheless, Cicily's answer ended with the usual request that the cause be dismissed with costs, given Thomas had claimed; she confessed to adultery only. The method of Cicily's counsel was thus to excuse her sin as irrelevant to Star Chamber jurisdiction; perhaps simultaneously using it to shield Edward from blame.[258] Likely the court found Thomas more convincing; the story might well *be* the precedent offered by Hudson, that if

> a young man shall be drawn to the company of a lewd woman, and one as her husband shall enter the room and take him with her, and by this plot shall wrest from him money, land, or leases, this is punishable.[259]

[256] STAC 5/B5/37, B.
[257] STAC 5/B5/37, Answer of Cicily Ascue; Alike case in *The Diary of Henry Machyn*, ed. J. G. Nichols (London, 1842), p. 310.
[258] Affirming Kesselring's contention that a premodern 'adultery defence' explained a husband's assault on his wife's paramour, rather than upon her: 'No Greater Provocation? Adultery and the Mitigation of Murder in English Law', *Law and History Review*, 34/1 (2016).
[259] W. Hudson, 'On the jurisdiction of the Court of Star Chamber', in *Collectanea Juridica. Consisting of Tracts Relative to the Law and Constitution of England*, ed. F. Hargrave (2 vols, London, 1791-2), ii, p.108. The date of the case is indeterminable; but definitely predated 1621, by which time Hudson's treatise of notable court precedents was compiled. I. Williams, 'Contemporary knowledge of the Star Chamber and the abolition of the Court', in Kesselring and Mears (eds), *Star Chamber Matters*, p. 199.

v. Conclusions

It has been demonstrated in this chapter that gender (sometimes explicitly) informed Star Chamber presentments for crimes against justice, as it had done pleadings about violence. Fraud of the type this chapter has detailed was anticipated by a culture suspicious of ungodly and 'outwardly benign enemies'.[260] Concurrently, gendered assumptions were gleaned partly from church teachings, their implicit authority magnified when religious offences were being alleged. Perjury represented 'the conflation of legal and sacred', being an offence against God as well as royal justice.[261] Spiritual equality before God denoted that women, too, be able to swear oaths and provide court testimony; but the weakness of the vessel containing the spirit meant that, as in ecclesiastical courts, their testimonies were 'particularly suspect'.[262] These concerns were pertinent to the present sources because, as in church courts, women witnesses were unusually numerous in the Star Chamber. Because intrafamilial, or simply interpersonal, disputes were drawn into the court, there was a greater likelihood that women, including servants, would be called upon to provide perspectives and information. Early modern England was thus uncomfortably reliant upon the intimacy and honesty of people whom it distrusted.

In tandem with the shift from crimes of violence to deceit, there were changes in the demography of the accused, too. The court which also prosecuted corrupt judges, irresponsible lords, and beggarly men was suspicious of the human tendency to satisfy earthly desire rather than justice. Women were known for their proclivity to lustful desires; and if dependency facilitated corruptibility, many women were likelier suspects than many men. These expectations were gendered by a biblically informed culture, and there is a sense in which

[260] Dixon, 'William Perkins'.
[261] Hudson, *Crime and Consequence*, p. 29.
[262] Walsham, 'Worthless Witnesses?', 721.

women made for 'leaky' litigants, proving faithless and inconstant allies and perhaps 'threatening the acquisitive goals of the family and its maintenance of status and power'.[263] That women would perjure themselves, and also persuade others so to do, resonated with the most fundamental of stories, in which the devil 'knewe there is no easier way to deceyue the man then by his wife, the husband yeelding to her often what hee will to none'.[264]

This surely deceptive power within the weaker vessel brings us to the next chapter. In the seventeenth century, Milton would describe marriage as 'a kind of ravishment'.[265] It was not that women won men by force; but that a man is effeminised by love, and loses (himself) to women.[266] In popular culture accounts of courtship, men's sexual persuasion (or force) was frequently disguised by discourses about women's desire to seduce.[267] Nonetheless, by the end of Elizabeth's reign, the two were being teased apart in Star Chamber lawsuits about the abduction of maidens.

[263] G. Paster, *The Body Embarrassed: Drama and the Disciplines of Shame in Early Modern England* (Ithaca, NY, 1993), p. 25. For the significance of female 'leakiness' and fluidity generally to early modern culture, which 'characteristically links this liquid expressiveness to excessive verbal fluency', see ch. 1.
[264] Babington, *Certaine plaine, briefe*, p. 35.
[265] J. Milton, *Tetrachordon: Expositions upon the Foure Chief Places in Scripture, Which Treat of Mariage* (London, 1645), p. 9
[266] A. Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2003), p. 77.
[267] L. Gowing, ''The freedom of the streets': women and social space, 1560-1640', in P. Griffiths and M. Jenner (eds), *Londinopolis: essays in the cultural and social history of early modern London* (Manchester, 2005), p. 132.

Chapter six

Getting carried away: women and girls

'Not what is she, but what hath she.'[1]

English proverb

Subornation, as the previous chapter appreciated, meant to 'obtain (something)… in a secret, stealthy, or underhand manner,' and simultaneously 'to commission (another) in one's place; to substitute, esp. secretly or illicitly.'[2] This chapter discusses whether some*one* might be illicitly obtained – in body, and in 'Spirit'.[3] Sir John Tyrell clearly believed so. His statement, sent to the Privy Council to aid Star Chamber investigations into the 1568 abduction of his daughter, was entitled:

> the *subornynge* of my dawter Mary Tyrrell, to be maryed unto one Wyllyam Porter againste the goodwyll of the Childe hir selffe as also againste the good wyll of her parents contrary to the lawes of god and the lawes ofe this realme.[4]

This chapter traverses the uncomfortable line which runs here and in suits, between marriage (and courtship) on the one hand, and on the other, abduction, forced marriage, and rape.[5] As this chapter will demonstrate, both types of litigant narrative offer insights into Elizabethan concepts of will, autonomy, and conscience.

Abduction resulted from the peculiar economic situation of wives under *couverture* which this thesis concerns itself with. Some Star Chamber complainants recounted that their

[1] W. Hazlitt, *English Proverbs and Proverbial Phrases*, 2nd edn (London, 1882), p. 311.
[2] OED, https://www.oed.com/dictionary/suborn_v?tab=meaning_and_use#20086031 (Accessed 17 Dec 2022)
[3] W. Perkins, *The whole treatise of the cases of conscience Distinguished into three books*, ed. T. Pickering (London, 1606; repr. 1636), p. 12.
[4] Italics added. SHC, LM/1036/25, 'Account of the abduction of 'my daughter Mary Tyrell'', 1568.
[5] Rape is here called 'ravishment', in accord with Elizabethan legislation against abduction. G. Seabourne, *Imprisoning medieval women: the non-judicial confinement and abduction of women in England, c. 1170-1509* (Oxford, 2011), p. 91.

wealth had been manipulated by husbands who sold their jointure without their agreement or willing. Other complainants might detail that her in-laws had alienated her from her dowry, or coerced her in other ways subtler than straightforward bride-napping. But most outrageously, sizeable marriage portions promised by wealthy daughters 'in the highest echelons' attracted 'unthriftie and light' men to abduct and forcibly marry them.[6] A degree of coercion was considered, if not 'normal', expected, 'when gender conflict erupted over inherited property'.[7] Women in sampled cases were demonstrably wary of being abducted during their daily lives.[8] When one man accused of abduction wrote a letter to thirteen-year-old Ann Tilley, and was rebuffed with 'a flatt denyall' that she reciprocated his love, his servant comforted him that 'he sholde not be dismayed by meanes of the letter[,] for that she dyd for modestie sake seke to make denyall at the first'.[9] Male Elizabethan wisdom reassured that rejection by a woman might be illusory. Although female agency was elided in this way, ephemeral literature omitted to 'warn women of city men', only cautioning men against lascivious and 'cunning' women.[10] Despite the supposed difficulty in discerning whether or not women desired their own subjection, proving women's *willing* consent or lack thereof was the pivot upon which many abduction suits turned. This was as in adultery: 'if a Woman' should 'be rauished, and demurre with the Rauishor, *against her will*, she loseth no Dower.' But she would be dispossessed by the Queen's justice only if she 'Frankly of her owne accord, Left her Husband and her Lord'.[11]

This was as true of girls as of women: if she were over twelve years old, a girl's consent to marriage – in either a promise to marry in the future (a contract *per verba de*

[6] A. L. Erickson, *Women and Property,* p. 121; 4 & 5 Phil. & Mary, c. 8 (Jan. 1558), preamble.
[7] A. Capern, 'The Heiress Reconsidered: Contexts for Understanding the Abduction of Arabella Alleyn', in (eds) A. Capern, B. McDonagh and J. Aston (eds), *Women and the Land, 1500–1900* (London, 2019), p. 100.
[8] See STAC 5/T36/37, Interrogatories for John Wynyff et al; STAC 5/H60/20, Depositions of Joan Butler.
[9] STAC 5/T13/12, Depositions of John Meere.
[10] L. Gowing, ''The freedom of the streets': women and social space, 1560-1640', in P. Griffiths and M. Jenner (eds), *Londinopolis: essays in the cultural and social history of early modern London* (Manchester, 2005), p. 132.
[11] Italics added. T.E., *The Lawes Resolutions of Womens Rights* (London, 1632), p. 145.

futuro), or in the immediately binding *per verba de praesenti* – was deigned lawful.[12] Marriages between pubescent girls and men in their twenties and thirties were not unusual amongst the upper social orders, and in the present sample of abduction suits there are only three instances of serious disagreement between prosecuting and defending sides as to the age of victims. (Although under interrogation in 1582, the father of proclaimed twenty-something abductor John Frye outed his son as '36 yeares and above').[13] Usually, both parties declared that the girl in question 'was more than xiii but not xiiii yeres', or something like it.[14] This is not to say that youth wasn't seen as a time of especial sensitivity. There *is* evidence in this chapter that indicates Elizabethan discomfort with large age discrepancies within couples. Nonetheless, adult womanhood was regarded as beginning with marriage.[15]

Some historians have viewed that the primary – even exclusive – concern of medieval jurists was not for wrongs against the abducted women, but rather for her patrimony: 'the financial value lost by the guardian if a ward is removed'. The 'use in cases of ravishment of wife and ward of the same verbs as actions for the wrongful removal of livestock (abduxit)' has been damning evidence.[16] Gwen Seabourne concludes that they 'operated such a low requirement for consent… that any sort of acquiescence to marriage, however little practical alternative remained to the woman' would be adjudged elopement rather than abduction. Later successive reformulations of statute against abduction brought, with fits and starts, the abductee's experience into consideration too; although, court documents continued to be aloof of her interiority.[17] However, the same is not true of the 66 abduction suits in this chapter. True, the subjectivity of abductees is denuded in shorter less detailed bills, and cases

[12] R. Helmholz, *Oxford History of the Laws of England, vol. 1, The Canon and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford, 2004), p. 551.
[13] STAC 5/S18/30, Depositions of John Frye the elder.
[14] STAC 5/A32/30.
[15] S. Brigden, 'Youth and the English Reformation', *P&P*, 95 (1982), 37.
[16] Seabourne, *Imprisoning medieval women*, pp. 91, 100; 158.
[17] Ibid., pp. 151-4; 103-4.

that did not proceed to examination: Isaac Earle of Hertfordshire simply 'privilye contracted matrimony with' fifteen-year-old Johane Barley 'to her utter spoyle' in 1574.[18] However, the majority of these relatively cursory pleadings were lodged before 1584. Meanwhile, out of thirty-eight suits which *do* include depositions, twenty-three of them were begun during the last fifteen years of Elizabeth's reign, indicating a shift in approach of litigants and counsel. There are details in many of these absent from medieval abduction lawsuits. A yeoman witness staying in the Blue Boar Inn at Ingatestone (Essex), where sixteen-year-old Anne Baker had been carried to in March 1588 by William Wyttam, deposed that marriage 'semed cleane contrarye to [her] mynde'.[19] Nor were forced and willing consent synonymous. Lancashire sixteen-year-old gentry coheiress Elizabeth Belfelde gave her 'unwillinge consent' to wed fourteen-year-old Alex Barlowe.[20]

This chapter examines the Elizabethan approach to abduction pleadings, and suggests that these narrative features broadly resulted from the legal technicalities operational in both statutory and ecclesiastical laws. The narrative choices plaintiffs and counsel made were determined by the confluence between: the differing prerogatives of secular versus canonical jurisdictions; whether plaintiffs sought to have an abductee's marriage dissolved; and, the necessity that plaintiffs demonstrate that any one of force, fraud, or flattery had been visited upon the alleged abductee. In tandem with these factors (and with the inheritance devices and new substantive crimes presented in preceding chapters), abduction suits across the later sixteenth century are increasingly interested not just in the status and worth of maidens – 'what' these women 'were' – but, how they behaved in suits – what women 'did'. This was the result of the growing relevance of consent to suits. A few rarer suits show older women seeking to dissolve their present marriages using historic abduction charges. These are

[18] STAC 5/B5/17.
[19] STAC 5/B70/38, Depositions of William Berriff.
[20] STAC 5/A29/19.

compelling evidence that marital status could be regarded as not definitive, but contingent and contestable. The last section of this chapter briefly considers this impulse as symptomatic of broader religious debates, issues which evidently informed Star Chamber business. The debate relevant to suits in this chapter was that between Reformers and the established church about the acceptability of divorce with remarriage.

i. Star Chamber's jurisdiction

In a 1975 study of marriage and canon law, Helmholz noted that '[t]here are a few scenes in the records' of bride-napping, but also assured that 'there is no reason to think that [it was] common'.[21] For the medieval era, Sheridan Walker and Dunn have done much to overturn this, whilst Capern does so for post-Restoration England.[22] The Star Chamber was the only court with a large body of abduction cases. However, the collection has garnered little academic attention. One exception is Walker's thorough examination of thirty-eight abduction suits from Wales brought between 1558 and 1640.[23] The other exception is a recent chapter by Kesselring on abduction cases earmarked by The National Archives's database,

[21] R. Helmholz, *Marriage Litigation in Medieval England* (Cambridge, 1975), p. 90.
[22] C. Dunn, 'The Language of Ravishment in Medieval England', *Speculum*, 86 (2011), and S. Sheridan Walker, 'Widow and Ward: The Feudal Law of Child Custody in Medieval England', *Feminist Studies,* 3 (1976). A. Capern, 'The Heiress Reconsidered: Contexts for Understanding the Abduction of Arabella Alleyn', in A. Capern, B. McDonagh and J. Aston (eds), *Women and the Land, 1500–1900* (London, 2019).
[23] G. Walker, ''Strange kind of stealing': abduction in early modern Wales', in S. Clarke, and M. Roberts (eds), *Women and Gender in Early Modern Wales* (Cardiff, 2000). Also see D. Youngs, '"A vice common in Wales": abduction, prejudice and the search for justice in the regional and central courts of early Tudor society', in P. Skynner (ed.), *The Welsh and the medieval world* (Cardiff, 2018); J. B. Post, 'Ravishment of women and the Statutes of Westminster,' in J. H. Baker (ed.), *Legal Records and the Historian* (London, 1978); Seabourne, *Imprisoning Medieval Women*; E. W. Ives, '"Agaynst taking awaye of women": the inception and operation of the Abduction Act of 1487', in E. W. Ives, R. J. Knecht and J. J. Scarisbrick (eds), *Wealth and Power in Tudor England* (London, 1978).

describing how such cases epitomised desires for parental control over marriage.[24] Aside from these efforts, a perceived dearth of recovered records for the sixteenth century has led scholars of Tudor England to conclude that legislation against the abduction of children and of women saw little practical realisation at all. Apparently, 'statute was badly drafted as well as out of touch with social mores.'[25] Despite these preconceptions, there are 66 abduction cases (100 files) in the current sample, making up six percent of suits collated. If extrapolating this proportion, one would expect to find more than 1,250 cases in STAC 5 concerning the abduction of women. However, this is almost certainly an overestimate given that boxes in which sampled suits fell were also browsed for abduction allegations. That only 1.3 percent of cases heard by the Scottish 'Star Chambre' were abductions also advises caution.[26] However, the incidence of sampled abduction allegations maps relatively smoothly onto the rises and falls of Star Chamber business.

The sample suggests that for every complaint of abduction brought by a woman at least one other was brought by abductees' male guardian(s). All but three abductees were female. Out of the other 63, four cases were brought by the abductee's own mother and father together, and four times a father alone. Thirty abductees had no parents: six times it was a more distant male relative who sued; twice the abductee's aunt; and three times the victim themselves (these were 'historic' cases). Nineteen abductees out of these thirty orphans were under the care of unrelated guardians appointed either by the Crown or parents' last wishes. Twenty-two remaining Star Chamber abductees were 'orphans' only in the Tudor sense of that word: although her mother was still alive, her father was not. On nine occasions the

[24] K. Kesselring, 'Consent and coercion, force and fraud: marriages in Star Chamber', in K. J. Kesselring and N. Mears (eds), *Star Chamber Matters: An Early Modern Court and Its Records* (London, 2021).
[25] B.J. Sokol and M. Sokol, *Shakespeare, Law, and Marriage* (Cambridge, 2003), p. 32; quote from Charles Ross, 'Avoiding the Issue of Fraud: 4, 5 Philip & Mary c.8 (the Heiress Protection Statute), Portia, and Desdemona', in C. Jordan and K. Cunningham (eds), *The Law in Shakespeare* (Basingstoke, 2007), p. 95.
[26] M. Wasser, 'Violence and the central criminal courts in Scotland, 1603-1638' (PhD thesis, Columbia University, 1995), p. 63.

abductee's mother sued alongside a stepfather. Out of eighteen suits which were brought by a woman alone, thirteen were the widowed mother of the victim. Given this mix of relationships amongst sampled plaintiffs, this chapter will refer generally to 'daughters' and 'parents' in a liberal sense encapsulating wards and guardians as well as family relationships. If nobody sued on an abductee's behalf, the Crown would do so after thirty days, which happened in two of the cases described here. Three complainants, additionally, were husbands of adult abductees.

Mary Page of Westerley (Suffolk) was a typical victim. She lost her father while she was still 'of suche tender enfancy as not able to Speake'. By the time she was twelve years old, her mother had also died, bequeathing to her land worth twenty marks per year and leaving her in the guardianship of her aunt Agnes Cropley. One Thursday during Easter week 1560, Edward Bardwell, a servant living nearby in Icklingham village, had sought out Mary in the front garden, bundled her onto a horse, and galloped away with her as she made 'open out cryes'. Agnes reported to the Star Chamber that her niece had remained with Bardwell ever since, 'where she is kept and orderyd at their pleasor to the great terror of your Maiesties Subjecte', and 'agaynste the statute in your commonwealth'.[27] The statute she referred to was the 1558 Abduction Act passed by Mary's fifth Parliament. It dealt with the 'conveighing awaye' 'against the will or unknowing of or to her father (if the father be in life) or of her mother (having the custodye & governance of such child if the father be dead)', or her guardian, of any 'maiden' or 'woman childe' under the age of sixteen who was an heir.[28] Abductors had to be at least fourteen years old. In the sampled suits male abductors (or, the man who married an abductee) ranged from fourteen years old to middle-aged, although the majority identified were in their twenties. Punishment was imprisonment for two years or a

[27] STAC 5/C80/26, B.
[28] STAC 5/L36/3, B.

royal fine to be assessed by the Queen's Councillors in the 'honourable court of Star Chamber'. This explains why abductions have not been found in smaller common law courts.[29] As with the substantive property complaints in chapter two, many abduction bills repeat the relevant Act verbatim – frequently as excerpts, but sometimes so faithfully as to constitute half the document.[30] The court's jurisdiction was instinctual to a London complainant who immediately 'repaire[d] to your highness courte at Westminster called starre chamber... to complain' as soon as her daughter was abducted in 1575.[31]

Outcomes can be discerned for twelve sampled abduction suits. In seven of these, the abductee was restored to the complainants.[32] The *Cropley v Bardwell* judgement reads that 'Edward Bardwell defendantt,' for

> Carrying away of Mary Page an heire & infant from the plaintiff beeing her Aunt against theire willes & Setting her on horse back & holding her on with his sword drawne comitted [to the fleet] for two yeares [& fyned], according to the [Royal Statutue] and [Mary] restored to her Aunt againe.[33]

Agnes was surely relieved, having pleaded specifically 'for the Sauff Delyverye of Mary in the same & like case as she was before she was taken and conveyed away'.[34] Agnes apparently knew what often happened to abducted maidens less lucky than Mary: to culprits who had taken the additional steps of contracting 'matrimonie and deflower[ing]' abductees, the statute meted out five years' imprisonment, and a fine to be paid half to the Queen and the

[29] 4 & 5 Phil. & Mary, c. 8 (Jan. 1558).
[30] STAC 5/S72/14, B.
[31] STAC 5/L46/24, Replication of Katherine Lounde.
[32] Judgement for STAC 5/Y2/22 in BL Harl. MS 2143, fo. 10v; and STAC 5/E4/2 at fo. 47v ; STAC 5/A50/8, F. Whellan, *History, topography, and directory of Northamptonshire* (London, 1874), p. 430; STAC 5/B3/19 below; STAC 5/L46/24, *Abstracts of Inquisitiones post mortem relating to the city of London, returned into the Court of chancery during the Tudor period*, ed. E. A. Fry (3 vols, London, 1896-1908), iii, pp. 238-40; STAC 5/T14/25, H. W. Spencer and F. A. Blaydes, *The visitations of Bedfordshire annis domini 1566, 1582 and 1634* (London, 1884), p. 196; STAC 5/T15/25, A. R. Maddison, *Lincolnshire pedigrees* (4 vols, London, 1902-6), iii, 1021; STAC 5/T34/26 below; STAC 5/T36/37, W. H. K. Wright, *The Western Antiquary, Or, Devon and Cornwall Notebook*, vol. 3, (London, 1884), p. 242; STAC 5/V4/16, W. Nelson, *An Abridgement of the Common Law: Being a Collection of the Principal Cases Argued and Adjudged in the Several Courts of Westminster-hall* (London, 1653), p. 70.
[33] BL Harl. MS 2143, fo. 11r.
[34] STAC 5/C80/26.

other to the 'parties grieved'.[35] The experiences of these unlucky maidens varied. Some were awakened in the small hours of the morning – or month, even – following their abduction in order to take part in harried wedding ceremonies 'beynge honnley arrayed in hir peticot & night attiere'. One was handfasted, by all accounts enthusiastically, on the highway about a mile and a half from her parent's house. Another teenaged abductor rather pathetically 'dyd tell his unckell' that Margaret Underhill and himself 'were contractyd in matrimony together at the window' of her mistress's house.[36]

In three of those seven times in which an abductee was returned to complainants, she had already been married to her abductor. Canon law deemed a marriage legally binding so long as the bride was at least twelve, and the groom fourteen – but the legitimacy of any marriage forfeited if either party did not consent. Then, the contract could be annulled by a church court on grounds of 'duress'.[37] Complainants would presumably cite a successful Star Chamber prosecution when progressing on to such a nullity suit. However, historians have noted (with little further commentary) that this voiding of marriages on the grounds of duress was practiced infrequently by church courts. Ingram finds only one case in Elizabethan Wiltshire, for example.[38] The three abductees here evidently *did* dissolve their clandestine nuptials, as they remarried not long after their Star Chamber case concluded. For instance Mary Tyrrell, kidnapped by Ludowick Greville and married to William Porter in 1568, was sequestrated from Porter within weeks of the clandestine marriage.[39] By 1570 she was adequately enough divorced from William to marry Thomas Clinton.[40] This begs the interesting question of whether the Star Chamber *itself* could affect a 'divorce', by decreeing

[35] 4 & 5 Phil. & Mary, c. 8 (Jan. 1558).
[36] STAC 5/V4/16, B; STAC 5/S18/30, Depositions of John Tompson; STAC 5/B73/9, Depositions of George Bartlet.
[37] M. Ingram, *Church Courts, Sex and Marriage in England, 1570–1640* (Cambridge, 1988), p. 173.
[38] Ingram, *Church Courts, Sex*, pp. 174-5. J. T. Pope, 'Abduction and power in late medieval England: Petitions to the Court of Chancery, 1389-1515' (unpublished PhD Thesis, Concordia University, 2002), p. 26.
[39] SHC LM/COR/3/232, Letter from Elizabeth Clinton, Countess of Clinton, to William More (16 Sep. 1568)
[40] SHC LM 6729/9/119, Letter from Elizabeth Clinton, Countess of Lincoln, to Margaret More (2 Feb. 1571).

void marriages forced upon abductees. Whether this could be a secular power seems the subject of some confusion, although scholars have demonstrated that equity courts facilitated separations (without remarriage) throughout the period. As Baker says,

> persons who had undergone the outward forms of marriage could only be divorced – in the full sense of being free to remarry – if they could establish either a want of capacity to intermarry or a want of true consent at the time of marriage. In those cases the marriage was a nullity from the beginning, and no legal proceedings were needed to make it so.[41]

Certainly it would be ironic for judges to advise victims to 'dissolve' the marriage contract just judged to be non-existent. The issue is returned to near this chapter's end.

The 1558 Act, unlike its 1487 predecessor the *Act Against the Taking Away of Women Against their Will*, applied notwithstanding the abductee's consent. It presumed children under the age of twelve to have no capacity to consent anyway. Out of the 47 suits in which the abductee's age is identifiable, nine were under twelve, the youngest being two (and another consistently called an 'infant').[42] As for 'maydens', the statute clarified that they were as prone to being 'allured', by 'flattery, tryfelynge gyftes, and fayre promises' as being 'taken' 'either w[i]th slight or force'.[43] This is highly reminiscent of the legal formulae applied to deathbed manipulations with fear, fraud, or 'immoderate flattery' examined in chapter four.[44] According to chapter four's complainants, dying male relatives were often flattered and almost never fearful. Complaints against abduction, however, almost always contend that abductees were 'greatly dysmayed and put in greate feare of her lief'.[45] This

[41] J. H. Baker, *An Introduction to English Legal History*, 5th edn (Oxford, 2019), p. 530. Compare to, for example, L. Shelford *A Practical Treatise of the Law of Marriage and Divorce as Altered by Recent Statute* (London, 1841), p. 183. T. Stretton, 'Marriage, separation and the common law in England, 1540–1660', in H. Berry and E. Foyster (eds), *The Family in Early Modern England* (Cambridge 2007), pp. 18-39
[42] STAC 5/B3/12, STAC 5/B42/33, STAC 5/B64/30, STAC 5/B94/31, STAC 5/F3/23, STAC 5/K4/25, STAC 5/P27/15, STAC 5/T21/35, STAC 5/W14/33. STAC 5/B82/9 for 'infant'.
[43] 4 & 5 Phil. & Mary, c. 8 (Jan. 1558)
[44] L. Bonfield, *Devising, Dying and Dispute: Probate Litigation in Early Modern England* (New York, 2012), p. 89.
[45] STAC 5/C80/26, B.

gendering of fear coheres with early modern stereotypes; although, it is not so obvious why flattery as a mode of kidnapping was admitted rarely by both complainants and defendants in abduction suits. The impressionability of women (and maidens) to the suggestions of others, and their susceptibility to earthly pleasures was well-known.

Technically, flattery was no less forceful than violence, and the application of the statute to a situation was unchanged by a victim having willingly walked away from home. One 1572 interrogatory asked 'whether suche treatye or speache of mariage or Love' was used by George Bartlett 'to allure… awaye' fourteen-year-old Margaret Underhill, heiress to a £500 estate, from her mistress's house in Fleet Street. This was abduction-via-seduction. It is significant, however, that Margaret and George did not get as far as a marriage ceremony.[46] This was because application of the statute changed if a 'mayden' consented to 'any Contract of Matrimony'. In this case an abductee entirely forfeited her inheritance.[47] No matter that she was only aged 'aboue.. twelve yeeres and under... sixteene yeres', as were thirty-three of the abductees in the sampled documents (out of 47 whose age was visible). One abductor, John Skynner, defended that he had sought legal advice: 'Mr Eashe, Mr Whalle, & Mr Bradshaw lernd counsel', Skynner recounted, told him that as his eventual abductee Margarett Robinson was over the age of twelve '& being not wedde', 'her consent for marriage was good in lawe'.[48] The statute's field of influence here intersected with that of the canon law. If an abductor had sex with their bride ('ravisshed', rather than violently raped, her; *raptus* 'is felonye not examinable in this courte'), this ratified the otherwise voidable marriage in the eyes of the church courts as well as the Star Chamber.[49] An abductee who

[46] STAC 5/B73/9. This 'attempt to abduct her' is briefly described by J. H. Morrison, *The Underhills of Warwickshire : their ancestry from the thirteenth century and their descendants in England; with special reference to Captain John Underhill of the Kenilworth branch* (Cambridge, 1932), pp. 151-2.
[47] 4 & 5 Phil. & Mary, c. 8 (Jan. 1558).
[48] STAC 5/E13/8, Depositions of John Skynner.
[49] Helmholz, *Marriage Litigation*, p. 91; quote from STAC 5/L36/3, Dr. See S. Toulalan, '"Is he a licentious lewd Sort of a Person?" Constructing the child rapist in early modern England', *Journal of History of Sexuality* (2014), 23/1, 27 for the 1576 Westminster rape statute.

allowed herself to be seduced – in a sexual sense rather than in the Act's abstract one of 'allurement' – might have her inheritance ring-fenced out of her abductor's reach by the Star Chamber, but could not annul the marriage in the church courts.

ii. Pleading tactics: embodying conscience

The possibility that a marriage might not be annulled should an abductee report 'allurement' or 'flattery' is likely why complainants were keen to contend that their daughters or wards had been abducted by 'force and fear'.[50] Those abductees who *were* admitted to have been flattered – with 'fayre wordes and gifts and tryffells fitt for a childe of her age' – were always eleven years old or younger, so that their willingness had no legal import for the abductor's defence.[51] In Hythe (Kent) in 1579 'it beinge St Valentines daye', tailor Richard Carden offered nine-year-old Mildred Foster 'a payre of gloves and promise of a newe gowne and suche like and asked her yf she wold goe with him'.[52] Fun and games were also regarded as fit temptations for children. In Hampshire, butcher Lawrence Mayne 'did frequent' the adoptive home of orphan Joane Dolling, 'beinge but of the age of Tenn', 'with minstrells noyse and greate cheare… [and] with dauncinge sporte [to] allure and entice Joane'.[53] In 1595 Henry Atkinson was accused of 'intysinge and alluringe Marie Burton unto the River of Thamys at suche tyme as she was stolne awaie', in syntax which relegates Marie's agency to

[50] Ingram, *Church Courts, Sex*, p. 174.
[51] STAC 5/W23/6.
[52] STAC 5/F16/7, B.
[53] STAC 5/W14/33, I.

a mere function of Henry's, and makes her an object of circumstance.[54] Even when these girls were flattered, their choice in the kidnapping is understood to be merely the product of manipulation.

Of course, in addition to the legal ramifications described above, 'seduction' had obvious moral connotations. However, abductees under twelve years old could safely avoid these. As one plaintiff put it, children 'have neyther humour to lyke or love so have they no iudgment to make choyce' of a marriage partner.[55] Sexual pleasure was not naturally found in children, so was unlikely to be evidence of their complicity in abduction.[56] Suggestions that older abductees, even, were sexually interested in defendants, or provocative themselves, are however entirely lacking from pleadings. The most that was said on the subject was said tersely, by abductors who 'dyd lye with' the victim on 'the self same night in wich ye s[ai]d contracte was made'.[57] Acknowledgement like this was important to cement the marriage, but admitting that 'lustful thoughts draw away [the] minds' of those 'Maids' would benefit neither side concerned in an abduction case. Levinus Lemnius thought 'lustful thoughts' indicative that a teenager was anyway ripe for marriage; meanwhile, an abducted girl's parents would not want her returned to them – and the marriage market – 'deflowered', so 'no man of anie valewe woulde be willinge hereafter to marye or mache with her'.[58]

The imperative to obedience from each to their betters trickled all the way down to children, from God. However, Elizabethan England was highly defensive about her ability to understand what God wanted of her – which of His emissaries she should obey? The royal, Protestant, supremacy was fragile before papal bulls, wars, and the 'challenges to Calvinist predestinarianism that began to emerge in the 1590s'. This was followed yet by 'the

[54] STAC 5/B82/9, I.
[55] STAC 5/B94/31, Answers of Edward Meade and Thomas Throwgood.
[56] S. Toulalan, ''Unripe' Bodies: Children and Sex in Early Modern England', in S. Toulalan and K. Fisher (eds), *Bodies, Sex and Desire from the Renaissance to the Present* (Basingstoke, 2011), p. 145.
[57] STAC 5/E10/12, Depositions of Thomas Dedd.
[58] Toulalan, ''Unripe' Bodies', pp. 136-7; STAC 5/S72/14; STAC 5/T13/12, I.

concurrent and subsequent reorientation of attitudes towards the Church of Rome and England's reformed sister churches'.[59] That 'the Reformation had been enacted by *statute*' itself furthered an existential crisis about the origin of power – a contest between church and crown exemplified in the hybrid jurisdiction this thesis has found in the Star Chamber.[60] This was 'a nation of converts and a nation of coverts', meaning that good Protestants guarded against church papists and other heretics hiding in plain sight lest they incur God's wrath for His chosen people.[61] Good Catholics, on the other hand, had to ensure they dissembled a Christian amount.[62] This fevered universe begat an 'effloresence of Protestant martyrology' which paid close attention to signs of steadfastness or insincerity in traitors about to be – or being – executed for heretical treason.[63] Their words and bodies 'became maps upon which' was 'revealed the relationship between the church, community, or nation and God.'[64]

This impulse was echoed by plaintiffs vying to prove the sincerity – the willingness – of an abducted girl's actions. Did John Walker 'lye in wayte' until abductee fourteen-year-old Mary Beighton was 'aboute a bowe shute from' her family home, then violently 'take & convey her away'? Or, was Mary already 'cryinge… frighted or amased', when she 'came very fast or runnynge' to Walker and 'toke hold upon hym or his clothes [to be] comforted'?[65] Had thirteen-year-old Margarett Robinson gone to John Skynner's waiting ferry boat at Blackfriars 'merily with cheerful countenance', or with 'semblance or shewe of feare' towards her abductor?[66] Perhaps she was only 'fearfull of her m[ist]r[i]ss' whom she ran

[59] Walsham, *Generations*, p. 85.
[60] C. Hill, *Intellectual Origins of the English Revolution - Revisited* (Oxford, 1997), pp. 220-1.
[61] S. Mullaney, 'Affective technologies: Toward and Emotional Logic of the Elizabethan Stage', in M. Floyd-Wilson and G. Sullivan (eds), *Environment and Embodiment in Early Modern England* (Basingstoke, 2007), p. 82.
[62] A. Walsham, 'Ordeals of Conscience: Casuistry, Conformity and Confessional Identity in Post-Reformation England', in H. E. Braun and E. Vallance (eds), *Contexts of Conscience in Early Modern Europe, 1500-1700* (Basingstoke, 2004).
[63] T. S. Freeman, 'Early Modern Martyrs', *The Journal of Ecclesiastical History*, 52/4 (2001), 700.
[64] N. Smith, 'A Child Prophet: Martha Hatfield as the Wise Virgin', in G. Avery and J. Briggs (eds), *Children and Their Books* (Oxford, 1989), p. 82.
[65] STAC 5/B93/24, B and STAC 5/B70/14, A.
[66] STAC 5/E10/12, Depositions of Thomas Brabye; STAC 5/E15/39, I.

from?[67] When 'she cryed' as passers-by had heard, was this 'for helpe', or because in her hurry to reach John Skynner she fell 'downe on the ground and therewith brake both her face and her knee'?[68] Gestures in this culture, Walter argues, 'serve[d] as promissory acts endowed with a quasi-legal quality'. The example first to Walter's mind is 'the joining of hands in troth plighting'.[69] One wedding attendee recounted how Margarett 'in all her behavyor words speches gestures' 'dyd much betray her love & affeccon towards' her abductor.[70] These young people's gestures had great import for both their bodies and their souls, and they had their intentions and actions scrutinized for consistency as did Star Chamber witnesses.

However, the abductees were younger than most people scrutinized by the Star Chamber, and their subjectivities more unresolved. Abductees in the 1558 Act and in this chapter were described diversely as a 'Mayde' or a 'Woman Childe' but mostly belonged to childhood, that 'fluid' stage of Tudor life 'after infancy and before the age of twelve to fifteen, when puberty or adolescence takes over'.[71] Some complaints describe abduction as having been to 'the undoynge of the child', but 'contrary to her fathers wyll' only.[72] This subsummation of child's interests into the parents' peaked with George Tilley's retort that 'hyt weare better she weare buryed' than his daughter be married to suitor John Meere.[73] Many bills assured that abductees 'woud doe nothinge without her mothers consent'.[74] Complainants in four cases described how abductees reluctantly agreed to wed only after abductors assured them of their parents' complicity: or even that 'yf she would go home hir

[67] STAC 5/E4/2, A.
[68] STAC 5/E10/12, Interrogatories administered to William and Alice Elkin; STAC 5/E4/2, A and B.
[69] J. Walter, 'Gesturing at Authority: Deciphering the Gestural Code of Early Modern England', *P&P*, 203 (2009), 101.
[70] STAC 5/E12/1, Depositions of Thomas Dedd and Depositions of Nicholas Rigby.
[71] S. Covington, '"Spared not from tribulation": Children in Early Modern Martyrologies', *Archiv für Reformationsgeschichte*, 97/1 (2006), 166.
[72] STAC 5/B70/14, B. In this particular quote, will is both figurative and referring to a father's last testament.
[73] STAC 5/T36/37, D.
[74] STAC 5/E13/8, Depositions of Jane Scott.

mother hadd a knife to Kill hir'. This last threat was made, the bill explained, 'of the yntente to withdrawe' fourteen-year-old Katherin Peake's 'love and affeccon from hir said mother'.[75] Other obedient daughters might be 'shott uppe in caves of the earth', 'close chambers', or 'a chymney corner' in order to isolate them from their parents physically and emotionally.[76] Mary Tyrrell was 'talked... in to the churche' at London Cripplegate, her abductor telling her that if she resisted marrying, they would 'carye her awaye from her friends, to a strange countrey'.[77] For all these girls, to be lost to their parents was also to lose themselves.

Broader concerns over obedience and faith to godly authority were refracted into abduction pleadings. Several abductors argued that his 'wife' sought to 'gyve him with fayth and troth' to 'lyve… in the holie State of matrimoney as man and wife ought to do'. In doing so, she did 'wayve' the custody of her guardians 'of her owne voluntarye and great good will wich she did bare' towards the abductor.[78] In parents' version of events, too, girls were put under pressure by abductors to (dis)obey adults around them. The mother and stepfather of thirteen-year-old Margaret Robinson described how Margaret had 'repulsed' clothworker John Skynner's 'sollicit[ations] with deniall, affirming that in causes of marrage she would be advised and directed by her frends and such as had the educacon and charge of her'.[79] Even in Skynner's version of events, Margaret 'feared much that her mother woud take some gryef for her'.[80] Abduction suits were inevitably opportunities to demonstrate the steadfast godliness of abductees' parents – as evidenced by the enactment of their own will within their daughter's incipient one. Victims pronounced that they 'would neuer haue' their abductors 'whilest she lyued', shoring up claims that any final 'consent' to marriage was purely

[75] STAC 5/R8/10, I. Also STAC 5/B70/38, Depositions of Anne Baker.
[76] STAC 5/V4/16; STAC 5/R8/10, B; STAC 5/E12/1, Depositions of Thomas Dedd.
[77] STAC 5/T4/1, B.
[78] STAC 5/S18/30, Depositions of John Tompson; STAC 5/A50/8, A.
[79] STAC 5/E4/2, B.
[80] STAC 5/E13/8, Depositions of Jane Scott.

'unwilling'.[81] Carried 50 miles away from her home to Gloucester in 1595, the abductors of twelve-year-old Christian Willoughby 'followed the sayde Chrystian upp and downe the howse' in which she was kept 'by the space of two or three monethes'. They were attempting to procure her marriage to 50-year-old Thomas Hurforde 'horsemaster', 'in so much as the poore girle knowe not how to wynde from them nor coulde be at rest from ther perswasons'. '[Y]et', her mother insisted, 'they could not obtayne her consente'.[82] In another case, when the officials found fourteen-year-old victim Katherin Peake in Worcester, they 'did put hir in an open hall betwene her supposed husband… and on other, hir owne mother[,] and willed hir to make choise to whome she woulde go'. '[A]t which tyme,' her maternal family confirmed, Katherin 'choysed her mother', definitively confirming that her loyalties were unshaken by the six-month ordeal.[83] Katherin also took her opportunity to ventriloquise the loyal subject's respect for her Majesty's justice, announcing that she did 'utterlie detest' her abductor, 'alleginge that if lawe would hange theme, shee would hange theyme for hir abuses'.[84] Katherin's need for revenge was underwritten, defined, and checked by her Queen's.

When faced with usurping authorities, 'silence and obedience' did 'not necessarily indicate virtue but may rather become positively sinful.'[85] The obligation to resist ravishment was well understood by thirteen-year-old Margaret Lunde, who being 'vyolentlye with stronge hand and against [her] wyll' carried out of her mother's hallway in London's Milk Street 'did make a great owtcrye [so that] thos in the howse might here [sic]'.[86] Early modern wisdom (and law) regarded that a victim who did not sufficiently resist a ravisher was likely

[81] STAC 5/S28/17, Depositions of Walter Fitchett haberdasher; STAC 5/H56/30, Depositions of Anne Sparkes.
[82] STAC 5/W23/6, B.
[83] STAC 5/R8/10; This appears to have been upheld by the Star Chamber. BL Harl. MS 2143, fo. 47v.
[84] STAC 5/R8/10, I.
[85] S. B. Monta, 'Foxe's Female Martyrs and the Sanctity of Transgression', *Renaissance and Reformation / Renaissance et Réforme*, 25/1 (2001), 3.
[86] STAC 5/L36/37, B.

complicit. Anne Baker, imprisoned with her abductor in the Blue Boar Inn, 'cryed pittfuly as lowde as she colde for helpe'.[87] Johane Humfrey, cornered in 1601 in a Sussex tavern by William Marlett, 'from the begyning to thende dyd utterly refuse to consent to be maryed & would not utter any of the wordes of consent of matrymonie'. Marlett's son James, the intended bridegroom, picked the lock to Johane's bed chamber on nine successive nights, getting into bed with Johane – who each time 'dyd arrise' 'utterly refusing' his company. Eventually she used knives to jam the door closed against the Marletts.[88] Girlish meekness was respectably abandoned when maidens recognised an interloper.

Complainants sought to prove that their daughters were not lustful and remained beholden to their parents, even having been found in a matrimonial bed. Many teenagers, even having become newlyweds, were so grief-stricken as to refuse to 'keep their husbands company, nor come neare him, nor acknowledge him to be her husband.'[89] The obvious hope was that marriages could be held at arms' length whilst sexual contact was too. This seems to have been true of the guardians of Marie Spencer of St Mary le Bow (London), aged fourteen and five months, who in 1595 did 'standeth in danger to be both disparaged and undon yf the mariage should proceede uppon the said Contract with the same dissolute person' (twenty-one-year-old clothworker apprentice Thomas Beckett).[90] Never mind that the contract legitimised Marie and Thomas's partnership already, in canon law. Only six abduction suits explicitly discuss sex and 'ravishment', despite the fact that the Act did so. In the most detailed of the few existing allusions to the wedding-bed, husbandman Thomas Forde of Horton (Staffordshire) deposed seeing Margaret and her groom Richard, both probably preteens, 'lye in Bed' the night following their wedding. Only for, he continued, Margaret's

[87] STAC 5/B70/38, Depositions of William Berriff.
[88] STAC 5/H56/30, Depositions of Anne Sparkes.
[89] STAC 5/W23/6. See STAC 5/A26/9; STAC 5/B94/31; STAC 5/C80/26; STAC 5/L36/3, and STAC 5/R8/10.
[90] STAC 5/T14/25, B.

mother-in-law Ellen Shawcrosse to 'lye betwene them'. When Richard's grandfather Leonard Shawcrosse sent Forde 'into yt Chamber', Forde explained,

> to understand whether they laye together as man and wife this dep[onen]t then Sawe Ellen to drawe hir self [^a litle] a syde where she laye and to let [Margaret and Richard] goe lye together soe to be seene [^lying] but this def[endan]t thinketh in his Consience that they had neuer any carnall compulacon one of the other together[.][91]

Ellen Shawcrosse acted as a literal barrier to the marriage's consummation, making sure the marriage stayed illusory even after a wedding. These narratives represented just one tactic among many complainants used to undermine suggestions of union between abductor and abductee.

Complainants also steered the conversation away from abductees' sexual activity by dwelling on how abductees' flesh had experienced painful mortifications at the hands of their abductors, rather than any pleasure. In 1576 orphan Elizabeth Ryckthorne's captor Philip Cockerham of Hampstead 'did pluke out a corde or rope out of his hose with dyvers greate knotts upon the same' and with it 'did very greavously and dispitfully beate [Elizabeth] subiect so longe as [she could] endure without danger of lyef'. On this particular occasion he sought to force her not to marry (yet) but to sign away her fortune to him (the Abduction Act could not apply to this case given that she was nineteen). Elizabeth stayed resolute, and so Cockerham 'plucked her kerchefe from her headd', and in the process also 'haled and pulled her aboute' by 'the heare of her headd'. Then, Cockerham

> [took] a payer of Taylors sheres & did cut all the heare of your maiesties subiects headd as nere to the head as he possible mighte or coulde (a thinge verye horible to be done to any & especially to a woman) sayenge he woulde bringe her to order and to be gladd to doe as he woulde have her[…][92]

What 'he woulde have her' was against her will, but Foxe's martyrology advised the godly that while 'it is an easy matter to breake a britle substance, but the inwarde mynde shalt not

[91] Margaret and Richard's age is not explicit; but these events seemingly took place a few years after their marriage contract aged eight. STAC 5/S67/12, Depositions of Thomas Forde.
[92] STAC 5/R15/34, B.

thou hurt for any thing thou canst do'.[93] Elizabeth showed up Cockerham's authority as tyrannical, so transmuting her disorderliness into righteous suffering.

In suffering physical abuse, abductees were demonstrating beyond doubt that their weddings – their consent – had only ever been 'fake and feigned'. Christian Willoughby 'wepte bytterly and refused to come out of her chamber untyll' her abductor 'came unto her and beate her', 'cruelly' enough that 'the strypes appeared in her fleshe above three weeks after'.[94] Thomas Brackin of Chesterton (Cambridge) 'abusing [the] mynoritie' of eleven-year-old Elizabeth Hill, decided to marry her to his son 'about the ende of August' in 1587.[95] But 'fyndinge that course to take no place with her' he and his wife 'then attempted with threates and strypes so wholely through feare Elizabeth was brought to church'. Having endured these punishments, yet during the ceremony being no more compliant but 'greivinge at the cause and manner', Elizabeth refused to 'answere to the mocon of the Minister untill a gentellwoman standing ther by [Brackin's] appoyntment... did greately pinche her by the arme... to make her to speake'.[96] In 1590 Katherin Peake's captors held her hands 'to a hott grate of Iron untill shee was sore burned bycause she would not come away with' them. Katherin still unmoved, they threatened to 'tie hir to a horse tayle and in that sorte leade her untill shee would yeld' to marriage.[97] Only then, Katherin's mother yielded, did she partake in a wedding ceremony.

Proxies were almost omnipresent in the sampled lawsuits. Accomplices and go-betweens worked to soften girls to abductors' advances, and it could be difficult to perceive their true allegiances. William Porter 'did countersett the ringe' belonging to Sir John Tyrrell's wife. This was a ring which she lent to servants away from home so they could be

[93] Foxe, *Actes and Monuments*, p. 131.
[94] STAC 5/W23/6, B.
[95] STAC 5/B94/31, B.
[96] STAC 5/B94/31, Answers of Edward Meade and Thomas Throwgood.
[97] STAC 5/R8/10, I.

recognised as part of the Tyrrell family – and 'made an other as lyke hit as' he could. Later, meeting thirteen-year-old Mary Tyrrell after her virginals lesson with the counterfeit mascot in hand, Porter 'shewed her [the] ringe wich she knew very well to be my cosen Gryffells ringe' in order to successfully lure her away.[98] Somerset teenager Mary Willes refused to encourage her sister Judyth to meet admirer John Bushe because 'in so doinge she sholde offende god greatly'. So Katherine Stowrton, Mary's own mistress corrupted into becoming Bushe's accomplice, 'to imbolden and encourage' Mary,

> said it was not any suche offence in her conscience as [Mary] ymagyned and that it was as fytt for her forgayne to doe the same as for any other and soe by her contynuall abettment and encouragement Mary the rather to wyn the good likinge of her Mrs… so consented therunto[.][99]

It was Mary Willes's obedience, not disobedience, which made her 'bold'. In both Willes's and Tyrrell's case, faith – but, vested in false authority – led them astray.

Johanne Awkley of Southampton, who behaved as a go-between during the eventual abduction of teenager Elizabeth Searle, was asked 'have you often… perswaded [Elizabeth Searle] to love the sayd John Frye and to forsake her parents'?[100] The choice facing bride-napped girls was clear. Sara Stone from Bushey (Hertfordshire) understood in 1597 that a promise to marry taken and refused constituted a 'breach of contract' enforceable by law. A promise having been 'wrought and procured' from Sara, several days later she 'burst fourth in great words of defyance against' Henry Slyfield, saying 'she would neuer marry with Slyfeld but would rather Lye in prison all days of her lyef'. (A sense of Sara's opposition to legitimate authority was contained by her manservant's assurances that this injustice would not be allowed to come to pass.)[101] Johann Awkley coerced Elizabeth Searle into marriage by 'say[ing] to hir Elizabeth remember what you have promsyd the yong man'.[102]

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[98] SHC, LM/1036/25.
[99] STAC 5/W2/25, B.
[100] STAC 5/S18/30, Interrogatories administered to Johann Awkley.
[101] STAC 5/S28/17, Depositions of Walter Fitchett.
[102] STAC 5/S18/30, Depositions of Johann Awkley.

After all, a contract whether *per verba de praesenti* or *de futuro* was an oath. As discussed in the previous chapter, an oath was 'a religious speech act, which explicitly invites the Divine' to be present too.[103] Although no longer a sacrament, a marriage promise was made before God. One Star Chamber petition against abduction and clandestine marriage appealed, entirely uniquely in the sample, to 'the godlie zeale & inclinacon yt yor Maiestye hath'.[104] Hannibal Vivian did 'Ravishe & steale awaye' fifteen-year-old orphans Anne and her sister Jane, 'being Twins & borne at one time together' from their home in 1578. The pair were co-heiresses of the Earl of Devon, and Vivian their disenfranchised cousin who sought a share in their healthy fortune. Having also 'fetched from a scole' sixteen-year-old John Trelodivas, Vivian purposed to wed him to Anne 'against the willes & good lykynge bothe' teenagers. Six years later, having reached majority, Anne recalled to the Star Chamber that

> Vyvyan & others by hym procured dyd not… desyste the Incessante burdenynge the conscience of your subiecte that shee should be utterly dampned before god unlesse she would yielde & assente unto the pretended mariage[.]

This spiritual abuse continued 'tyll after one yere and more dispended'. Anne remembered 'eche of them pouringe fourthe Teares plentyfully throwe these so greate abuse by them sustained by suche compulsion'.[105] Presumably Anne had entered into a contract *per verba de futuro* (which 'created an indissoluble union only when followed by sexual relations'**)** and was told refusal to marry would render her 'dampned before god'.[106] Whether *this* 'marriage' constituted a second promise *per verba de praesenti,* or just a consummation of the first, is unclear. Either way, the girl's godly conscience could be worked against her. This brings new meaning to Walsham's phrase 'divinely ravished' – which she applies to youthful Protestant radicals.[107] It might also describe an abductee's captive conscience. For plaintiffs describing

[103] J. Hudson, *Crime and Consequence in Early Modern Literature and Law* (Edinburgh, 2021), p. 29.
[104] STAC 5/A29/19.
[105] STAC 5/V4/16, B.
[106] Helmholz, *Marriage Litigation*, p. 26.r
[107] Walsham, *Generations*, p. 93. Worrying radicals in Elizabeth I's reign existed in both confessional camps.

this to the court, proof of her marriage contract was therefore no proof of faithlessness. Sara Stone's parents dwelled not just upon her 'grife or dislike… towards the instruments to abuse or betraye her therin', but 'her Repentans' too.[108] Conversely according to defendants of Mistress Percyvall's abduction, she was reminded by her suitor to 'take heed say not nowe that wich yow wilbe sorry for to morrow for it is not A bargaine made for a daye but for as long as we lyve'. To which she baldly answered 'that she dyd thincke' her promise of matrimony 'A thing ordeynd of god & therefore would never goe from itt'.[109]

For martyrologist Bale, 'true vyrgynyte' was 'fayth uncorrupted'.[110] A link between spiritual and corporal perversion runs through accusations of abduction, that 'ungodly practyse', but is clarified best by *Englebert v Slade* (1584).[111] John Slade of Rushton (Northampton) was, reported Nicholas Englebert, 'rather depely drowned in the dreges of popishe doctryne', speaking

> oftesones to some good subiectes, whome he indevoreth to dyswade, from theyr syncere love & bounden dewties to god, and your highnes often affyrminge, that he hathe one booke, the readinge whereof, wyll p[er]swade any man, to deteste the religion, nowe used in the churche of England, and to *forsake his Cuntrey, father, mother, frindes, lyvyng and lyffe*, for the love of the Pope, and of his Catholicke faythe[…][112]

John's relative, also John Slade, was drawn hung and quartered at Winchester the previous year for denying the Supremacy. Fearing that his one-time friend Englebert would 'seeke [his] reformacon', Slade apparently 'Covertly contracted' his daughter Elizabeth to Englebert's younger brother, in order 'to bring John [to] the bent of his Crock'. Slade used the young marriage to steal Englebert's allegiance to himself. But having insinuated himself into his family, Slade then further turned the tables on Englebert by accusing *him* of

[108] STAC 5/S28/17, I.
[109] STAC 5/B80/19, D.
[110] M. L. Hickerson, 'Gospelling Sisters 'Goinge up and Downe': John Foxe and Disorderly Women', *The Sixteenth Century Journal*, 35/4 (2004), 1046.
[111] STAC 5/W23/6, B.
[112] Italics added. STAC 5/E6/37, I.

orchestrating Elizabeth's bride-napping.[113] Even the Catholic's loyalty to his new family, it would seem, could not be trusted.

There were many priests of dubious stripes in abduction suits, although not obviously Catholic. It was important that defendants stressed marriages were 'as it is appointed & sett fourthe by ye booke of comen praer… by a lawfull minister & according to the usuall orde of Marriage in Ingland'.[114] Thomas Toleston, the presiding minister at the clandestine marriage of William Essex and Jane Harcourt at St. Clement Eastcheap in London was interrogated in 1593: 'what moved you to solempize the marriage between them beinge strangers, and unknowne unto you, and not of your parishe'?[115] Other types of heresy could delude maidens: Thomas Awkley was asked 'whether cann you inchant or charme any drynke or apple' which would cause its consumer 'to be soe farr in love with you that she wold doe any thinge you wolde have her by the space of fowre and twentye howers'.[116] By alleging that the abductee had fallen under his spell for so short a time, her guardians likened her actions to drunkenness or lunacy; that she was not 'in [her] right wits, before they plight their troth to each other'.[117] Abductors avouched that they had left 'brides' ample room for consideration and refusal. John Frye apparently proposed to Elizabeth Searle with the warning that 'he ment not to take up the same rasshely or unadvesydly and ther fore wellyd hir to take some pause then for that [it] was for terme of life'.[118]

Abductors turned tables against complainants by alleging that, given previous abusive behaviours, they had forfeited their right to care for victims. On July 20th 1572 daughter to a

[113] STAC 5/E6/37, B.
[114] STAC 5/E10/12, Depositions of Ffrydewith White.
[115] STAC 5/A26/28, I.
[116] STAC 5/S18/30, Interrogatories for Thomas Awkley.
[117] W. Perkins, *Christian oeconomie: or, A short survey of the right manner of erecting and ordering a familie according to the scriptures* (London, 1609), pp. 75-6. By a literal contrast, a witness for John Skynner insisted that Margarett Robinson 'gave him very luving & wytty answeres' when she was taken away to wed him. STAC 5/E10/12, Depositions of Nicholas Rigby.
[118] STAC 5/S18/30, D. Another example at STAC 5/T15/22.

dead alderman of York Jane Harrington, according to teenaged manservant John Hogge, told him

> that her mistres had on that day beaten her and also threatenyd her that yf ther were any matters of love betwene this def[endan]t and Jane that then her mistres wolde make her Repent hit all the dayes of her life and Jane then saide to this def[endan]t that she was in suche feare of her mistres that she wolde not tarrye in the howse anye longer but wolde go her waye and to any plase this def[endan]t wolde appointe[.][119]

George Bartlett, accused of abduction in 1572, spoke to fourteen-year-old London ward Margaret Underhill at her mistress Browne's window in Fleet Street – their first meeting – at which Margaret apparently said she was 'mysused' by Browne, beaten and not given enough 'meate and drinke'.[120] According to defendant John Busshe in one 1590 case from Somerset, Mary Beighton and her new husband regarded that their 'care over her' daughter Judythe

> (wich in their said Bill of complainte they pretende to be marvelous tender) was to none other ende but to buye and sell her for money to hir that in respecte of her lyvynge woulde geve most for her and to put the gayne in theire owne purses[.]

Judythe, her abductor explained, had needed rescuing because she 'would not consent and agree to suche inconvenient marriage as her fatherin law and mother for theire owne lucre had appointed for her'. How well-appointed forty-year-old John Busshe was to marry the thirteen-year-old is questionable.[121] But understanding Mary's energies as directed more towards her own survival than her daughter's welfare helps to make sense of the incongruous fact that Mary makes no attempt to outline the events of Judythe's marriage. Testing the legitimacy of the marriage was as a necessary step towards returning an abductee to her parents – rather than simply obtaining financial recompense.

The role played by victims in shorter bills might be more accurately compared to a disputed piece of evidence – a deed or will – than a participant. In many of the abduction suits already described, the desires of parents and girls were conflated, one being read into

[119] STAC 5/F4/40, D.
[120] STAC 5/B73/9, Depositions of George Bartlett and Depositions of Frances Lyle. See too STAC 5/B42/33, A; STAC 5/S72/14, A.
[121] STAC 5/W76/31, A.

the other. With the same language used by Star Chamber judges surveying written evidences, accomplices of abductor Hannibal Vivian were questioned whether Hannibal 'had Anne hir Inspection before the Judges of her Mties Bench'.[122] There were also literal texts in these cases: in 1569 witnesses were not just questioned about whether Thomas Burton and Dorothie Thomason did 'plighte their trothes theone to thother, without anie perswasion or inforcement' one night in Charterhouse churchyard, but also if the 'wordes of contract were written and two or three of the [witnesses] sett thereunto their hands'.[123] As around the wills discussed in chapter four, questions arose about the authenticity of marriage documents: were marriage contracts, banns, or church books forged?[124] However, plaintiffs sought too to demonstrate that abductees' actions and bodies, as well as words, lacked (legal) authenticity; that they were not reliable representations of their 'true' will. Teenaged bride Margaret Shawcrosse of Staffordshire, one witness explained in 1569, was wedded 'contrarye to hir… lyking & *inward Conscent* and so she reported before & synce the mariage made'.[125] The action and will to wed were separate entities – unlike medieval England, where '[i]deas of mental pressure as a factor vitiating consent' were rare.[126]

A letter was produced for the court by alleged abductor John Meere in 1583, supposedly written by Anne Tilley of Sherbourne (Devon),

> touchinge his good success [in courtship], her love the receite of the gloves the comendacon of them, the rhisk she made in wrytinge the same l[ette]re for feare of beinge espyed by her mother[.]

This letter was denounced as a forgery by her parents.[127] Anne's voice and will had been defrauded. Meere also tried to counterfeit it. Having 'taken a ringe of her owne owt of her box of lute strings', it apparently needed mending and he undertook the errand and sent it

[122] STAC 7/15/49, I.
[123] STAC 5/T15/22, A.
[124] STAC 5/T15/13, D; STAC 5/B12/29, I.
[125] Italics added. STAC 5/S67/12, Depositions of Thomas Forde.
[126] Seabourne, *Imprisoning medieval women*, p. 154.
[127] STAC 5/T36/37.

back to Anne repaired. Anne, though, knew that accepting a 'token' could be dangerous evidence of the recipient's commitment to marry the giver.[128] As such she

> had offered unto Meere paymente for the mendinge of hir ringe and bicause he wolde take noethinge of her for the mendinge therof she had broken her ringe againe[.][129]

Mustering even more creative license, William Creswell of Stoke-by-Nayland explained in 1589 that Katheryn Whetlocke was communicating with him 'by opening [^& shuttyng] a wyndowe' of her guardian's house: 'ther is a token betwene hyr and me and… if she shutt and open the same Wyndowe that is a token betwene hyr and me that she doth stande of one mynde towards me'.[130] Both Meere and Creswell attempted to read, write, or make, signs of reciprocation where there were none.

Sara Stone's father condemned her marriage on the grounds that she was 'of this tyme of abowt the age of [14] & of small growethe'.[131] On the other hand, Elizabeth Hill was twelve when married by licence of the Bishop of Norwich to an equally young groom in Mendham parish church (Suffolk). Her father-in-law declared to the Star Chamber that 'Elizabeth voluntarylye freely & willingly & most *womanlye*' had married, 'to the great admiracon & comforte of such as weare present (her yonge years considered)'.[132] That there was a difference between unwilling actions and consensual actions was realised in plaintiffs' insistence of the maturity of an abductee relative to her bodily age. Abductee Margarett Robinson, one witness assured, 'seemd to this dep[onen]t to be of wyse governance in respect of her age' (thirteen) on the day of her wedding.[133] The accused used 'embodied' language to insisting that consent was as 'inward' as outward. Yeoman Thomas Botewright pleaded that

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[128] As a child gentlewoman Grace Mildmay was warned by her stepmother to 'take heed of whom I received any gifts… whereby I might betray myself unawares, or gloves, apples or such like, for that wicked companions would ever present treacherous attempts'. *With faith and physic: the life of a Tudor gentlewoman, Lady Grace Mildmay 1552-1620*, ed. L. Pollock (1993), p. 27.
[129] STAC 5/T36/37, Interrogatories administered to witnesses for George Tilley.
[130] STAC 5/B80/19, Depositions of William Sherley.
[131] STAC 5/S28/17, I.
[132] Italics added. STAC 5/B94/31, B.
[133] STAC 5/E10/12 Depositions of Thomas Dedd.

'his wife' Agnes née Bigland was over the age of fourteen and so 'at libertie', 'being in love with' him, to marry. In 1559 she had declared in front of honest witnesses on 'the grene' in Suffolk that Thomas 'was hir lawfull housbond and that and that [sic] she wold goo with hym whither soo ever he wold haue hir with all her *harte & mynde'*.[134] Another courtship, between a Katheryn Whetlocke and one William Creswell, purportedly developed in 1589 in Stoke-by-Nayland (Suffolk). Twenty-two-year-old local butcher Thomas Harryson reported meeting Katheryn and

> saying to hyr howe nowe Katheryn I haue harde saye that you sholde haue gone awaye with William Creswell[,] whereto she saide / I had byn as good I had gone with him [^then as at any other tyme] for saide she I will not foresake him whilest I do lyve[.][135]

No matter that Katheryn's body was apart from William's, as it was her soul which was committed to him.

Katherin Peake's mother complained that Katherin could not even understand her own wedding service. It was not in English but 'the welshe Tonge' – she was definitively prevented, then, from meaning what she did.[136] Her new husband admitted that the match had been 'solempnized in Welshe some parte of the service and saith that he can not tell whether Katherin did understande the prieste,' but nonetheless he 'saieth that she spake after him' happily enough.[137] Margaret Lunde's abductors, 'percevinge they could not by any meanes cause her to assente to' a marriage with thirty-four-year-old John Whitebroke,

> did devise to drawe in a peece of paper certene words of contracte of marriage... & moved her to reade the same & she theruppon did reade the same, thinkinge [it] had bene devised onlye for a Jeste or sporte[.]

She 'did rede the same,' the bills admits, but 'without anye answere furder made to' it, and instead 'muche talke therwas of other matters'.[138] There is a sense behind this sentence that

[134] Italics added. STAC 5/S62/1, A. In a suit relating adultery rather than abduction but exemplifying the present point beautifully, Agnes Morse was reported to have said that she 'Loved' her paramour 'better at the Sole of the foote than the bodye of her husband'. STAC 5/H61/32.
[135] STAC 5/B80/19, Depositions of Thomas Harryson.
[136] STAC 5/R8/10, Depositions of Thomas Peake.
[137] STAC 5/R8/10, B.
[138] STAC 5/L46/24, B.

words had to be spoken with due reverence in order to 'be' what they said – an obvious ramification of the Protestant regard for Word. '[T]he Heathen failed in doing good works' even though he did them, because they 'aimed not at the maine end, and scope of all humane actions, the honour and glory of God'.[139] During her wedding ceremony Margarett Robinson, one witness claimed, 'speaking at the same tyme with a lowe voice was willed to speake with a higher' one, '& then she spake so lowd that all them were then in ye hall might heare her'.[140] This showed that she meant it.

This notion, of a wedding existing only in form and not in content, would not have been allowable to medieval theologians, for whom 'marriage [was] not about intentions but about a verbal formula.'[141] Rickman contends that Tudor breach-of-promise suits continued to probe only superficially for binding words.[142] But Anne Vivian, along similar lines to many abductees, sought to dissolve her marriage by reason that she did 'utter after the sayd [Minister] Quynall certayne wordes *beyinge a shewe & pretence of maryage*'.[143] The Star Chamber's increasing cognisance of 'force and fraud' brought to its fore a conception of marriage which allowed interiority, and intent, to supersede ceremony. Whereas the old religion 'by Gods appointment, stood in bodily rites, and outward ceremonies, actions, and gestures, yea in outward things, as garments, meates, and drinkes,' Protestants were concerned only with Christ's gift and inward faith – in other words, interiorities.[144] Disjuncture between speech, performance, and conscience, meant that a wedding might now look and sound like one yet at its heart not be one, 'to the highe displeasure of Almightie God'.[145]

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[139] Perkins, *The whole treatise*, p. 14.
[140] STAC 5/E10/12, Depositions of Will[ia]m Parker.
[141] C. McCarthy, *Marriage in Medieval England: Law, Literature and Practice* (Woodbridge, 2004), p. 34.
[142] J. Rickman, '"He would never consent in his heart": Child Marriages in Early Modern England', *Journal of the History of Childhood and Youth*, 6/2 (2013), 304.
[143] STAC 5/V4/16, B.
[144] Perkins, *The whole treatise*, p. 245.
[145] 4 & 5 Phil. & Mary, c. 8 (Jan. 1558).

Turning back to abduction suits: some described that girls were taken 'againste the goodwyll of the Childe hir selffe *as also* againste the good wyll of her parents'.[146] Discussing teens in service away from home, Perkins tutored that 'the power and authorities of the parent, though it be not taken away, yet it is lessened, when it is either transferred to another person, or in part resteth in the child'.[147] Twelve-year-old Christian Willoughby's abductors 'kepte her so straightly' that 'no other could speak with her' to advise her against sharing a bed with Harforde. This she did sadly do, but her mother felt that Christian's guardians shared her culpability for the 'consummation'.[148] Differentiation from one's parents during adolescence was inevitable, but inevitably incomplete. In 1595 George Brigges, the father of Sara (aged fourteen), found her in a house in Rushmere in Suffolk after her elopement with John Jenkynson. Dragging her by the hand he berated 'thow ungracious Childe what hast thow done for thyne selfe and thy frynds… come yowe shall goe withe me'.[149] George understood and brushed away Sara's marriage as a childish disobedience which betrayed herself and her 'frynds' equally. Sara did not belong wholly to either her family or herself.

What did it mean, to belong to one's early modern self? When abductees were afforded greater subjectivity by pleadings, it was most often in those written by defendants. Her affection and actions it inspired, abductors said, were hers alone. Thirty-two-year-old Robert Bradford was very ready in 1593 to confess too that he had told his friends about his plan to convey Mary, of Crowle (Lincolnshire) away – 'after that he had gayned hir love'.[150] He had maidservant Gertrude Thorney, who usually did 'lye on the night with Mary', seek to 'know the mind' of Mary about his love and his proposal.[151] The marriage was allowed to

[146] SHC, LM/1036/25.
[147] Perkins, *Christian oeconomie*, p. 85.
[148] STAC 5/W23/6, B.
[149] STAC 5/A32/30.
[150] STAC 5/T15/25, Depositions of Robert Bradford.
[151] STAC 5/T15/25, I and Depositions of Robert Bradford.

stand by the court, but it did so only until Bradford died three years later.[152] In his 1582 depositions John Frye laboured over the marriage contract; like many abductors here, he hoped it would clinch his defence, claiming that he asked Elizabeth Searle to confirm that 'you any lyking to marye with me' three times over. There is a very telling change of words preserved in his accomplice Thomas Awkley's depositions which demonstrate the significance to defendants of proving mutuality in marriage. Awkley denies that he 'perswayd [Elizabeth] to love Frie or to mete with him', but admitted he 'dyd knowe that Eliz[abeth] and Frye wolde mete' on the fated night in question – 'to the intent,' the lines continues, 'to go awaye together to be mared'. This last clause is an insertion above an older unfinished line, crossed out: 'to the intent,' it previously read, 'the same Frie might ha[ve]' (married Elizabeth, presumably).[153] Abductors took care to describe that decisions to marry had been taken perfectly mutually with abductees.

Although Anne Vivian's parents were dead and her guardian abusive, yet she could cite 'the further dysquiet of hir perplexed & dystressed conscience' when resisting marriage. Anne's suit aligned her 'conscience' with the laws of the Queen's 'moste honourable privie councell'.[154] Occasionally however, a plaintiff seems to set the two up in opposition. In 1570 Mary Atkinson's alleged abductor William Yonge complained that her guardian's lawsuit meant to 'alluer and entise Mary to renounce and breake her faithe giuen to' him 'of her owne fre will and in quiett manner by her owne desire'.[155] The court should not, Yonge's bill pleaded, 'breake the bawndes of Matrimony and trewe knotte of mariage knit by the allmighte between' he and Mary. Upon first reading, it might seem that alleged abductor Yonge had effectively called upon God for support. That young men might try to justify elopements with 'the perfect excuse and legitimation' of 'the doctrines of Protestantism',

[152] Maddison, *Lincolnshire Pedigrees*, iv, p. 1021.
[153] STAC 5/S18/30, Depositions of John Frye; Thomas Awkley.
[154] STAC 5/V4/16, B.
[155] STAC 5/D14/36, A.

would be one good motivation for clergy who pressed in 1604 to make parental consent requisite for all who married within minority.[156] More likely, though, Yonge and his counsel steeled themselves against a dissolution of the marriage by citing the apparent tenuousness of the court's authority to do so. This would be a risky tactic, unless Yonge's attorney had advised him to appeal to the politics of presiding judges. As discussed at many points in this thesis, how far this secular court – and more broadly, the crown – was to preside over ecclesiastical matters was an open contest.

Simultaneously, the nature of marriage and, more pertinently, divorce, was also subject to debate between Protestants of different stripes – some of whom would surely be represented on the privy council and Star Chamber.[157] Some clerics bemoaned that private separations were not only available in post-Reformation England, but liberally granted. Against them, prominent Reformers were convinced that remarriage away from an adulterous and deserting spouse was condoned by Scripture, despite normal canonical procedure that would only allow separations *a mensa et thoro* (with no freedom to remarry while both spouses lived).[158] The 1604 marriage reforms, Bernard Capp argues, 'marked the final defeat of advanced Protestants and puritans' who hoped still during Elizabeth's reign that in English law a secular divorce *a vinculo matrimonii* (an effective invalidation of a marriage, allowing remarriage) be 'permitted in certain circumstances'.[159] London fishmonger John Baughe reported in 1587 to the Star Chamber that his estranged parents-in-law had many 'godly' friends who lived in bigamous marriages, following what they considered to be complete 'divorces'.[160] This is one suit among several sampled which provided judges with an

[156] Brigden, 'Youth and the English', 39. N. Tadmor, 'Women and wives: The language of marriage in early modern English biblical translations', *HWJ*, 62 (2006), 12-13.
[157] During Yonge's case, 'the knot of staunch Protestants on the council' constituted Cecil, Sir Francis Knollys, Sir Ralph Sadler, Sir Thomas Smith, and Sir Walter Mildmay, all of whom acted as Star Chamber judges. A. Gajda, ''A Wall of Defence unto This Realm': William Cecil, Conformity and the Protestant State in Early Elizabethan England', *The English Historical Review*, 139/596 (2024), 87.
[158] B. Capp, 'Bigamous marriage in early modern England', *HJ*, 126/1 (2009), 541.
[159] Capp, 'Bigamous marriage', 539.
[160] STAC 5/B82/28 and STAC 5/B83/31.

uncomfortable view into the fissure between popular religious practice and the dictates of the established church.

Adult women also used the Star Chamber to test the validity of their own marriages – even to dissolve them. They understood and strategically appealed to distinctions between willing and unwilling consent. One of these women was Ciceley Spatchford of Alderton (Northampton), a widowed gentlewoman who had wealth enough to renew her deceased husband's lease on a house worth at least £45.[161] In 1598 though, an Edward Fust came before the Star Chamber to depose that a year ago he had married Ciceley, only for there to quickly 'growe some varyance betweene' the newlyweds. So much so, in fact, 'that Ciceley denyed Edward to be her husband and utterlie renounced and refused him', suing for a separation in the 'the Spirituall Courte at Northhampton'. Ciceley, who sued Fust alongside her mother who was *prochain ami*, told the Star Chamber that her wedding to Fust had been a farce: 'by subtill perswasion' he had locked her in a chamber in a house in Westminster, where he had 'readie provided a minister with a service Booke in his hande'. But, Ciceley pleaded,

> she had utterlie refused to yelde to anie suche mariage and stoode in defiance of hime and his unlawfull practise whereuppon Fust called for courds to Binde her hands and foote and threatened her that she shoulde be bounde untill she did consente to marrie with hime[.][162]

Ciceley was well above the age at which the abduction statute might apply, but evidently she thought it possible to leverage the Star Chamber's capacity to void a marriage – at least, perhaps, by shoring up her cause in the church courts.

Several other 'historic' abduction suits were brought by women after years or decades of marriage. They sought to disentangle themselves by describing that their wedding had

[161] W. Adkins and P. Ryden, et al. (eds), *The Victoria History of the County of Northampton*, vol. 5 (London, 1902), pp. 44-6.
[162] TNA STAC 5/S31/25; Brief references to this suit in W. Adkins, and P. Ryden, et al. (eds), *The Victoria History*, p. 44.

taken place under duress, or when they were too young to consent.[163] In 1596 Margaret Shawcrosse's husband complained to the court that she had run away with a Mr John Wedgwood, who 'rode her upp and downe the cuntrye' on horseback and now 'remained with the said John Wedgwoodd or at his disposicion as thoughe shee weare his wyfe'. The defence's reply was simply that no adultery (or abduction) had occurred because Margaret's marriage to the complainant had never been valid. She had been 'not above the age of Eighte' when the two had wed in a parlour in Denbighshire.[164] Judgements taken upon this suit are not preserved. However, the question of whether Margaret could have her first marriage nullified, and *then* marry John Wedgwood as she sought, would have brought sitting judges directly to the debates surrounding secular divorce. Inextricably, they would be face-to-face the religious fracturing which had been brought on by Queen Elizabeth's religious settlement. 'Women's issues' could be forcefully political in the Star Chamber.

iii. Conclusions

Real abductions of girls and women clearly did occur throughout Elizabeth I's reign, despite a paucity of annulments on grounds of duress in church courts. A young heiress made an attractive financial prospect to abductors who knew that, thanks to *couverture*, in marrying the girl they would expropriate both her wealth and much of her legal capacity to consent. The Star Chamber, though, offered an opportunity to parents and guardians to repossess both.

[163] STAC 5/A28/11; STAC 5/L7/12; STAC 5/S31/25. For an explicitly 'cynical' use of writs of ravishment, although not in order to dissolve a marriage: STAC 5/C81/13; STAC 5/S26/10, B.
[164] STAC 5/S67/12.

The suits in this chapter, like all the other long-form pleadings throughout this thesis, made their case by narrativising the actions and choices of opponents. As Elizabeth's reign progressed, there were more and longer proofs in abduction suits, and analyses of the body and mind of young 'brides' are more visible within the archive. The dependence of case outcomes upon 'sleight or force' meant that complainants were strongly incentivised to demonstrate the strength of abductee's godly feeling. The more the abductee appeared to consent to her abductor, the greater the dissonance between her mind and body would need to be demonstrated. Unlike those in medieval suits which turned on the words of marriage, Star Chamber maidens could accordingly have a 'wedding' which was at odds with their (forced) will. Not only what abductees did, but how they felt doing it, mattered. The question upon which complainants and defendants ultimately divided is familiar to us from elsewhere in this thesis: were the consciences of these women and girls bound by their marriages, or by something else?

Chapter seven

Conclusion

Whereas customary and common laws had been applied according to social status, including gender – broadly, 'what' a person 'was' – the Star Chamber began to alter these terms. Litigant narratives became increasingly concerned with what plaintiffs 'did', according to pleadings, and what they had intended to do. Will, rather than right, was now shored up by the law. Given the right circumstances, heirs might unseat a (step)mother from their inheritance by alleging that her behaviour in wifehood contravened conditions necessary to inherit the estate. In part, this was a function of court process's reliance on long-form narrative pleadings and proofs, which grew longer as the court became longer in the tooth.[165] Also, individuals' economic embeddedness in a privatised land market was increasing, facilitated by laws like the Statute of Wills and relevant legal devices, and producing a flurry of related litigation. A change in focus and style of pleadings was necessitated by an influx of new substantive criminal law into the court's jurisdiction. Statute's rising influence was attributable to what Lake calls a 'positively Eltonian insistence on the centrality of statute and on the sovereign authority of the crown-in-parliament' amongst political thinkers.[166] Saliently for the changing legal experiences of women, these statutes could be used to prosecute wives entirely separately from their husbands for these crimes. Although they could not be fined cash, they could be leveraged for landed property which they technically possessed in their own name – although their husband held it. Thus, adversaries wrapped up their title disputes

[165] J. Hawarde, *Les Reportes Del Cases in Camera Stellata, 1593 to* 1609, ed. W. Baildon (London, 1894), p. 263.
[166] P. Lake, ''The "Political Thought" of the "Monarchical Republic Of Elizabeth I," Discovered and Anatomized', *JBS*, 54/2 (2015), 284.

in the 'raiments' of, most commonly, forgery and perjury charges – because the Star Chamber could provide winning parties with damages, in the return of land in contestation.[167]

These and other statutory crimes heard by the Star Chamber – aside from those violent threats to public order and trespasses which comprised its bread and butter before Elizabeth's reign – were against the judicial apparatus and the Queen's justice. Women were answerable to contempt of court, perjury, and fraud as any other subject was. Admitting testimony upon oath, women therefore owed allegiance to the Queen and her judiciary over any personal attachments and prejudices to defendants. This applied too to wives, and the most interesting reverberations of this finding pertain to their relationship with the burgeoning state. Wives were increasingly answerable to it as subject-citizens, rather than only their husbands and other male householders. Most radically, these reveal an erosion of the 'little commonweal', the integrity and power of which is axiomatic in early modern studies

These legal changes resonated with Reformation theologies disseminating in English culture. The Protestant notion of spiritual equality had tangible attendant effects for women in the Star Chamber, for instance in equality of capacity to swear an oath against perjury in court, and too to fail to uphold it. Even Todd, who argues against the novelty of Protestant teachings by dint of their Humanist heritage, concedes it 'is undeniable' that 'Calvinist theology contributed to the implicit opposition of English puritanism to hierarchy of birth'.[168] Yet, though applying technically sex-blind statute or contract law to women's property causes as the century progressed, the court continued to be a repository for contemporary, gendered, attitudes. The tangible effect of religious and cultural assumptions about the failings of Eve's daughters was that the presentment of women increased dramatically between the middle and

[167] T. G. Barnes, 'Star Chamber litigants and their counsel 1596-1641', in J. H. Baker (ed.), *Legal Records and the Historian: Papers Presented to the Cambridge Legal History Conference, 7-10 July 1975, and in Lincoln's Inn Old Hall on 3 July 1974* (London, 1978), p. 13.
[168] M. Todd, *Christian Humanism and the Puritan Social Order* (Cambridge, 1988), p. 196.

the end of the sixteenth century. Deponents to the Star Chamber as elsewhere were 'Lawfully Sworne that the Evidence wich they should gyve was trweth and nothinge but the trweth *as god showlde helpe them*'.[169] God helped women as well as men. Nonetheless, while legal devices such as testimony upon oath technically applied to all adult subjects, counsel and litigants' use of them was gendered. Pleadings evidence that women were more likely to be seen as manipulative, inconstant, and susceptible to flattery and fear. They were likely to be seen as bad *subjects* even if they were personally loyal. Meanwhile, anxieties to 'discover' deception (including corruption, although not treated here) proliferated within Star Chamber cases, mirroring concern about hypocrisy and the established church in England. Star Chamber stories exhibited a similar discomfort within suits alleging fraud, counterfeiting, and even impersonations. Statute had thus effected a shift from crimes of force to crimes of fraud. There was plenty of room for the latter conception of criminal behaviour for women to occupy – although not imagined likely to successfully wield force to secure title to property, they could easily be imagined doing so cunningly.

Some everyday legal devices, most obviously *couverture* or the in-built obstacles to wives of drawing up their own wills, were inherently gendered. But gendered assumptions also coloured the application of otherwise ungendered legal devices. This is illustrated by requirements in probate disputes that one of fear, fraud, or flattery had to be proved in order to satisfy the definition of 'undue influence' over a testator. Property-by-will allowed for challenges to inheritance which straightforward entitlements by birth or custom could not, and the popularity of such 'self-help' devices, and therefore occasions to narrativize women's behaviours and actions in the court, grew. Litigants almost never described men testators as having been fearful. Instead, wives were liable to manipulate husbands into reneging on their 'real' bequests to litigants using 'flattery' and sex. Similarly gendered choices were made in

[169] STAC 5/E6/12, B.

abduction suits. Despite the fact that removing girls and maidens from their family by 'flattery' garnered a charge of abduction as well as if he did so by 'fear', guardians insisted that the latter had occurred. One reason informing this choice was a high social price for girls who might be regarded as unchaste if they went willingly. A second reason was the theology inflecting Elizabethan law-waging. This included a keen concern with 'conscience,' which 'with all the blessed company of heaven, shal beare witnesse truly against them.'[170] Unlike those in medieval suits which turned on the words of marriage, Star Chamber maidens could have a 'will' (informed by their conscience) which was at odds with their eventual, forced, consent to wed.

This thesis set out to find out how Elizabethan women's experiences of Star Chamber justice might be gendered. In doing so, it has also undertaken the first project which substantially and systematically samples the voluminous records of the record class STAC 5. It answers Scott's call to demonstrate that the analytical category of gender 'not only add[s] new subject matter', but 'also force[s] a critical re-examination of the premises and standards of existing scholarly work.'[171] In this thesis, the premises underlying historians' understanding of the Star Chamber – its roles and functions – have been re-examined in light of its involvement in women's lives. The Star Chamber, it has been argued, was in dialogue with social and religious concerns of the period; not just the machinations of over-mighty or disorderly subjects at either end of the social scale. Shifting Star Chamber stories, statutory provisions, and quantitative and qualitative changes in women's crime, demonstrate that the intersection of culture, theology, and law can provide answers to the question of 'how implicit understandings of gender' were 'invoked and reinscribed' in Elizabethan England.[172]

[170] Cranmer, 'Against Swearyng and Perjury', p. 133.
[171] J. W. Scott, 'Gender: A Useful Category of Historical Analysis', *The American Historical Review*, 91/5 (1986), 1054.
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