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Maternity's Wards: Investigations Of Sixteenth Century Patterns Of Maternal Guardianship

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MATERNITY'S WARDS: INVESTIGATIONS OF SIXTEENTH CENTURY PATTERNS OF MATERNAL GUARDIANSHIP

ELIZABETH B. WOOLGOTT

2003
MATERNITY'S WARDS: INVESTIGATIONS OF SIXTEENTH CENTURY Patterns of Maternal Guardianship

by

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A thesis submitted in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

in HISTORY

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ABSTRACT

Maternity's Wards: Investigations Of Sixteenth Century Patterns of Maternal Guardianship

by

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Utah State University, 2003

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Grants of wardship, by the time of the Tudor period in England, had evolved into an institution divorced from its feudal foundation but committed to maintaining a goal of economic profit. Mixed with a pronounced responsibility of the monarch to care for the unprotected children of deceased feudatories, this goal compromised the practice of wardship grants and created a bureaucracy whose sole policy was patronage. After the death of a man who held land as a tenant in chief, his heir was taken as a ward of the monarch, to be placed in the guardianship of anyone the monarch saw fit. With the rise of the Court of Wards, which assumed the management of wardship cases from the monarch, the question of guardianship for the heir was often answered by the largest purse or the most powerful connections among men of authority. Women who sought the custody of their children were forced to take their place in line among others seeking the wealth that an heir might bring. While women tended to take a dramatically different
approach to gaining grants of wardship, the results of their searches were often futile because of the institution with which they were working. This thesis investigated the patterns of female involvement in the wardship process and examined their implications.
ACKNOWLEDGMENTS

The decision to study child custody patterns was not a clear objective from the beginning of my graduate experience. Women in religion, women in roles of power, the station of royal women, and the economic capacities of peasant women were all topics of consideration throughout this stage of my education. No one topic commanded my investigation and research outright; but one thing was particularly evident – women were interesting. Their lives and experiences, joys and sorrows, their sources of strength and their times of impotence all made them completely human. In this thesis, I sought to study women as they were, as human, instead of glorified covert rebels in a male dominated society or victims of a downtrodden gender. They were both and neither, as time, chance, and circumstance permitted them. In particular, I believe that the patterns of family is a crucial aspect in the life of a woman. Regardless of what this era has recommended to women on the importance of traditional female roles, I still believe that children and husband are central to a woman’s identity and role. This is not to say that they solely define her, but they are a staple of her life and have always figured as such in the biography of woman.

Having so acknowledged, I would like to give my love to one woman who truly inspired me by her commitment to the patterns of family and venerated domesticity, who taught her children to continually seek greater avenues of education, with or without a formal institution. Bearing the tradition from her own maternal example, my mother,
Cheryl, will always remain before my eyes as a standard of success. My father, Gary, whose love and sacrifice for his children can be described in no other way than inspirational, has stood shoulder to shoulder with her as an ensign of strength and intransigent love. For their compassion, enlightenment, and steadfastness, I would like to dedicate my efforts toward achievement to their examples and labor. And most especially, to my greatest friend and deepest love, John, I would like to express my admiration of your intellect and humanity, and confess a complete and undying debt to your devotion, unconditional support, and unfailing love. Life is bright for us.

I also wish to thank my family and friends who listened to all of my ravings and unnecessarily detailed explanations of my research, for their patience and love. To my fellow comrades in the graduate department, especially Ken Kisner, Lindsay Sidford, and Ryan Swanson, I stand in awe. Thank you for your time, your humor, and your minds.

Finally, I wish to thank my committee, Dr. Norm Jones, Dr. Bob Mueller, and Dr. Nancy Warren, for sharing their insights, intelligence, experience, and comradery with me, and give tribute to the great work with which they have already endowed the field of history and inspired generations of future historians.

Elizabeth B. Woolcott
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Glossary

Burgage - Tenure - In English law, one of the three species of free socage holdings; a tenure whereby houses and lands which were formerly the site of houses, in an ancient borough, are held of some lord by a certain rent.

Chief, Tenant in - In English feudal law, all the land in the kingdom was supposed to be holden mediately or immediately of the king, who was styled the “Lord Paramount,” or “Lord Above All”; and those that held immediately under him, in right of his crown and dignity, were called his tenants “in capite” or “in chief,” which was the most honorable species of tenure, but at the same time subjected the tenant to greater and more burdensome services than inferior tenures did.

Honor - In English law, a seigniory of several manors held under one baron or lord paramount. Also those dignities or privileges, degrees of nobility, knighthood, and other titles, which flow from the crown as the fountain of honor.

Knight’s Fee - The determinate quantity of land, (held by an estate of inheritance,) or of annual income therefrom, which was sufficient to maintain a knight.

Knight Service - Upon the Norman conquest, all the lands in England were divided into

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1 Glossary terms and definitions selected from Black’s Law Dictionary.
knight’s fees, in number above sixty thousand. For ever knight’s fee, a knight was bound to attend the king in his wars forty days in a year, in which space of time a campaign was generally finished. If a man only held half a knight’s fee, he was only bound to attend twenty days; and so in proportion. But this personal service, in process of time, grew into pecuniary commutations, or aids; until at last, with the military part of the feudal system, it was abolished.

**Seigniory** - A lordship; a manor. The rights of a lord, as such, in lands.

**Serjeanty** - A species of tenure by knight service, which was due to the king only, and was distinguished into grand and petit serjeanty. The tenant holding by grand serjeanty was bound, instead of attending the king generally in his wars, to do some honorary service to the king in the person, as to carry his banner or sword, or to be his butler, champion, or other officer at his coronation. Petit serjeanty differed from grand serjeanty in that the service rendered to the king was not of a personal nature, but consisted in rendering him annually some small implement of war, as a bow, sword, arrow, lance, or the like.

**Socage** - A species of tenure, in England, whereby the tenant held certain lands in consideration of certain inferior services of husbandry to be performed by him to the lord of the fee. In its most general and extensive signification, a tenure by any certain and determinable service. And in this sense it is by the ancient writers constantly put in
opposition to tenure by chivalry or knight-service, where the render was precarious and uncertain. Socage is of two sorts - free socage, where the services are not only certain, but honorable; and villein socage, where the services though certain, are of baser nature.

Tenure - The mode or system of holding lands or tenements in subordination to some superior, which in the feudal ages, was the leading characteristic of real property.

Wardship - In military tenures, the right of the lord to have custody, as guardian, of the body and lands of the infant heir, without any account of profits, until he was twenty-one or she sixteen. In socage the guardian was accountable for profits; and he was not the lord, but the nearest relative to whom the inheritance could not descend, and the wardship ceased at fourteen. In copyholds, the lord was the guardian, but was perhaps accountable for profits.
Elizabethan England, like most civilizations, defined a woman’s roles in terms of social relationships; she was remembered as mother, wife, or widow. Analyzing these terms reveals a pattern of connection, a systematic categorization by degrees of kinship. It is therefore safe to assume that not only a woman’s societal role, but perhaps even her identity also revolved around her most intimate associations. A woman as a mother had a finite amount of power, which was based on her relation to a surviving younger generation. Widowhood, however, which has been studied extensively as a new phase of financial, legal, and social independence for women, drew its status from a different power base. Widows were unique within the social hierarchy because they inherited their status, as well as their wealth, upon the deaths of their husbands. They were indebted to the demise of their spouse for their social station and legal liberation. While as wife and widow, a woman’s legal rights have been studied and debated exhaustively, one avenue of these combined subjects lacks sufficient amount of secondary research: the legality of maternal custody.

Odd as it may seem, the societal schema of mother and the legal rights of widowhood, while both dominant topics in women’s history, have largely been studied separately. It is evident that these topics, if studied in conjunction, would clarify perceptions not only of motherhood, but also the legal rights of a woman as a mother, not just a surviving wife. Lawrence Stone, author of *Family, Sex, and Marriage, 1500-*
1800, and Road to Divorce, briefly tackled this subject, but his work is lacking in its applications to traditional sixteenth century child custody patterns. Stone primarily discussed the custody rights of parents in seventeenth century England. Considering that divorce was impossible in Elizabethan England, the separation of a couple came in two ways: as a private agreement or with the death of a spouse. He found that fathers, in matters of private separation, retained absolute control over their children, determining whether or not they were raised by their mothers, among other things. Women could merely arrange to care for their children. For these issues of separation, the question of maternal versus paternal care is a provocative issue, but such a discussion is incongruous with the normal course of life during sixteenth century England.

In present day custody suits, legal guardianship has been traditionally granted to the mother based on the assumption that she acts as the central figure of successful child rearing. In these cases, the living presence of the father makes these habitual rulings in favor of the mother more significant and informative of the value society places on motherhood. However, in sixteenth century England, it was usually the death of the father that placed the issue of custody in the legal spotlight. As intuitive as it might seem that the mother automatically gained custody of her children at their father’s death, the


2 An actual divorce decree which dissolved the marriage and allowed each person to remarry was unusual because of the difficulty it took to get one. Timothy Stretton said that before the Reformation a couple could only get an annulment, divorce being prohibited religiously, and after the Reformation in England, it could only be obtained through an act of Parliament, which Stone described as being both expensive and time consuming. For detailed explanations of this, please see: Stone, Road to Divorce, 301-46, and Timothy Stretton, Women Waging Law in Elizabethan England (Cambridge: Cambridge University Press, 1998), 224.
meager evidence available does not suggest it was as easy as that. Especially in the upper ranks of the nobility and the landed elite, children were often haggled over for the value of the inheritance they were to receive. And contrary to modern customs, a child during the sixteenth century was often listed as an orphan if his father was deceased, even if his mother was still alive. This fact alone lends a great deal of insight into the hierarchical and value structures which dominated society, but it is by no means the absolute view of a sixteenth century perspective on maternal care.

Sue Sheridan Walker, a well-known historian of the legal aspects of wardships, addressed this question in her article on maternal guardianship in *Women in Medieval Society*, when she concluded “...[the fact that] feudal women did not make greater attempts to secure control over their children does not suggest weakness or indifference, but rather their acceptance of prevailing societal attitudes as to the raising of future feudatories, male and female,” and “if feudal society in general did not protest these arrangements, it is hardly surprising that the widow, herself a feudatory, voiced no complaint.” Having conducted no investigation into the number of wardships granted to mothers, yet still having a good idea of how many mothers were actually appointed guardians, Walker made an argument that the feudal system created not only the bureaucratic machinery for dealing with wardships, but also the ideals which fueled the society. Women, in this circumstance, would be no more nor no less than a product of their society. Yet product or no, these figures and suppositions for them do not answer

the question of why feudalism created such a philosophy. To further examine this issue, two key concepts will need to be explored: parenting and the legal capabilities of women.

From anecdotes describing a mother playing peek-a-boo with her toddler to studies of fairy tales where the wicked stepmother acts as the inhuman villain, historians have sought to reconstruct concepts of motherhood and parenting practices. The capacity and tendencies of mothering, in general, are the primary structural concepts that need to be established if a consideration of maternal custody is to be explored. Therefore, this investigation will begin with the ideas of parenting schemas as presented in their juxtaposing arguments by researchers in the field. While these scholars have submitted several intriguing concepts for consideration, it will become evident that the issue of societal faith in maternal capabilities has not yet been explored to its furthest potentials.

Following this search for a maternal parental identity, a general study of the rights of widows will ascertain the legal ability women possessed to bring a suit to court. It is necessary to establish that women, especially during widowhood, were fully capable of petitioning the law for their rights. If this was not so, the question of maternity rights would end where it began, leaving the question why not, instead of how.

In 1977, Stone’s *Family, Sex, and Marriage in England* created an image of medieval parents as often harsh, uncaring guardians who did not incorporate a basic concept of puerility into their child rearing practices. Stone’s image introduced a supposition that people during this time did not sustain intimate and warm relationships
with one another on a general social level. Stone described the society when he stated that, “the extraordinary amount of causal interpersonal physical and verbal violence, as recorded in legal and other records, shows clearly that at all levels men and women were extremely short-tempered.” Stone’s conception of parenting focused on two main causes: that the high death toll during the medieval period caused parents to create psychological barriers between themselves and their children in an effort to protect themselves from excessive grieving, and that the practice of sending children to a wet nurse during infancy or farming them out to other households, shops, trades, and schools at a young age negated any close ties of kinship that might be felt between parent and child. He also cited the practice of giving the same name to several children in the hopes that one of them would survive to adulthood as evidence of parents’ psychological distance from their children.

In conjunction with Stone’s analysis of the medieval era, Clarissa W. Atkinson, author of *The Oldest Vocation: Christian Motherhood in the Middle Ages*, described the time period in this way. “Pain and sorrow and the shadow of death were never far away, and the eternal association of birth with death, of suffering with motherhood, was dramatically underlined during these hard times.” Shulamith Shahar also described the prevalence of death, saying that people in the medieval era were not only familiar with its

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1 Stone, *Family, Sex, and Marriage*, 77.

5 Ibid.

occurrence, but often had much exposure to the corpses, themselves, which were kept in the homes until burial.⁷

It seems then, that in an era of relatively cold and psychologically distant people, attachment at even a parental level was kept to a minimum. Stone even cited the journal entries of an eighteenth century mother as an example that women could be callous to the loss of their children.⁸ Yet the looming question in regards to the issue of motherhood remains: because they might grieve less, or, as the case may be, the evidence of grief might be less, did it follow that they loved less? Contrarily, Shahar specified a number of documented sermons where churchmen “condemned exaggerated mourning of parents” and parents mourned the loss of their children to the point where no comfort was available to them. She detailed scenes of unmitigated maternal grief lasting for several years following the death of an infant.⁹ In addition to this, Shahar also noted that a particularly religious parental tactic used to invoke the recovery of an ailing child was to carry them on a pilgrimage to a shrine and make an offering there for the relief of illness or physical deformity. Atkinson, as well, provided a touching image of Martin Luther weeping over the corpse of his thirteen-year-old daughter and struggling “for faith in God’s justice,” and the grief of his wife, who refused to be comforted.¹⁰

Stone’s second premise concerning the lack of parental regard for their children.

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⁸ Stone, *Family, Sex, and Marriage*, 77.

⁹ Ibid., 151-3.

¹⁰ Atkinson, 213.
during the Middle Ages featured the practice of fostering. To be sure, this was a common practice. Children from upper-class families were typically sent into the homes of other wealthy families to be raised after the age of seven or older. Children from poorer families were also sent from home in the years after they turned seven for the purpose of learning a trade. While this may seem to be very unusual to modern ideals, it was a common and accepted practice in the Middle Ages and Early Modern period. And contrary to Stone’s thesis, it was common practice between the seventeenth and nineteenth centuries as well, known as the period of the nuclear family and cult of domesticity. In these later periods, it was more common for children to be sent away to schools. Yet the purpose was the same, to provide children with a foundation on which to build their lives as an adult. Children in the poorer classes, trained as apprentices in their youth, were equipped later on to support themselves and their families. Youth from the upper echelons of society were fostered in the homes of other wealthy or noble families in order to learn the requirements of their future societal positions and to make connections with other families which they might use to their benefit later in life.

Barbara A. Hanawalt called the idea “that English parents did not love their

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11 Royalty, as always, deviated greatly from this trend, sending children, and especially girls, to the homes of their betrothed to learn the language and customs of the area.

12 In fact, this age is significant in the history of childhood. The Catholic church for a long time maintained that it was an age where the child became aware of right and wrong and accountable for actions. It was at this age, or up until they turned twelve, when they would be confirmed. Consequently, the age of seven was also the point where the maternal influence was no longer deemed essential for proper development.
children because they fostered them at an early age,” a “myth.” In her study of Lady Honor Lisle, the wife of Arthur Plantagenet, governor of Calais during the sixteenth century, she described a system of placement for children determined by what she called ‘female networks.’ Children were not haphazardly thrown into the homes of another noble for their education. A search for a suitable home for fostering was conducted through family relations, parents, and friends, to find a place not only satisfactorily ranked, but one wherein the child might be happy. During this fostering period, children were often in contact with their parents through letters, if not visits. They were still financially dependent on their parents for necessities such as clothes, as well as for pocket money and educational expenses. As in modern times, the need for funds kept children in frequent correspondence with their families.

According to Stone, nuclear families, with loving kinship ties did not become evident until the seventeenth century. It was not until a century later that, in conjunction with the rising “cult of domesticity,” the spheres of father and mother separated more distinctly and became a worldly versus a domestic domain. The traditional roles of each parent were more sharply defined and solidified, creating a glorified version of each and negating the heavy medieval influence of outside community

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14 Ibid., 240.

15 Ibid., 241-2.

16 Ibid., 243-4.

17 Ibid., 149.
involvement in child rearing. The family was then the father, mother, and child, alone.

In the “cult of domesticity,” Stone claimed motherhood was endowed with the role of nurturer, resulting from an increase in the number of children breast-fed by their mothers instead of wet-nurses. A bonding relationship evolved from this interaction and women bred more intimate connections with their children. The lack of attachment between mother and child in earlier ages was the result of upper class parental practices that utilized wet nurses and fostering for the upbringing of children. These connections and forms of communal child rearing were detrimental to close inter-familial ties. To some extent Stone is correct in this assumption. A vital amount of bonding is created from interaction with the child during cycles of feeding, changing, bathing, and rocking. Yet there is also a certain amount of bonding that is created during prenatal periods which also figures into the equation. Mothers who have carried their children through the birth process have spent every day since the conception with the child, feeling it grow and investing their own energy in, and even risking their own life for, the successful growth and delivery of the child.

Adrian Wilson, a historian of medicine, discussed the ‘ceremony of childbirth,’ as a distinct experience of women, apart from the world of men. In this scenario, women were brought together in a culture that was distinctly female and centered on the

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18 Interestingly enough, while Stone presents the seventeenth through nineteenth centuries in England as times of increasing family bonds due to a lack of fostering and wet-nursing, other scholars such as Valerie Fildes claim that such occurrences, particularly wet-nursing, were rising at this time. Patricia Crawford, “The Construction and Experience of Maternity in Seventeenth Century England,” in Women as Mothers in Pre-Industrial England, ed. Valerie Fildes (London: Routledge, 1990), 24, taken from Valerie Fildes, Breast, Bottles, and Babies: A History of Infant Feeding (Edinburgh: Edinburgh University Press, 1986), 153-5.
production of life. The birthing room or area was staffed, maintained, and administered by women. This was a moment in a woman’s life which was completely feminine.\textsuperscript{19} Wilson ended his chapter with a very intriguing question derived from Natalie Zemon Davis about the role of a “collective culture of women” based on an experience which they almost all shared - giving birth.\textsuperscript{20} Wilson posted a range of reasons for the existence of this culture, from a rebellion against subjection to men to rites of passage.

Despite the motivation, given that childbirth was a common experience for women in the Middle Ages and Early Modern periods, it may stand to reason that the birthing of the child was only the beginning of this female culture. It is not a leap in thought to suggest that the experience of motherhood may also have bonded women together, as it often does today. This, of course, would suggest that women built their self-conceptions on not just giving birth to children, but raising them, as well. Patricia Crawford wrote, “As for mothers themselves, they placed a high valuation on their role. For them, the family was the world, they measured their life stages in terms of its rhythms, and it was a space that they made their own.”\textsuperscript{21}

A maternal space or sphere of influence becomes increasingly demonstrable when that arena is threatened by loss. Stone at one point professed that “… the mothers who

\textsuperscript{19} This feminine moment is only carried on until the eighteenth century, when men, acting as midwives and physicians, became predominant in the birthing room.


were most likely to be involved in private separations were also those most likely to be passionately attached to their children, and most distraught by their removal.”

Stone developed this argument in his study on the evolution of divorce customs and laws produced in *Road to Divorce*, published in 1990. Here he argued that prior to the practice of divorce proceedings, a private separation agreement was used between marriage partners who found they simply could not live together. Stone wrote that mothers often kept the children to raise, but did not have legal custody over them. The father commanded complete control of his children until the age of maturity, usually recognized at twenty-one, if not sooner.

The supremacy of the father, mirrored in the laws concerning the family of a deceased man, find their origins in Roman law. This even goes so far as to generate the expected mourning period for the widow, to ensure that she is not with child by her late husband before remarrying another, as well as to grant the father total control over his family. It is only when this complete power interferes with the boundaries of religion that the power of the father over the life and death of his children, as was customary under Roman law, was taken away. Maternal custody was never so matter of fact, nor so evident.

While no study has investigated how often mothers received custody of their

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22 Stone, *Road to Divorce*, 170.

23 Ibid., 171-2.

children either through the will of the deceased father or by suing for custody in court, there is a great deal of study about the legal maneuvering of widows in sixteenth century England. Women, and most especially widows, were active participants in legal proceedings. From conflicting cases of widow’s inheritances, there is a great deal of evidence that women prosecuted and sought ownership of their lands through legal efforts. Timothy Stretton, a legal historian, has conducted a study on women’s litigation, with particular attention to the Court of Requests which dealt with the pleas of common men and issues of equity.25

In terms of the legal recognition, a woman was judiciously protected under the name of her father, husband, or guardian. She could neither sue nor be sued in her own name, unless she was placed under the legal title of *feme sole*, meaning a single woman. A married woman, legally covered by the name of her husband, would be termed a *feme covert*.26 Widows were indexed under the heading of *feme sole*, which granted them a myriad of privileges not available to them during their years as a *feme covert*. Among these new advantages granted by common law were the ability to hold land, make binding contracts and agreements, buy, sell, or trade land (depending on the stipulations of the dower agreement or her husband’s will, if those lands were affected,) bring suit in court, and write legally valid wills. Women who were married could only carry out these

25 Stretton, 70-73.

26 There is a middle ground between the *feme sole* and the *feme covert*, called the *feme sole trader*. She is a woman who is either married or has been abandoned by her husband and is working in a business without the governance of a man. For more information, see Black’s Law Dictionary, 4th ed., rev. (1968), s.v. “feme sole,” and “feme covert.”
activities at the approval, and often, the participation of their husbands. Legal protocol frequently required that women’s suits be brought forward at her request, but by someone either legally trained or by another man representing her suit. These cases were often more acceptable to courts when a woman plead on behalf of her children and heirs.

The most common suit a woman brought to court was a request for the redemption of her land. Frequently, the dispute lay in the interpretation of what was legally hers, following the death of her husband. While laws regarding jointures, dowers, and marriage agreements, and the complications which ensue from inheritance laws for the heirs of the estate, are far too complex to introduce here, it is useful to present this common issue, in its generality, as a central feature of a widow’s legal experience. Stretton wrote that, “Women were more likely than men to sue over interests in land and matters connected with wills and estates, . . .” He later backed this statement by claiming that 58 percent of women’s litigation “involved interest with land,” as compared to 43 percent of men’s. The amount of literature that has been written in an attempt to clarify what a widow might expect to receive upon the death of her husband and what recourse she might take if there is a hindrance of such a transfer, has provided a large amount of data and greatly illuminated this stage of a woman’s life.

Stretton compiled the research of several other legal historians to gauge the


28 Stretton, 101.

29 Ibid., 111.
amount of litigation which involved women. According to his report, Amy Erickson found that in the Westminster Court of Chancery women were named in a quarter of all suits under Elizabeth’s reign, with that figure rising to 40 percent under James, according to Wilfrid Prest. Stretton’s own research in the Court of Requests recorded that a third of all cases during Elizabeth’s reign involved women. C.W. Brooks cited women being involved in 31 percent of the suits in Common Pleas. Laura Gowing, in her study of the York Consistory Court, found that women were by far the most likely people to bring defamation suits. For this court overall, women were the plaintiffs in 31 percent of court cases in 1590 and 54 percent in 1633. While these numbers by no means reflect a complete picture of women’s participation in litigation, they suggest that women were energetically involved in lawsuits, both as plaintiffs and defendants, and that they vigorously sought redress.

Women as widows were an active segment of the female population in the legal system. They were the most likely women to use the court to seek compensation for wrongs and were particularly attentive to issues of land and inheritance. Although sixteenth century England was by no means the most favorably inclined towards gender equity, this investigation has set the backdrop for custody suits. Considering that women as widows enjoyed a status which allowed them access to the courts, as well as particular

30 Ibid., 39.
31 Ibid.
32 Ibid., 40.
33 Ibid., 41.
interest and experience with issues of inheritance, and were more favorably inclined by courts when their suits were presented on behalf of their descendants, it does appear that women were capable of legally handling custody disputes.

Clearly the reinterpretation of evidence for parental care as well as the capabilities of women in litigation has left the door wide open for a study of maternal guardianship. Women were only granted wardship in a quarter of the suits during the reign of Elizabeth. Another, more silent, factor in determining guardianship is evidently missing. As a society, what was the expectation of women as guardians?

Noel James Menuge has conducted an interesting study of the position of women as guardians in his survey of wardship issues in medieval romance literature. He concluded that expectations of motherhood in the Middle Ages were a combination of what the feudal system demanded of women and what autonomy was legally appointed to them. Mothers were honorable when they acted in the best interest of their children rather than themselves. Sacrifice for posterity was not only noble but requisite; for all aspects of the feudal system pointed to the necessity of continuing generations. Yet they were by law also given a greater amount of freedom in their widowhood. Remarriage was always a viable option for widows, even when their marriage partners had to be approved by the lord. Women’s ability to remarry might be complicated by their

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34 This information is taken from the Calendars of Patent Rolls for the reign of Queen Elizabeth. It does not comprise the entire reign for the simple fact that not all of the Patent Rolls for her reign have been transcribed. This paper will use the Calendar of Patent Rolls dating from 1558-1572, 1576-1590, and 1592-3. Calendar of Patent Rolls Preserved in the PRO, Elizabeth I, 1558-1593, 15 vols. (Kew, England: List and Index Society, 1939-2001.)
husband's will, but nevertheless, it was not an uncommon occurrence. Contrarily, the ideal mother in the feudal system would refuse this option because it would compromise the position of her children.

The logic went something like this. Upon the remarriage of a woman, she ceased, slowly or otherwise, to care for the needs of her children by her first husband, preferring those children she has born to her second husband. As the children grow up, the heirs of the first husband risk death at the hands of jealous half-siblings or greedy step-fathers, while the mother does nothing to prevent it. Menuge demonstrated that several old texts such as *Beues of Hamtoun*, posit this very theory, placing the mother as not just the negligent bystander, but also the instigator behind the murders of her first children.35 In this medieval text, Beues was the rightful heir, born of a legitimate union between his aged father and his mother. However, growing annoyed with the lackluster of her husband, Beues' mother plans with her lover to have the old cuckold killed. After his death, she married her paramour and had another son with him. She never gained the guardianship of her first son Beues, but she still tried to have him killed to make way for her second son to inherit her first husband's estate.36 This was a wickedness intolerable to a feudal society constantly concerned about the rights of the "true" heir and the faithful lineage of inheritance. The mixture of a family, where the fate of a successor was


36 While this is the motivation attributed to her, as well as just trying to rid herself of anything having to do with her first unhappy marriage, the likelihood that her second son could have succeeded to the inheritance of the first was extremely small. He shared no blood relation to Beues' father and the land would most likely have descended to a cousin or other close relative.
dependent on a guardian who could profit by his death, was a dangerous evil to a society based on land and inheritance.

It was thought in the Middle Ages that no one should be given guardianship over a child, if that person might be able to inherit the property on the death of the heir. Henry de Bracton, a thirteenth century English judge under Henry III and author of *De Legibus et Consuetudinibus Angliae*, wrote, "it is regularly true that no one shall ever remain in the wardship of a person who may be suspected of wishing to claim a right in that inheritance." In this light, such a situation would be a compromise of interests, and the fear of it could be classified as a natural reaction. Yet the extent to which occurrences of this nature really took place, whether on the part of the mother or any other related guardian, is questionable. And, as Bracton also pointed out, mothers of wards in alternate tenures from knight service stood a good chance of claiming the guardianship of their children.

Contrarily, a woman could uphold the feudal ideal and, refusing all suitors and other obligations, dedicate herself to the benefit of her children. Such was the image of William of Palerne’s mother. In the tale by the same name, William was abducted and presumed dead. His sister, Florence, the only remaining child of their mother and deceased father, the King of Sicily, became the heiress to the whole of the kingdom. William’s mother, however, did not remarry, even with a kingdom to protect and run on

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38 Ibid.; this idea will be addressed later in the conclusion.
behalf of her daughter. Instead, she remained unmarried and chaste, dedicating her life to the upbringing of her child. Menuge described her as "a virtuous, aristocratic ideal, an icon of motherhood for the romance audience." It was due to her benevolence and correct feudal principles that the inheritance was able to be endowed on William in full in the end.

Yet as William's mother experienced, her lack of male protection left her daughter in the position for "ravishment," a term which meant that she was kidnapped. In the hands of another, the heir could be forced into a marriage that was undesirable to him/her as well as the mother, but beneficial to the ravisher. Thus far, the literature hints that mothers were considered inadequate guardians for their children because they would either remarry and create another family, or not remarry and risk losing their children to the greed of another.

These were the themes of the literary sources on wardship, but to what extent was this reflected in a general societal attitude or the legal texts? Bracton has said little of the mother except that she may not have guardianship over her child unless she is not set to inherit the property of the heir if death should occur. Bracton has essentially echoed the *Treatise on the Laws and Customs of the Realm of England Commonly Called Glanville* text, which also heavily distrusts guardians and sets the majority of faith in the lord of the land as the intercessor for minor heirs. Therefore there is an apparent

39 Menuge, 118.

precedent in law which coincides with themes from the literary sources. Yet as to the fear of a widow’s remarriage undermining the inheritance of her first family, there is little that the legal texts can or do say. The numbers suggest that women frequently married again after the death of their spouses, though not so frequently as men remarried.\footnote{Barbara Hanawalt, “Remarriage as an Option for Urban and Rural Widows in late Medieval England,” in \textit{Wife and Widow}, ed. Sue Sheridan Walker (Ann Arbor: University of Michigan Press), 147.} This did not always keep a woman from gaining the custody of her children, either.

In light of these medieval ideas, investigating the rate at which mothers in the sixteenth century were given custody of their children, and especially through what processes, allows researchers to further understand the concepts surrounding the sixteenth century maternal schema and the relationships between mothers and children. A thorough investigation into the patterns of awarding guardianship accompanied by documents of the Court of Wards and letters belonging to Lord Burghley may indicate whether guardianship grants were based on societal schemas or institutional practices. With regard to these investigations, it is important to classify four things. First, what were the responsibilities of the Court of Wards? Second, how was a grant of wardship awarded? Third, who typically sought wardship? Fourth, on what standing did a mother plead her case? Investigating the frequency and pattern of maternal custody grants will ultimately allow a researcher to understand the hierarchy of values which dictate these judicial rulings.
CHAPTER II
THE COURT OF WARDS AND LIVERIES

The primary qualification for wardship was land. As the only real source of permanent wealth in the medieval period, land was the basis for status and power for those who not only possessed it, but ultimately for those who distributed it. The monarch, as the sole proprietor and lord of the land, was the only one who could outrightly claim this privilege. H. E. Bell, author of *An Introduction to the History and Records of the Court of Wards*, suggested that “the process by which landholding became hereditary was gradual, and throughout medieval times there remained at the back of men’s minds traces of the idea that, upon a tenant’s death, land reverted to its lord.”

Contrary to modern idea of property, the medieval concept of land ownership combined two ideas: the possession of land and the right to use land. Property was rarely held absolutely by a single person or family, unless they were royalty. Theoretically, all land ultimately belonged to the sovereign, who was the feudal lord of the whole realm. With a good deal of property left to the person of the monarch for his sustenance, the remaining was then divided among the nobility, who in turn subdivided their land among those of lower societal ranks. There were several divisions of lords and vassals, branching in pyramid fashion from the monarch at the apex through the ranks of

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43 Black’s Law Dictionary, s.v. “tenure.”
nobility to the lowest vassals at the foundation. Men in each layer of the pyramid swore fealty to the lord directly above them, and he to his lord in turn.

Upon the death of a tenant, as the idea of inherited rights to property became more prominent, the heir of the deceased would claim the first right to the use of his progenitor’s property, and would usually pay an inheritance fee and swear fealty to the lord before completing the suit for his inheritance. A problem was presented, however, when the heir was a minor and incapable of satisfying his father’s responsibilities to the lord. Complicating the matter, land at this time was granted to men on different grounds, in general by tenures of knight service (a military obligation), or by socage, (usually based on agricultural fees), and also by whether the lands were held in chief (directly by the king) or not.

For land held by knight service, also called military service or chivalry, a lord gave land to a man who performed homage and pledged to give military assistance if the lord so called on him.44 The length or quality of military service varied depending on the quantity or worth of the land held by the tenant or the traditional agreement with which it was passed from generation to generation. Knight service could be performed by basic military aid or by forms of serjeanty.

In English law there was a difference between what was titled petty serjeanty and grand serjeanty, each determined by the amount or character of the aid owed to a lord. Petty serjeanty involved lands of military tenure which were worth little or were granted

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44 According to Black’s Law Dictionary, these men were obligated for a forty-day term of service in a year, for those holding a full knight’s fee. See Black’s Law Dictionary, s.v. “knight service.”
on the basis of minor military service, such as providing a horse or saddle for the king.\textsuperscript{45} It was not traditionally subject to royal wardship restrictions. Grand serjeantry, on the other hand, included land of high value and service in positions of honor rather than battle.\textsuperscript{46} Although one gained land through a variety of tenures, it was only the land that was held by knight service which was subject to wardship, for a very simple reason.

A man who held land by knight service pledged military equipment and physical labor in battle in return for the land on which he lived. If that man should die leaving only a minor heir who was incapable of fulfilling his father’s pledge, then the land and the guardianship of the ward reverted to the lord. The lord had the first right to the guardianship of a minor heir and could choose to raise the child, keeping the wardship in his own hands, or sell or grant it to another.

As Bell said if the heir “was not of full age, the lord had the rents and profits of the land in the intervening period and the wardship of the heir’s body – the right, that is, to bring him up in such a way that he would become a worthy tenant.”\textsuperscript{47} The lord could lease the land or sell the guardianship of the ward to a man who was able to execute the feudal responsibilities of the land, until the ward himself should claim that right. Just as the lord had the final say over the prospective husbands of a widow or a female ward on his lands, these rights of wardship and grants were based on the assumption that the lord needed to ensure that those people occupying his lands were completely loyal to him. A

\textsuperscript{45} Bracton, 254.

\textsuperscript{46} See Glossary.

\textsuperscript{47} Bell, 1.
person might own not only land by military service, but other parcels of land by socage or other forms of payment to a lord. Yet, if a man held any land parcel by knight service, even if it was only a minute portion of his holdings, his minor heirs were subject to wardship under their lord.

While the reasons for wardship are relatively simple in explanation, the implications are far more extensive than appears at first. Wardships were divided between the land and the body of the ward. An heir in minority could actually have several guardians, one who had the responsibility of his body as well as a number of others who were granted guardianship over parcels of his land. It was more profitable, however, for prospective guardians to try and obtain the wardship over the body and lands of an heir, together. Stewardship of the body required the guardian to care for the child, ensuring proper education and upbringing according to his station. In return the guardian was given an annuity on which to provide for the heir, as well as the right to his marriage. Arranging the marriage was the most profitable aspect of the wardship of the body. Like most medieval and Early Modern customs, there were sizeable gifts and bribes passed between the negotiating parties. A ward with an appreciable inheritance might prove to be a valuable pawn in the bargaining process. Wards were also used to make alliances between families and, as was often the case, guardians married wards to members of their own family to ensure that the inheritance would supply the future income of a son or daughter.48 Hurstfield called marriage "the primary objective of the

feudal guardian . . ."49

Due to regulations concerning marriage, a ward might refuse the proffered matrimony, but had to pay a hefty price, the value of the marriage or, in the case of female wards, the forfeit of inheritance to the guardian until age twenty-one in return for the loss of profit the guardian would suffer.50 If, instead of merely refusing the proffered marriage, the ward married someone of his own selection, then the price would be even steeper. For the offense of selecting one's own spouse, a ward would be forced to pay twice the value of this marriage in fines to the guardian and relinquish the right to claim the inheritance until the payment was complete.51

The value of the marriage was not a fixed sum for all wards. It was determined by their wealth, land, title, and relations and was generally set by a market value: namely what people were willing to pay for such an alliance. Technically, the value could be determined in two ways: by jury or by what had already been offered.52 What a guardian could obtain for the value of a marriage was also what a parent could obtain in marriage negotiations with the prospective family. Guardians had the right to choose the future spouse and all negotiations for marriage alliances went through them. Intriguingly enough, the value of the marriage, like the wardship itself, was also a commodity. A


50 The age of twenty-one is significant here, given that female wards usually inherited at their marriage or around the age of fifteen.

51 Ibid., 137, 141-3.

52 Ibid., 142.
guardian or parent could sell the value of the child's marriage to another person, although it was more conventional to have the wardship of the body and the marriage value together.\textsuperscript{53}

However, if the ward was offered a marriage to someone who was insane, crippled or in someway physically disabled, someone related to a person guilty of a heinous crime, or someone below the ward's station, it was completely legitimate to refuse the alliance on grounds of disparagement. In this circumstance a ward was able to sue the guardian, while within age and prior to having claimed the inheritance. Suits of disparagement occurred over more than just marriages. They could also be brought against a guardian over disputes of property and land waste.

Wardship over the lands of a minor heir brought with it a great amount of revenue. While there were many restrictions on the land usage, either those imposed at the time of the wardship grant, or those already in place by tradition, a guardian usually had complete control over the land or lands granted to him during the period of wardship. There were few checks on his usage of the land until after the heir attained an age of majority. The guardian, in theory, was supposed to oversee the land, keeping its value constant or increasing it by the end of the wardship.\textsuperscript{54} In practice, however, many times the land was used by the guardian to his own advantage and returned to the ward in a depreciated state.\textsuperscript{55} This was an inherent risk built into a system whereby the wardship

\textsuperscript{53} Bracton, 252.

\textsuperscript{54} Ibid.

\textsuperscript{55} Ibid., 121, 269.
was granted for an initial sum, usually priced at one year’s rent, and then the land leased at a rent of half its value every year. If this was to be an investment for a guardian, then such a fee and the limited time within which he possessed the land would encourage him to take all he could from the inheritance in order to pay the rent to the crown and still receive a profit for his labors. In order to seek restitution for this, wards could sue their former guardians for waste, either before suing out their livery while they were still under the auspices of the Court of Wards or through the maneuverings of relatives and friends, or after taking control over their lands at which time they would not be under the protection of the Court of Wards. However, Hurstfield thought this latter option to be unlikely given the expensive nature of suits in Elizabethan times and the depleted status of the ward’s inheritance.  

The Court of Wards did make an effort to prevent this through the annual examinations of the inheritance by local feodaries. This actually had a two-fold result. The responsibility of the feodaries was initially to review the land to see if the value had increased and adjust the annual fee accordingly. At the same time, he would also be responsible for assuring that the inheritance was being used properly, namely that the land and the timber were not being exhausted and that any buildings or structures were kept up. However, a good or a bad inspection might be kept under wraps with the promises of compensation and gifts, though there is no way to prove that this was a wide-spread occurrence.

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56 Ibid., 87-8, 116; Bell, 112-116.

57 Bell, 133-4.
Wardships could be found on most levels of the feudal structure and many of the nobility profited from the sale of wardships in their lands. Yet, they too were susceptible to this practice. They held their land immediately from the monarch and were directly beholden to him. Those who held land by knight service in chief were considered the vassals of the king, giving him prerogative right over the fate of their minor heirs. In some ways the effect of royal wardship was more dangerous to the noble than noble wardship was to his tenant. The developing governmental machinery provided the framework for systematic exploration of the nobility’s wealth and estates. Eventually with the creation of the Court of Wards under the Tudors, the monarch would claim his feudal rights in a bureaucratic method that proved more efficient than any king had hitherto developed. Waugh claimed that “the Tudors institutionalized feudal lordship and gave it a place alongside the great central offices of government.”

Yet this was an evolving process. Before the advent of the Tudor dynasty, wardships were more sporadically claimed by monarchs, perhaps because they were not as aware of the minority of heirs. Families widely concealed the death of a father or the minority of an heir for as long as they could, in order to ensure that the property could be successfully transferred to the next generation without risk of making further payments to the king or exploitation from guardians.

While the monarchs of medieval England had nowhere near the institutionalized

58 Ibid., 98-9.
59 Waugh, 7.
60 Ibid., 236-8; Bell, 3-4.
capabilities of the Tudor period when it came to royal wardships, there were many efforts made to collect the royal dues. Waugh claimed that after Magna Carta, Henry III and Edward I "replaced the ad hoc measures hitherto employed for the management of those rights with permanent institutions to administer the lands and heirs that came into its [the crown's] custody, . . ."61 Early administrations had given the responsibility of dealing with issues of wardship to the Chancery and Exchequer.62 To aid these institutions, the crown created escheatorships in the thirteenth century with which to supervise and administer the king's will on the local level. Ultimately however, Waugh said that "the king maintained his discretion over these rights so that seigniorial authority and the resources that made it available remained powerful instruments of the king's personal rule down through the early fourteenth century."

61 Waugh, 105.
62 Ibid., 117-9.
63 Ibid., 105-6.

Advancing this purpose, the Tudors enacted both informal and formal courts particularly designed for the administration of wardships. This court system set the Tudor monarchical approach to wardship apart from their predecessors', who only created a system for monitoring and managing wardships, but never an institution. While the sixteenth century Court of Wards operated on behalf of the monarch, rather than through the monarch's personal court, the crown still kept the right to make an absolute
judgement on any decision facing the court. As in the medieval practice, a suit directed to the sovereign, such as John Hastings' suit in 1541 for his own wardship, could be successful in yielding a favorable grant and bypassing the court system. However, during the sixteenth century, suitors rarely were granted direct wardships from the crown and were subject more to the judgement of the Court than of the monarch.64

Henry VII never created a formal Court of Wards, but recognizing the value it would be to the revenues of his fiscally depleted government, he empowered men such as Sir Reginal Bray and Sir John Hussey to actively seek and obtain the fees of wardship for his government.65 Still utilizing the Chancery and Exchequer for the processing of wardship cases as earlier kings had done, Henry VII nevertheless spearheaded the move towards the structure of a formal institution by charging Bray and Hussey with the management of wardships and devolving the responsibility to some extent from his own hands and that of the Chancery. During his reign the government saw not only a large increase in the prosecution of cases of wardship, but also the beginnings of a separation of wardships from the other courts of the king.66

In the early years of Henry VIII’s reign, Bell argued, this system appeared to decline for a time due to the execution of Empson and Dudley, two administrators of the informal court under Henry VII, who earned the general unpopularity of their invasive

64 Hurstfield, 90.

65 Bell, 6-7. See Bell’s first chapter for a complete and detailed history of the Court of Wards.

66 Ibid., 5-7.
searches and questionable inquisitions into wardship cases.\textsuperscript{67} However, he by no means left the search for wardships entirely alone, creating commissions for that very purpose in 1505 and 1516.\textsuperscript{68} Even so, Bell placed the actual wardship reform movements of Henry VIII and the subsequent reinstatement of Henry VII's structure in 1520.\textsuperscript{69} Yet it was not until 1540 that Henry VIII formally organized the Court of Wards and Liveries which was to govern the wardship cases of England through 1660. During the twenty year period before 1540, the fledgling court grew through appointments to the positions of master and receiver-general, and further separations from the existing fiscal and judicial courts of the king.

Yet all of these developments alone could not create the necessity for a separate court. With the break from Rome and the dissolution of the monasteries, a number of estates fell into the hands of the government shortly before the creation of the court, many of which were designated to be held \textit{in capite} and therefore subject to wardship restrictions.\textsuperscript{70} Ironically, the advance of the Reformation in England invigorated the financial situation of the government by an unusual surge of property and monetary resources which in turn invited an almost medieval approach to land distribution and designation.

Along with most other governmental institutions devolved upon Elizabeth I in

\textsuperscript{67} Ibid., 8-9.

\textsuperscript{68} Hurstfield, 35-6.

\textsuperscript{69} Bell, 10.

\textsuperscript{70} Ibid., 14.
1558, the Court of Wards and Liveries had inherited a structure and a purpose originating from the demands of England's former feudal society and was facing the awkward transition to the requirements of the emerging Early Modern bureaucracies. No longer was the structure of society based on the constructions of chivalric feudatories but was slowly evolving into the patronage administrations of the Renaissance. Bell pronounced, "thus arose the paradox that the legal rights of livery and wardship continued, and were systematically extended, when the feudal structure, which had given them purpose and been their excuse, had ceased to exist." While most aspects of Elizabeth’s reign can be characterized as old institutions evolving into new, the Court of Wards and Liveries was actually the opposite: a relatively new institution, but with a very old purpose.

The trouble of the Court of Wards, as with other Tudor institutions, was that it was allotted two quite contradictory tasks. The Court spoke, in this context, with the conscience and voice of the queen and, on many occasions, it acted, without charge or favour, in the interests of some young orphan of mean estate. For this it had an honourable reputation and formed part of that Tudor paternalism which marked the beginning of the transition from the medieval welfare parish to the modern welfare state. The undoubted sincerity of some of the Court’s defenders cannot obscure the evils arising from its second function, which was purely fiscal. It had to raise money somehow to help run a modern state largely dependent on medieval institutions.

This problem became increasingly obvious throughout the remaining years of Elizabeth’s reign. Hurstfield and Bell both attributed the tension surrounding the court to its conflicting roles and surmised that William Cecil, one of the Court’s most prominent

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71 Ibid., 2.

72 Hurstfield, 333-4.
masters, attempted to balance the two sides, dispensing benevolent judgements while simultaneously trying to increase the profits. Especially when looking at maternal grants of custody, it is more and more evident that this tension played the most dramatic role in the choice of guardians for wards and ultimately in the motivations behind the patterns of custodial awards.

According to Bell's work on the Court of Wards, the organization of the court included the "master, surveyor-general of the liveries, receiver-general, attorney, two auditors, two clerks of the wards, clerk of the liveries, usher, and messenger."73 During most of Elizabeth's reign, the office of master, served by William Cecil, lord Burghley, carried out the executive demands of the court, making rulings and judgements on wardship cases. After his death in 1598, the court was left without a head for nine months and the resultant delay in court proceedings gave evidence to the import of the master's administrative role.74 The remaining members of the court provided the necessary functions of routine administration. Hurstfield outlined a lengthy process for obtaining a wardship. Without defining each stage in detail, a brief synopsis will help to explain the tedious and detailed nature of pressing a suit of wardship.

Initially the seeker of a wardship must first approach the master with the request and demonstrate where the wardship originated and that the land was held by knight service in chief. The next several steps required that the suitor bring a writ from the

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73 Bell, 16. Bell also indicated that the court at first only used nine of these positions, sufficing with one clerk of the wards and one auditor.

74 Ibid., 18-19.
master and the council of the court to the attorney of the court who in turn would make
an order. Taking that order to the clerk, he would issue a warrant which would require
the suitor to investigate the wardship. The writ would be taken to the local escheator in
the district where the wardship originated, who would investigate the claim and establish
it by an inquisition.

Returning to London, the suitor of the wardship would then have the escheator's
response transcribed and take it to the court office who would draw up a schedule. At
this point, the suitor must once again promise to pursue the schedule or return it. Next,
he must then take the schedule to the attorney of the court, as well as a letter from the
feodary certifying the value of the lands in wardship. There the suitor must make a
written confession of the value of the lands, his relation to the ward, and all the debts tied
to the land, and then pay the fee for the wardship.

After this was complete, he would then have to return to the clerk's office for the
schedule and the contract which would then have to be brought to the auditor's office.
There, he would obtain a "particular" for the master of the court to sign which would
then be brought back to the clerk who would "appoint a clerk in the office to get the
grant drawn ready for the seal of the Court."75 From there, the suitor took a draft of the
lease and the schedule to the attorney to be signed and then pay the fine of the lease and
the value of the marriage at the receiver-general's office.

Obtaining a receipt for each of these transactions, they would have to be brought
along with the schedule and the draft of the lease to the clerk's office once again. There

75 Hurstfield, 93.
the suitor would obtain the grants under the seal of the court required and take them to the auditor’s office to have them enrolled.\textsuperscript{76} This final stage of the wardships process called for the suitor to have his purchase recorded in the patent rolls. Without obtaining this certification within four months of completing the purchase process, the wardship was considered forfeit. The “release” of a forfeiture could be obtained by paying a fine and enrolling the wardship, if it still remained.\textsuperscript{77}

This was not only a time-consuming process, but could also be an enormously expensive one, as well. As Hurstfield said, “it required a stout heart and a well-lined purse to see the business through to the bitter end, for each step must have been accompanied by either a fee or a gift.”\textsuperscript{78} Such was the clever frugality of the Early Modern English government, creating a user-based system, with per item fees. The officials of the Court of Wards were not well paid because gifts and bribes were expected to oil the bureaucratic machinery. This was not only accepted practice, but generally presumed, as well. Bell said, “the truth is that the system on which wardship and livery were administered left some room for bribery of officials beyond their recognized fees, . . .”\textsuperscript{79}

Hurstfield discussed the itemized calculations of wardship expenses which Sir Julius Caesar put together. In total, for the purchase of his two step-daughters’

\textsuperscript{76} For greater detail and explanation, see Hurstfield, 92-4.

\textsuperscript{77} Ibid., 90.

\textsuperscript{78} Ibid., 94.

\textsuperscript{79} Bell, 36.
wardships, he spent over £1,700, of which £1,000 had been the actual price of wardship. The remaining had been spent in a series of gestures meant to grease the wheels and the way towards his purchase. At one point, he hosted a dinner for the jury which cost him £3. 6s. 8d. 80 Ironically, this sum of money is the one of the most common annuity allotments from the Court of Wards for the support of a child in wardship for an entire year. Hurstfield concluded from his itemization that Caesar “must have paid, fed, or rewarded a minimum of fifty officials, commissioners, and jurymen.”81

A good deal of money and many gifts passed hands in sixteenth century bureaucracies. Yet while this was an accepted and anticipated practice, it did contain a great potential for corruption and the Court of Wards often faced that allegation.82 It was the classical system of patronage. In addition to subsidizing the salaries of their positions with fees, officials in the Court often used their status and their acquaintances to have their own children appointed in their steads, as well as to disperse wardships to family, friends, acquaintances, and loyal clients.

Bell noted that the offices of master, auditor, receiver-general, and clerk of the livery were all granted within familial lines. The Tookes, for instance, dominated the auditorship and the Fleetwoods the receiver-generalship; even the Cecils passed the mastership along from father to son.83 These same families also acquired a number of

80 Hurstfield, 81.
81 Ibid., 82.
82 Ibid., 273-4.
83 Bell, 33.
wardships within familial lines. According to the Calendar of Patent Rolls for Elizabeth’s reign, several major families employed within the Court of Wards, as well as those supported through the Queen’s patronage enjoyed an unusual number of the wardships.

Of the 1225 wardships enrolled in the patent rolls during the reign of Queen Elizabeth, 17% were awarded to repeat suitors. A vast majority, about 70% of the eighty-one repeat patent holders, held just two patents over the course of the times investigated. Yet several people held larger numbers of wardships patents, with William Tooke holding a lead of eleven patents of wardships involving sixteen wards. In fact, the number of wards granted to his family numbers twenty-seven held among five people. The fact that sixteen wards were granted to William

Figure 2-1. Percentage of grants per suitor. This information is taken from a total of 219 grants of wardship involving eighty-one suitors.

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84 As was indicated previously on page 15, the Calendars of Patent Rolls used in this work will not cover the entire reign of Queen Elizabeth. This paper will use the Calendar of Patent Rolls dating from 1558-1572, 1576-1590, and 1592-3.

85 Many of the female wardship patents listed in the patent rolls involved more wards than the number of patents alone would indicate. An inheritance falling to sisters was usually split among the heiresses and their wardships sold as a whole. This rarely happened in cases of male heirs.

86 This calculation only includes the grants which were enrolled in the patent rolls during the years indicated in this study. Bell, in fact, lists the number of grants as “no less than twenty-eight,” by his own calculations taken from P.R.O. Wards 9/150, B, which he indicates is a list of bargains. See Bell, 35.
Tooke, himself, leads to speculation about the nature of wardships. Did Tooke really raise these sixteen children? The likelihood is very small, considering the amount of work that went into the education and upbringing of many of the upper class children who were the usual candidates for wardships, as well as the efforts that went into administering their lands and the upkeep of, or profit from, their property. Tooke, in all probability, sold the wardships of these children to others at a profit.

Wardships had evolved several interesting functions by the time of Elizabeth’s reign. They were more than merely the adoption of an orphaned child or the feudal approach a lord took to secure able-bodied men for military service in his land. Wardships were a commodity; tradeable, inheritable property based on human wares and their inheritances. This may at first glance appear too harsh of an analysis. In truth, of its own accord, it was not meant to appear as such, but it was built into a bureaucratic system where the salaries of governmental officials were provided more by the consumers of the services than the government. This left the door open to the potential for compromises of loyalties, honesty, and services.

Taking into account that the majority of repeat patent holders held just two wardships a piece, an analysis of those who exceeded this mode could shed some interesting light on the politics of the sixteenth century. From the wardships granted during the reign of Elizabeth, the following table lists eighteen wardships of repeat suitors who held substantial numbers of wardships or large annuities stemming from them. It is intriguing to note that the names listed are those of rather famous families and political players in the Elizabethan period.
<table>
<thead>
<tr>
<th>Family Name</th>
<th>Number of Wardships</th>
<th>Average Annuity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cecil</td>
<td>5</td>
<td>£47</td>
</tr>
<tr>
<td>Dudley</td>
<td>6</td>
<td>£16</td>
</tr>
<tr>
<td>Knollys</td>
<td>6</td>
<td>£34</td>
</tr>
<tr>
<td>Tooke</td>
<td>27</td>
<td>£4</td>
</tr>
<tr>
<td>Walsingham</td>
<td>4</td>
<td>£14</td>
</tr>
<tr>
<td>Hatton</td>
<td>4</td>
<td>£11</td>
</tr>
<tr>
<td>Wiseman</td>
<td>9</td>
<td>£4</td>
</tr>
<tr>
<td>Sydney</td>
<td>4</td>
<td>£11</td>
</tr>
<tr>
<td>Howard</td>
<td>2</td>
<td>£100</td>
</tr>
<tr>
<td>Russell</td>
<td>2</td>
<td>£200</td>
</tr>
<tr>
<td>Clinton</td>
<td>3</td>
<td>£15</td>
</tr>
<tr>
<td>Sackford</td>
<td>3</td>
<td>£7</td>
</tr>
<tr>
<td>Arundell</td>
<td>3</td>
<td>£18</td>
</tr>
<tr>
<td>Crofte</td>
<td>3</td>
<td>£14</td>
</tr>
<tr>
<td>Freake</td>
<td>6</td>
<td>£5</td>
</tr>
<tr>
<td>Keilway</td>
<td>3</td>
<td>£22</td>
</tr>
<tr>
<td>Cobham</td>
<td>5</td>
<td>£12</td>
</tr>
<tr>
<td>Manners</td>
<td>4</td>
<td>£23</td>
</tr>
</tbody>
</table>

Table 2-1. Number of wardships granted per suitor.

Thomas Howard, duke of Norfolk, appears on this list as having received two very valuable grants for wardships after the death in 1566 of Thomas, lord Dacre, who left an underage son, three daughters, and a wealthy widow. The absence of lord Dacre was quickly filled by the duke of Norfolk, who married his widow and adopted his heir George who was set to inherit a sizeable fortune, as well as an annuity for £200 per year. However, when George suddenly died three years later in a riding accident, before reaching the age of majority, the inheritance fell to his three sisters Anne, Mary, and Elizabeth.

The grant of female wardships was often slightly different from male. In the lack of a male heir where an inheritance was not entailed along a male line and could fall to a
female, it was often equally divided among sisters. Here apparently would be a difficult problem for the duke of Norfolk, to have invested a good deal in a valuable wardship and lose it through the death of the ward, to be split up between three people instead of concentrated in one. It would be expected that he would have to reapply for the wardship of each of these new heirs, but wardship practices in sixteenth century England had a contingency plan for just such a situation. Such heiresses were usually awarded in a group to a suitor and were all listed within the same patent of wardship. The purchase of a wardship was more than the custody of the ward, it was the custody of the position of having a ward. If the ward should die before reaching full age, the guardian had the wardship of the next heir. In this case, the duke of Norfolk had the custody of all three heirs, which potentially could prove to be more valuable considering that he could then also have the profit of the marriage of three wealthy heiresses. In the end, he kept the inheritance in the family, marrying the sisters to his own sons.

Francis Russell, earl of Bedford, also had the custody of two wealthy wards. He was not a career guardian either, claiming his first wardship within the first year of Cheney, son of Thomas Cheney, lord Warden of the Cinque Ports and Anne Broughton, Elizabeth’s reign and the second some twelve years later. His first ward was Henry Bedford’s half-sister. Bedford only had the wardship of his nephew for a few years before Henry claimed the rather large fortune he later squandered. Bedford’s second ward was George Clifford, the third earl of Cumberland, whom he married to his youngest daughter

87 Walker, 160; Hurstfield, 84.

89 Hurstfield, 144.
<table>
<thead>
<tr>
<th>Ward</th>
<th>Patron</th>
<th>Suitor</th>
<th>Annuity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elizabeth Russell*</td>
<td>Francis, earl of Bedford</td>
<td>Elizabeth, lady Russell</td>
<td>£45</td>
</tr>
<tr>
<td>Anne Russell*</td>
<td>Francis, earl of Bedford</td>
<td>Elizabeth, lady Russell</td>
<td>£45</td>
</tr>
<tr>
<td>Henry Pyerpoynyt</td>
<td>George Pyerpoynyt, knight</td>
<td>Gervase Clifton, knight</td>
<td>£50</td>
</tr>
<tr>
<td>Robert Southwell</td>
<td>Thomas Southwell</td>
<td>Thomas Hennadge &amp; William Cooke</td>
<td>£50**</td>
</tr>
<tr>
<td>Edward Denney</td>
<td>Robert Denney</td>
<td>Thomas Cecill, knight</td>
<td>£53 6s 8d</td>
</tr>
<tr>
<td>William, lord Sandes</td>
<td>Thomas, lord Sandes</td>
<td>Elizabeth Sandes, widow</td>
<td>£60</td>
</tr>
<tr>
<td>John Dynham</td>
<td>Thomas Dynham</td>
<td>Edward, lord Wynsor</td>
<td>£60</td>
</tr>
<tr>
<td>Edward Hobie</td>
<td>Thomas Hobie, knight</td>
<td>Elizabeth Hobie, widow</td>
<td>£60**</td>
</tr>
<tr>
<td>Edward, lord Zouche</td>
<td>George, lord Zouche</td>
<td>Thomas Cecill</td>
<td>£60</td>
</tr>
<tr>
<td>Lady Anne Dacre*</td>
<td>George, lord Dacre</td>
<td>Thomas, duke of Norfolk</td>
<td>100 marks</td>
</tr>
<tr>
<td>Mary Dacre*</td>
<td>George, lord Dacre</td>
<td>Thomas, duke of Norfolk</td>
<td>100 marks</td>
</tr>
<tr>
<td>Elizabeth Dacre*</td>
<td>George, lord Dacre</td>
<td>Thomas, duke of Norfolk</td>
<td>100 marks</td>
</tr>
<tr>
<td>Charles Waldgrave</td>
<td>Edward Waldgrave, knight</td>
<td>Robert Nowell, attorney of Court of Wards</td>
<td>£66 13s 4d**</td>
</tr>
<tr>
<td>Edmund, lord Sheffield</td>
<td>John, lord Sheffield</td>
<td>Dowglas, lady Sheffield &amp; Charles Howard</td>
<td>£66 13s 4d**</td>
</tr>
<tr>
<td>Francis Willoughbye</td>
<td>Thomas Wylloughbye</td>
<td>Francis Knowles, knight</td>
<td>£100</td>
</tr>
<tr>
<td>Giles Allington</td>
<td>Giles Allington</td>
<td>Robert Cecill</td>
<td>£100**</td>
</tr>
<tr>
<td>Dorothy Bulmer*</td>
<td>Ralph Bulmer</td>
<td>Richard Cholmeley, knight</td>
<td>£20</td>
</tr>
<tr>
<td>Bridget Bulmer*</td>
<td>Ralph Bulmer</td>
<td>Richard Cholmeley, knight</td>
<td>£20</td>
</tr>
<tr>
<td>Barbara Bulmer*</td>
<td>Ralph Bulmer</td>
<td>Richard Cholmeley, knight</td>
<td>£20</td>
</tr>
<tr>
<td>Mary Bulmer*</td>
<td>Ralph Bulmer</td>
<td>Richard Cholmeley, knight</td>
<td>£20</td>
</tr>
<tr>
<td>Anne Bulmer*</td>
<td>Ralph Bulmer</td>
<td>Richard Cholmeley, knight</td>
<td>£20</td>
</tr>
<tr>
<td>Frederick Windsor</td>
<td>Edward, lord Windsor</td>
<td>Frederick, lord Windsor</td>
<td>£113 6s 8d</td>
</tr>
<tr>
<td>Edward, earl of Bedford</td>
<td>Francis, earl of Bedford</td>
<td>Ambrose &amp; Ann Dudley of Warwyck</td>
<td>£140**</td>
</tr>
<tr>
<td>Henry, earl of Southampton</td>
<td>Henry, earl of Southampton</td>
<td>Charles, lord Howarde of Effingham</td>
<td>£150</td>
</tr>
<tr>
<td>Henry Cheyny</td>
<td>Thomas Cheyny</td>
<td>Francis, earl of Bedford</td>
<td>£200</td>
</tr>
<tr>
<td>Walter Deveroux</td>
<td>Walter Deveroux</td>
<td>Walter Deveroux</td>
<td>£200</td>
</tr>
<tr>
<td>George, lord Dacre</td>
<td>Thomas, lord Dacre</td>
<td>Thomas, duke of Norfolk</td>
<td>£200**</td>
</tr>
<tr>
<td>George, earl of Cumberland</td>
<td>Henry, earl of Cumberland</td>
<td>Francis, earl of Bedford</td>
<td>£200**</td>
</tr>
</tbody>
</table>

* Indicates co-heiresses within a single patent of wardship, and whose annuities were granted together.
** Indicates grants of annuity at the age for education.

Table 2-2. Grants of wardship among the nobility.89

Margaret. However, contrary to Norfolk, there appears to have been marriage negotiations between Cumberland’s parents and Bedford prior to the former earl’s death.90 Yet both wards had a substantial annuity, reaching £200 by the time they were ready for...

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88 The names presented in this table were taken from a general survey of wardship patents in the Elizabethan patent rolls and include the top 2% of all annuities granted, starting from £45.

education. It is significant that the wardships with the highest annuities not only came from the nobility but were granted to the same.

This could be answered by two theories. The first has to do with the idea of fostering, that is sending children out to be educated in another’s home, which was a direct throw back to the customs of the feudal age. Due to the nature of a nobleman’s position, he was responsible for the military strength of his own lands and hence was schooled in the arts of warfare and fighting. A boy after the age of seven was sent to the home of a nobleman, someone of greater or equal status to his own, to learn the responsibilities of his future role. At a time when education was directly influenced by this warlike society, when a lord, rather than the family, took on the responsibilities of an underage heir in order to protect his interest in the lands and his vassals, this system of wardship had a functional purpose. Hurstfield argued that this was the best alternative for a ward, to be brought up in the home of a noble with all of the educational and training potential available. Yet even he admitted in his next sentence that this aspect of wardship eventually ceased to be the predominant reason for nobles to take on wards.

As society evolved and the English monarchy developed a greater reliance on governmental bureaucratic structure rather than military structure, the system of wardship grants became a different creature from its original intention. It became of hybrid of feudal values and monetary motivations. By the time of the Tudor reign, it had developed into a definitive system of financial gain, for both the monarch and the nobility. Bell said

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91 See pages 7 and 8 for a discussion of this topic with regards to family structure.

92 Hurstfield, 127.
that the Court of Wards was “primarily a financial court, and perhaps its main historical significance lies in the part that was able to play in counteracting, to some extent, the financial embarrassment of the monarchy...”

People bought wardships, and monarchs sold them, for the profit they might obtain. This was a predominantly conscious idea. Bell quoted Elizabeth I in 1602, desiring to meet the expenses for a Spanish war from the funds of the Court of Wards. It was also voiced in many letters to Cecil and other members of the Court of Wards as a reason for desiring a wardship. Those who could afford the investment in wardships sought out those with the greatest inheritances, annuities, or potentials for marriage.

An annuity for the maintenance of the heir was roughly granted at about one-tenth of the value of the wards’ inheritance, though it quite often strayed from this figure. Figure 2-2 shows that for the 218 grants to repeat patent holders, the average annuity was £14 14s 11d, while for patents as a whole it was nearly

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93 Bell, 46.

94 Ibid.
half of that at £8 13s 10d. The most common annuity granted to a repeat patent holder was £20 as opposed to the £6 13s 4d of all the patents. The second being £3 6s 8d for repeat holders and £10 for all patents with the third most common at £13 6s 8d for repeat holders and £3 6s 8d for all patents. Overall, the repeat patent holder stood to receive a larger annuity per wardship than the average. This goes hand in hand with the idea that the elite tended to buy the wardships of the elite.

Yet, ironically, the two suitors with the largest annuities in Table 2-1, Norfolk and Bedford, both died before their heir’s age of majority, Norfolk due to his involvement in the Ridolfi plot and Bedford due to gangrene, leaving their successors underage and wards of the state. Norfolk’s eldest son, Phillip, the future earl of Arundell, became a ward of Lord Burghley himself, while the three grandchildren who inherited Bedford’s lands and title were awarded to his daughter-in-law Elizabeth Russell and his daughter Anne and her husband, Ambrose Dudley, earl of Warwick. Elizabeth and Anne Russell, daughters of John and Elizabeth Russell claimed an annuity of £45 each and Edward Russell, heir to the title of Bedford, was granted to his aunt and uncle of Warwick with an annuity of £140. However, it is not known through the patent rolls to what amount the annuity or lands of Phillip Howard totaled.

In fact, a closer examination of the patent rolls reveals that no ward of Lord Burghley’s was ever enrolled. Therefore Table 2-1 indicates only the five patents enrolled

95 Figure 2-2, and subsequent figures analyzing annuities, will be calculated in pence, as the primary base figure, due to the limitations of computer programs to calculate monetary values in English currency.

96 Hurstfield, 145.
by his sons Thomas and Robert. Yet Burghley was not without his own wards, and was famous for having raised not only Phillip Howard, but also Robert Devereux, the young earl of Essex. These were two very valuable wards, who were, consequently, not left without powerful next of kin. Robert Devereux was not only the step-son of Robert Dudley, earl of Leicester, but also the grandson of Sir Francis Knollys, the treasurer of the household, who himself held six wardships. It is interesting that Essex’s wardship should have gone to the Master of the Court of Wards, instead of having been purchased by one of his two wealthy and powerful relations. These events do not fit into the schema of noble education either, considering that the house of Norfolk was the leading peerage of the day and that of Essex, as well, ranked above Burghley’s title. By feudal custom, they, as well as his other wards, ought to have been educated in a house above or as near to above their station as possible, hence guaranteeing that their upbringing would fit their later status. In previous eras, the king and the queen were actively involved in wardships and were themselves the guardians on many occasions. This was not true during the Elizabethan reign, where there is no evidence that she ever kept the guardianship of a ward.

There is no evidence that Burghley ever formally purchased the wardships of these two heirs or the other six he gained during his mastership, Edward de Vere, the earl of Oxford; Thomas, lord Wharton; Edward and Roger Manners, the third and fifth earls of Rutland; Henry Wriothesley, the earl of Southampton; and the earl of Surrey, but Hurstfield pointed out that from his personal and family records, it does appear that they

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97 Walker, 166.
all grew up within his household and under his tutelage.\textsuperscript{98} These eight wards, as well as the one he formally purchased before his time as master, and the wardships his sons purchased put his family in the running with the Tookes, for the greatest number of wardships. The only significant difference being that the Cecils managed to obtain 13 exceptionally wealthy wards, as opposed to the Tookes’ moderately wealth wards. This suggests not only a significant amount of authority vested in one man, but also a power play among the Elizabethan elite, which undermined, at times, their ‘old boy’ method of re-distributing wealth among themselves.

Hurstfield noted these direct grants of wardships were “one of several channels through which the profits from wardship flowed to the Elizabethan ruling elite.” As the Elizabethans knew all too well, there was more ways than one to gain a profit from a transaction. The three families which held the most number of wardships in \textit{Table 2-1} also had the lowest average annuity per wardship. This intriguing alternative from the Bedford and Norfolk accounts indicates two possibilities. One might be that because the Tookes were officials of the Court of Wards, they were not confined by the heavy fees or complicated steps and could in fact move their claims quickly and cheaply through the wardship system, ensuring that the price of the annuity, even if relatively small, would still return a profit. Yet it is unlikely that they kept each of the wards throughout their minority. Another more likely possibility stemming from this is that they obtained wardships for the purpose of selling them or granting them over to others unqualified to gain the wardship on their own.

\textsuperscript{98} Ibid., 249.
Using a third party was a common method of applying for wardships. Many of the officials of the court were continuously approached for aid in either getting the suit through the process quickly or simply getting the suit through at all. Burghley’s secretaries ended up playing significant roles in suits for wardships and rhythms of patronage for the mere fact of their position. These men were the gatekeepers of information to a large extent and it was often through their good graces that a petition and a whisper of good favor was placed before Burghley at an opportune time. Michael Hickes, in particular, was a rather powerful secretary, to whom many petitions of the nobility were addressed. His double status as a secretary in the Court of Wards and as a feodary of Essex meant that many petitions and offers of gifts passed his desk. His good favor was a rather good investment which many of the nobility capitalized on, including peers the equal of Cumberland, Huntingdon, Worcester, and Nottingham.99

In addition to the secretaries of Burghley, the peerage itself operated in levels of patronage for wardship suits. Those who could not sway Burghley on their own, often applied to a noble patron to champion their suit. Sir Walter Haddon wrote to Lord Burghley in 1567 when he was petitioning for a mother to gain the guardianship of her child, that he was “oft times more pressed than I would” by suitors.100

Even the mother of Lord Burghley was sought out to influence the decision of the court. At one point she wrote to her son concerning the wardship of William Crofts,

... that it would please you the rather at this my request to bestow the

99 Ibid., 69.

100 Lands., v. 10, no. 3., f. 12r.
wardship of the said William on the bringer hereof, namely on John Crofts of Ketton who is uncle unto the ward, and a neighbour and poor friend of mine, one whom I may command.\textsuperscript{101}

And John Crofts gained his wardship. It is interesting to note, however, that Jane Cecil chose to add the phrase “one whom I may command.” This could mean a variety of things from a state of indebtedness to employment to perhaps just a client – patron relationship. Many aspects of the Elizabeth government and political system depended on a network of patrons and clients to facilitate movements and placements of people, positions, and goods. All of the families listed above moved in this circle of patronage.

Robert Dudley, earl of Leicester, used his title and position to secure grants of wardship for himself and others. He wrote several letters to Lord Burghley requesting the consideration of a specific person for a guardianship. In 1588, he sponsored Lady Digby in her suit for Richard Brent. In addition, Leicester was also involved in a joint suit for the wardship of Richard Wenman with James and Jane Cressy. Hurstfield claimed that Leicester was also awarded the wardship of the new earl of Bedford with his brother Ambrose Dudley of Warwick and his wife Anne.\textsuperscript{102} His activities as a joint suitor could, as in the case of James and Jane Cressy, be to further the suits of others, or like that of the suit with his brother, to gain a share in a valuable investment.

Wardships were often just that – investments. For instance, Hurstfield noted a letter written to Cecil from Anne White, a relative, petitioning on behalf of her son-in-law

\textsuperscript{101} Hurstfield, 59, taken from CSPD, Eliz, 1566-79, no. 27.

\textsuperscript{102} Ibid., 250.
for a wardship "the greater the better for then it will bring them out of debt." It was familiar method of either getting out of debt or financing one's future. Not only was it just a predominant thought, however, but it was a vocalized and openly accepted reason for obtaining a wardship. As with Anne White, several other suitors claiming relations with Burghley stated that their motivations for seeking wardships were the direct result of their needs. Hurstfield cited several petitioners of Burghley who begged for a wardship to provide for the fiscal maintenance of their family, to pull their personal fortunes back up, or merely so that they could update their closets with the latest fashions on the profits a wardship could provide.

Hurstfield claimed that the majority of petitions for wardship were not put forth by or on the behalf of relatives, but rather by those who, having heard that the benefactor of an underage heir was either soon to die or had already passed away, or the wardship had been concealed, approached the officers of the court with their own wallets in mind. Similar to this, several men also made a living from seeking out concealed wardships. One of the evolutions in wardship practices under Elizabeth dealt with the way in which concealed wardships were sought out. Under previous monarchs, while the Court of Wards had served in its official and unofficial capacities, it held the responsibility for monitoring those who possessed land of the monarch in chief and discovering and pursuing wardships. Under Elizabeth’s reign, however, a new middle man began to

103 Ibid., 65, quoted from HMC Salis., xii, 44.

104 Ibid., 79.

105 Ibid., 58, 62, 69; Bell, 115.
emerge on the wardship scene. Private informers who stood to gain by revealing concealments of wardships, began to come forth with deals and negotiations by which they would receive either the wardship itself or part of the profit it brought in return for their services. These informants were both professional and lay, some gaining patents for their trade, such as Henry Townsend and William Walter in 1575, and some one-timers, such as Burghley’s barber who merely approached Burghley with a deal.\(^{106}\) While they were never in excessive numbers, private informers evidenced the evolving phase of the Court of Wards and demonstrated the continuing development of wardships away from their initial foundations. By the time of King James’ reign, this practice was in more regular use and new definitions of concealment had diminished the time period from three years without suit to one year.\(^{107}\)

Suits for wardships by the time of Elizabeth’s reign had blatantly emerged from the shadow of feudal responsibilities and proclaimed loudly their ardent pecuniary intentions. While calls for wardship reform also resounded audibly in the Elizabethan era, they were often drowned out by the raucous mass of petitioners who stood to gain from them. In this boisterous struggle for personal gain, a mother’s claims were often not the first consideration, nor were they always the last.

\(^{106}\) Ibid., 39, 60-1.

\(^{107}\) Bell, 50-1.
CHAPTER III
FEMALE SUITORS FOR WARDSHIP

In 1974, Sue Sheridan Walker presented a paper analyzing women and guardianship based on her studies of the late medieval wardship practices. She has been the only historian thus far to have addressed this relationship individually and directly. She determined that few women were successfully awarded guardianship of their children and reasoned that “not sentiment as to who would most suitably nurture the infant shaped minority in medieval England, but rules which governed land tenure.” Feudal structures established foundations of status and hierarchy on property, creating a land based categorization of duty and social function. Those who held land by military tenure were bound to provide military service for the monarch and hence had a real position and function for which they would be trained. Raising “future feudatories” as Walker described them, would require that they be trained and prepared for the office they would assume. As was discussed earlier, the evolution of ideas of land and property and the need for capable vassals, shaped the idea that the lord, who was unrelated to the ward and only concerned about the future of his land, was the appropriate guardian for a ward because he was the likeliest to act in the ward’s, and consequently his own, best interest.

In its most basic form, this is how Henry de Bracton laid out the theory of inheritance for minor heirs. The fundamental idea of preserving property to be passed

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109 Ibid., 166.
along generations, of creating physical legacies attached to family name, seems to have been a predominant aspect of the social mind set in the Middle Ages, with the significance of property prevailing over progeny and inheritance over heirs. In this system the act of committing land to younger generations is more than a gesture of good will or preparations for their future, it is a family custody inherited from past generations and devolved on to the next.

Why this responsibility was so crucial is hard to understand without becoming a "feudatory" oneself, but it can be said that this perspective of feudalism is largely perpetuated by the type of sources available. Bracton, who was a lifelong participant in the English legal system, and enjoyed it enough to author or sponsor a work which outlined the basis of most of their laws, was himself perhaps not a just representative of his age. While there can be no doubt that property and title meant a great deal to the people of the Middle Ages, one can question to what extent these values included similar familial emotions recognizable today. Was there a basis to assume that blood relationships made the land and wealth perpetuating policies of guardianship difficult for families?

Sadly enough there are no contemporary works which investigate the psychological impact of medieval wardship practices. As these practices evolved into the Tudor Court of Wards, however, one can see a change from the methods of distributing wardships, suggesting that perhaps the purpose of the court and even the social perspective of wardship had altered. Clues, however, can be gained from a variety of other sources, such as the Patent Rolls and the records of the Court of Wards. A statistical analysis of the wardship cases presented in the Patent Rolls, in particular will
shed additional light on the information provided by the legal tracts which dictate only the ideal process, and not the reality.

The question and purpose of this investigation focuses on female patterns within the wardship process. In its most basic sense, the statistics presented in this chapter compare male and female involvement in wardship cases, frequency of seeking the wardship of relatives, and the likelihood of pursuing a wardship for profit. This comparison will help illustrate the motivations of women in seeking wardship, as well as the reasons behind their success or failure in the endeavor.

To begin with, it is important to understand the parameters within which the study was conducted. As was outlined in the previous chapter, when a suitor had obtained the appropriate forms of licensing for the wardship, he or she was required to have the license enrolled on the monarch’s Patent Rolls. This accomplished two things. For one, it declared that the purchase was officially recognized by the crown and for another it provided a receipt and proof that the appropriate actions were taken and the necessary fees paid.

It is important to note that a guardian was required to register a wardship patent within four months of receiving it. Technically after the lapse of this grace period, the wardship was void, but it did not necessarily infer that the wardship would be lost, only that the possibility of such an occurrence increased dramatically.\textsuperscript{110} All of the money, time, and effort put into the entire application process would be void if the wardship were

\textsuperscript{110} Hurstfield, 90.
not enrolled and another willing suitor pressed the opportunity to claim the wardship. If the four months elapsed without the proper paper work, a grant in “release” could be obtained and the wardship kept. Many, though not all, wardships were enrolled with the recorder.

The information framing this investigation is taken directly from the Patent Rolls for Elizabeth’s reign. Modern transcription of historical manuscripts has only progressed so far, and hence not all of the Patent Rolls have been copied and published. Thirty-one years of Patent Rolls from her forty-five year reign have been completed. Therefore this study, will look at those from her first through fourteenth, eighteenth through thirty-second, and thirty-fourth
through thirty-fifth years of her reign. All together, there were 1225 wardship patents granted which included 1333 wards and 1435 suitors for wardship.

Male wards were predominant, constituting 85% of the minor heirs, with female wards only forming 15%. Most of the benefactors of the heirs were fathers passing their inheritance to their sons. Among females heirs, they were most likely to be the daughters of their benefactors, becoming heiresses when there was no son to inherit. However, as Figure 3-3 displays, many of the wards were also the brother or sister, nephew or niece, grandson or granddaughter to their benefactor. Actual children of the benefactor made up roughly 79% of wards. There were as many as seven wards and eight guardians involved in a single patent. Co-heiresses, meaning female wards standing to inherit from the same benefactor, were usually, though not always, included in a single patent of wardship.

There was only one instance where a male ward was named with another heir in a wardship suit. In 1587, John Barrowe, John Newton, and Anne Partridge, cousins, were all granted in a single patent to Robert Webbe, described as a “clothyer.”

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111 CPR, Eliz, 87-8, 106.
nephews and niece of their benefactor Thomas Partridge, and the children of three women described as his sisters Joan Barrowe, Anne Newton, and Anne Partridge. There is a good possibility that the latter of the Annes was a sister-in-law. This patent was highly unusual in its content because one never sees two males as co-heirs, and especially not a co-heir with a female.

The only other patent which resembles this in gender structure is actually seen in two separate patents which were awarded at the same time to the same group of four guardians. A year after his death in 1580, Thomas Fermor’s minor heir, Richard, and his wife, Bridget, daughter of Benedict Bradshawe, were placed in the custody of George Shirley, Benedict Wynchcombe, William Marcer, and James Smythe. Richard and Bridget’s situation was highly unusual because early marriage was usually a course taken by parents of underage heirs to ensure two things: that their children would be able to sue out their livery soon after the death of the benefactor and so doing, avoid wardship altogether and also to ensure that their marriage would not be sold to anyone else, but granted as they saw fit.¹¹²

But Richard was only five years old at the time of his father’s death and the wardship grant was completed a year later. Child marriages were a tricky situation because consent was believed to be necessary for a valid marriage. Child betrothals were not always binding, and they were often disputable if the ward was under the age of fourteen if male or twelve if female. Betrothals before these ages were actually called ‘spousation’, which essentially meant that the pair were, for all intents and purposes,

¹¹² Hurstfield, 134-5, 151-2.
considered married when they came of age, but could not be accounted married until they reached fourteen or twelve and did not contest their marriage arrangement. However, this espousal seems to have been not only binding, but it goes so far as to place Bridget in wardship, as well as her husband. They were, in fact, both given annuities of £13 6s 8d which would increase for both to £20 when Richard reached age ten. George Shirley, the first suitor named in the grant, and possibly the other three suitors, were the executors of Thomas’s will. Hurstfield also found information in the court records about this case and analyzed the situation, although it is debatable if he knew about Bridget, and determined that there was a good possibility that Shirley was petitioning for Richard’s mother. There were a number of petitions to Lady Burghley, their patron of choice apparently, requesting that the wardship be granted to Shirley. Included in this lot of petitions was one from a Mr. Bradshawe who was most likely the father of Bridget and a concerned party in outcome of the suit.\textsuperscript{113}

Due to the nature of wardships, fathers were almost never the suitors for wardships. Only in two instances did this occur. In 1560, William Browne of Elsing, brother to the first Viscount Montague and the half-nephew of the earl of Southampton, was granted the wardship of his son Anthony. William Browne had married Anne the eldest daughter of the two co-heirs of Hugh, fourteenth baron of Hastings and Catherine le Strange. It was Anne’s inheritance that passed to their son and made him a candidate

\textsuperscript{113} Hurstfield, 265-6. Hurstfield’s information appears to have come largely from an audit of George Shirley’s accounts as an executor. Bridget does not seem to have been discussed in these records, but was listed in her own entry in the patent rolls. An interesting note to this story is that Lady Burghley received a grand present of £250 for her services in convincing her husband to sell the wardship to Shirley. That sum is roughly £16 more than what the queen received as a fee. This only goes to further the evidence that the patronage system was a permanent and well-paid institution by Elizabeth’s reign.
for wardship. The wardship was granted about two years after her death and included a modest annuity of £8. However, less is known of the second father, Henry Vynar, who was awarded the wardship of his son who shared the same name in 1565. All that is known is that Henry’s wife was Mary Longe and she had been the heiress of her uncle Thomas Longe. In this case, the annuity was initially £6 13s 4d but would be raised to £10 at the age of 10 when the ward would be ready for an education.

William Browne and Henry Vynar were the aberrations to the normal profile of suitors. In several instances heirs gained their inheritance from the female line, but they were rarely placed in wardship if their fathers or grandfathers were still alive. For instance, Dorothy, Mary, and John Arundell were the children of John Arundell of Trerise by two wives Katherine and Gertrude. When he died in 1580, his daughters, heiresses of their mother Katherine, who was herself the sole heiress of John Cosworthe, were granted to Richard Grenfeld and Thomas Cosworth. Their half-brother John inherited his father’s estate and was granted in wardship to Gertrude, Richard Grenfeld, John Chichester, and Richard Carewe. Although Katherine had died before her husband, as is witnessed by his remarriage to Gertrude, he did not lose the custody of his daughters, nor did he have to apply for their wardship. Unless the girls stood to inherit in the form of lands in capite from their father, it seems likely that the estate from their mother would be the one to include land held by military tenure since their wardship went to queen once their father died. He may have done homage for the lands and therefore was able to hold them after his wife’s death, but only in trust for his daughters and without the right to sell or will them away from her line. Therefore, the presence itself of the father might deter the
practice of wardship without dispute over guardianship if a child inherited from the mother. It might also not be that obvious to the Court of Wards that a wardship existed if the father was still alive. \(^{114}\)

These issues were not commonly faced in wardship cases, and fathers did not fit the typical profile of a wardship suitor. Disputes of wardship were most often a matter of concern for the mother, remaining family, friends, and suitors seeking a financial opportunity. Suits brought about by only men constituted the majority of patents, gaining 74% of the grants during Elizabeth’s reign, leaving only 16% of grants to women and 9% of grants awarded to multiple suitors of mixed gender. Altogether men were involved in 83% of the wardships, and women were involved in 25%.

The majority of suits involved only males, as wards and suitors. As shown in Figure 3-2 and Figure 3-4, male wards made up 85% of the wardship patents and suits made solely by men claimed 74% of the wardships. In the gender comparison of suitors and wards in Figure 3-5, 63% of wardships were found to involve a male suitor and a male ward. Only 11% of the wardships were between male suitors and female wards.

\(^{114}\) CPR, Eliz, 80-82, pp. 7, 27.
Patents of male wardship drafted for only female suitors claimed 14% of the total wardships, with female suitors of female wards comprising only 3%. Mixed suitors gaining the wardship of a male made up 8% of the patents. The same group of suitors claiming female wards held 1% of the total patents. Female wards held significantly lower percentages in each of these categories, but this is easy to understand, considering that the majority of wards, 85%, were male.

*Figure 3-6* represents this information from the point of view of the ward. Although male wardships exceeded females 5 times over, comparing the number of suitors per gender within the
ward’s respective parameters allows a more comparative view of suitor’s tastes in wards. It seems that suitors had few preferences between male and female wards. Female suitors had slightly more female wardship claims than male and conversely mixed gender patents preferred male wardships by only a slight amount. Overall, though, the sex of the ward seems to have made little difference to who the sought their wardship.

The gender distribution of wardships is even more clear when the question of blood relationships between the suitor and the ward is posed. This is often a hard question to trace, considering that the patent rolls usually leave the detail of relationship out of the information given. Therefore most of this data is based on last name relationship. In the case of female suitors, they are more likely to be identified as the widow of the deceased benefactor, hence indicating a possible relationship with the ward, than the ward-suitor relationship is identified for male suitors. On occasion, the relationship of the male suitor was expressed by the clerk of the patent rolls, but overall, it is not usually apparent that any relationship existed at all. Only a complete genealogical investigation will reveal absolutely if or what kinship was held.

This being said, a simple look at the possible relationships of wards and suitors, based mostly on

\[ \text{Figure 3-7. Gender distribution among suitors: related and unrelated.} \]
the information given in the patent rolls, with small supplemental information provided by wills and genealogies, will provide a general idea of the relationship distribution between the sexes. Overall, it appears that men are more likely to be involved in suits for wards unrelated to them. They comprise two-thirds of the suitors in suits in which no relationship appears evident. Women make up roughly 6.75% of the suitors, and repeat suitors made up nearly 25%. Of those patents in which relation is evident, the results are dramatically different. Women constituted that vast majority of suitors at 73%, with men making up almost the remainder of the total at 23%. The residue of patents is split equally at 2% each for patents distributed to repeat patent holders and to the actual wards themselves.

Bell had a roughly similar statistic from his research into the records of the Court of Wards in the Public Record Office. For the years 1587-90, he found that 68% of the guardians were not related, leaving 32% as possible relatives. The information for the patent rolls during the same time period found 63% of the

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*Figure 3-8. Related vs. unrelated guardians.*

The information for PRO Wards is taken from the records of the Court of Wards during the years indicated; see Bell, 116.

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115 Bell, 116.
patents were non-relatives and 37% granted to relatives. Like the information gathered from the Calendar of Patent Rolls here, Bell's calculations were determined by either the given relationships of suitors to wards, or, if this was not present, their possible relationships based on the same last names. In both cases it must be allowed that there may be familial relationships unapparent by surname or even the opposite, that the commonality of a surname has led to a miscalculation of relationship. The latter is far less likely, though.

Repeat patent holders, themselves, had interesting gender demographics. Figure 3-9 shows that 95% of the suits were pursued by men alone, while only 2% were granted to women and 3% to suits engaged by men and women jointly. Some of the most prominent repeat patent holders are listed in Table 2-1 above. This group tended to be constructed of peerage and members of the Court of Wards. Only two women, both members of Elizabeth's court, appeared to be applying for suits of unrelated wards on more than one occasion. Lady Blanche Ap Harry and lady Dorothy Stafford were both identified in their patents as a gentlewoman of the privy
chamber. They each sought two wardships apiece, lady Blanche of Thomas Beckingham and William Warren, and Lady Stafford of Francis Palmes and Elizabeth Beake. Their average annuity was £15. This meets the average annuity of most repeat patent holders.\(^{116}\)

The only other woman to be granted a patent in her own name was Mary Addams. She, too, had two patents to her name, one of which was granted to herself alone and the other to herself and Adlard Welby jointly. Her case seems to be a little more perplexing than the other female grants. She received her patents twenty years apart. The first, for Phillip Addams, son of Henry Addams was granted in 1567, the tenth year of Elizabeth’s reign. Mary received 10s as an annuity for Phillip, with a reversion from a date marked 6 years earlier which presumably was the father’s death date. Twenty years later, the data becomes more complicated. She received the wardship of Robert Addams, also listed as the son of Henry Addams, in 1587, with an annuity of £6 13s 4d. However it listed Henry’s death date as 1586, the twenty-ninth year of Elizabeth’s reign. This obviously was not the same Henry Addams as before.

Although the death date on the first patent was not specified, the information provided for the annuity and the format it was presented in indicated that it was a death date, nor would it be likely that Mary would receive the wardship of one son if the father was living. Secondly, Robert’s wardship was granted twenty years later, which alone signifies that he was probably born in a succeeding generation. The best assumption to be made in a case like this, without any additional information, is that Mary is most likely the...

\(^{116}\) CPR, Eliz, 66-69, p.428; CPR, Eliz, 80-82, p. 55; CPR, Eliz, 58-60, p. 418; CPR, Eliz, 60-63, p. 533.
mother of Phillip and the grandmother of Robert. There is very good chance, considering the customs of the time, that another son would share the name of his father Henry, and that upon his premature death, his own son Robert might be sought in wardship by the grandmother Mary. There are also a variety of alternatives which would place Mary as an aunt or a sister, though the latter is less likely. Adlard Welby, the co-guardian, shares the greatest chance of being an executor in the will of Henry, a trusted friend of his, or Mary’s relative, according to customs of the time.\textsuperscript{117}

Women often sought guardianship with a co-guardian. As was discussed with women pursuing a lawsuit, it always appeared better for them to be represented by a male, even though it was not always required. However, it does appear that a number of them were awarded patents in their own name. It is unknown from the patent rolls if they sought the guardianship through a male representative, but what does become evident is that women were often named co-guardian with only one, two, or possibly three other individuals, rarely with four and never more than four co-guardians at a time.

\begin{figure}
\centering
\includegraphics[width=\textwidth]{graph.png}
\caption{Number of guardians per suit for male and female.}
\end{figure}

\textsuperscript{117} CPR, Eliz, 66-69, p. 188; CPR, Eliz, 85-7 (vol. 2), p. 147.
Male guardians on the other hand, while mostly seeking a patent in their own name, could go up to as many as eight co-guardians named in a patent.

The distribution of suits for multiple guardians to men and women is very different from this scenario, however. Women were more likely than men to be involved in a multiple guardian patent, even though men had higher numbers of guardians in their multiple suitor patents. Women were the sole guardian named in 66% of cases naming women, with 34% being multiple guardian suits. Men, on the other hand, entered into multiple guardian suits with other men only 6.8% of the time, with 93.2% of the suits enrolled in their name alone. Guardian suits of multiple men, especially more than two men, is a good indication that the men enrolled are probably the executor’s of the father’s will and acting on his behalf by obtaining the wardship of the heir and raising the child according to his stipulations.

For instance, the heirs of John Arundell of Trerise, discussed previously, were all under the care of men he named in his will. His son, in particular, was under the guardianship of his mother Gertrude and Richard Grenefeld, as well as John Chichester and Richard Carewe, and his daughters under the care of Richard Grenefeld and Thomas
Cosworthe. Arundell mentions all four men in his will, leaving them money, remembrances, and instructions for the future of his children. In particular, he named John Chichester as one of his executors and left Richard Carewe, who married his daughter Julian, timber in his will. Therefore, it seems likely that the multiple men named in these suits were likely acting on behalf of the father’s wishes and in mother’s name, since she was named in the suit for her son, but not her step-daughters, who were probably under the care of their relative Thomas Cosworthe, who could oversee the dispersement of the inheritance from their mother.118

The calculation of these figures depend on specific criteria, though. Basing the designations of male and female suits on existing biases of the time, this investigation has placed any suit naming a woman as a guardian into the category of female, regardless of whether there were other men involved or not. On the other hand, multiple guardian patents for men are classified as only those made up of all male suitors. This designation has been decided upon because it seems evident that any suit involving a woman would deem that she is significant to the suit, as either a mother or relative of the heir. Therefore the assumption is made that the suit is being presented on her behalf with male aid.

For instance, the wardship of the earl of Bedford’s heir, Edward Russell, was sought and purchased by “Ambrose, earl of Warwyck, the Queen’s kinsman, councillor,

and Ann, countess of Warwyck, his wife.”

The earl of Warwick was a influential and powerful enough figure to have gained the wardship on his own standing, without the merits of his wife, had she not been related to the ward. As it turned out, a good reason why she was named in the wardship patent was because she was the heir’s paternal aunt and probably validated their claim on the boy in the first place. Therefore the assumption is going to be made that any patent naming a woman will be for a similar reason and therefore will be considered a female suit.

*Figure 3-7* demonstrates that in patents where no relation was shown, women tended to account for only a minority of the suits. However, where kinship was suspected, they made up 73% of the patents. In *Figure 3-12*, only a small minority, roughly 4% of female suitors, were positively identified in the rolls as the mother of the ward. On one other occasion, a woman was positively labeled as the grandmother. Other than these exceptions, the researcher is left with only assumptions for the remaining suitors, without delving into a systematic examination of all 313 female suitors.

The patents tended to follow a similar style of naming the suitor. It would usually list their name, followed by a reference to their legal status, such as widow, stating if she was the wife of the deceased. On occasions where the woman was of high standing, it would list her title, as well. Many patents listing multiple suitors were those of a man and his wife such as the wardship patent of George Huntley which listed his new guardians as “Charles Bridges and Jane, his wife, former wife of John Huntley, deceased (George’s

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119 CPR, Eliz, 85-7 (vol. 1), p. 43.
From this identification, the assumption that Jane was either George’s mother or step-mother can be derived quite easily. Most of the patents, however, merely listed the widow by her former married name and declared that she was the widow, such as Agnes Kempson, who gained the wardship of Edith Kempson after the death of her husband Thomas Kempson in 1559. From this information, the same conclusions as from the Huntley case can be drawn, she must be either the mother or the step-mother.

The statistics in Figure 3-12 depict 78% of women as the probable mothers of the ward. The female suitors in these cases were most likely to have acted in a maternal role at one time, if they were not actually the mother. In his work, Menuge draws a large distinction of the role of step-mother in the wardship romances, saying that she was often seen as the antithesis of what a true feudal mother would do for her children. A great deal of bias against a step-mother appears to have been a predominant attitude, at least in the literature of the medieval age. This by no means signifies that all claims of step-mothers for wardship were invalid, one

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120 CPR, Eliz, 80-82, p. 59.

121 CPR, Eliz, 58-60, p.1.
only has to look at Lady Honor Lisle who had the wardship of her own children and step-
children after her husband’s death. Yet, it does indicate that step-mothers might have less
of a claim on wards than other relations, and therefore might not be the usual female suitor
in these patents.

Other female relations could also fit into the mold. This is especially true where
the only information given is “Alice Bellott, widow,” as was listed in the Edward Bellott
patent. With no other identifying remarks, one can only conclude that Alice had married
into the Bellott family and was at present widowed. She could have been the mother, the
grandmother, or a paternal aunt by marriage. It is unlikely that she would be related to the
mother or that she would be a sister to the father. The majority of female suitors fit this
pattern, however. It seems statistically unlikely for so many non-maternal female relations
to be widowed and un-remarried at that very time, as well as in a position to purchase the
wardship, which is already known to be a pricy venture. Although women did not tend to
remarry as frequently as men, it still seems unlikely that any significant portion of these
women would be any other relation than the mother.

Other patents such as the William Sandes wardship proved to be substantially
easier sleuthing jobs. “Elizabeth Scrope, now the wife of Ralph Scrope, once the wife of
Henry Sandes, and late the wife of George Powlett, knight,” gained the wardship of her
son William in 1560. This patent proved to be one of the most useful in terms of
information. It not only named Elizabeth as the mother, but it also gave a history of her

122 CPR, Eliz, 80-82, p. 19.

123 CPR, Eliz, 58-60, 329-30.
Figure 3-13. Amount of annuities granted. Annuities calculated in pence.

<table>
<thead>
<tr>
<th>Average</th>
<th>1st Com</th>
<th>2nd Com</th>
<th>3rd Com</th>
</tr>
</thead>
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<td>4800</td>
<td>3200</td>
</tr>
<tr>
<td>Repeat Patents</td>
<td>3540</td>
<td>1941</td>
<td>1600</td>
</tr>
<tr>
<td>Female Patents</td>
<td>2086</td>
<td>161</td>
<td>800</td>
</tr>
</tbody>
</table>

marriages, named her current husband, and gave a list of all the lands left to William as well as herself at the death of her father-in-law Thomas.

It is apparent that women were more likely to sue for the wardship of a relative than a non-relative, were more likely to be the mother of the ward than unrelated, were rarely repeat patent holders, and were evenly represented in the male and female wardships. So far, they have followed a pattern one would expect of concerned mothers seeking guardianship. Their annuities, as well, averaged lower than the mean for wardships as a whole and for repeat patent holders. Though the annuities granted to female suitors fluctuated to £20 as the second most common annuity assigned, they tend to even out with the average, first, and third most common annuities granted to all patents and are significantly lower than those granted to repeat patent holders. This suggests that women were also not seeking monetary advancement in their pursuit of wardships.

Why, then, would they seek wardships at all? It was a costly and time consuming process without a guarantee of success. Suitors had to call on as many and as powerful patrons and sponsors as was at their disposal. Wardships of the body, also, did not always accompany wardships of the land, and an heir’s inheritance was by nature unable to fall to
the mother. It seems very likely, therefore, that women were seeking wardships out of other, less pecuniary reasons.
CHAPTER IV
MOTHERS AS GUARDIANS

While women typically sought the wardship of their own children, when they were able to seek it at all, it did not necessarily follow that women gained a large number of wardships or that their position as a mother gave them significant weight over other applicants. Overall blood relationships, or even legal relationships in the case of step-children, could be used in the pursuit of wardships to facilitate a claim. It seems likely from the fact they were used, such as the petition from the mother of Lord Burghley for her client who was the uncle of the ward, that some manner of kinship bond lent a portion of legitimacy to the claims. A relative might be seen as wishing to protect the future of the heir from the devastating effects of another guardian more concerned with monetary benefits than the welfare of the ward. Yet the position of relatives were also viewed as shady. Military tenures were traditionally not granted to a family member for fear that the ward’s safety would be compromised by a relative’s desire to inherit the estates of the ward. There is no evidence from this study, or from any other presented here, that these familial claims were any more weighty than gold.

Walker suggested that women held significantly fewer wardships than men because of the feudal system. Notoriously favoring the physical prowess of men as the basis for societal structure, the feudal system would seem to leave little to recommend female contributions. For wardships, this discrepancy of social roles leads to certain assumptions immediately. An easy hypothesis would blame the apparent gender disparity in the number
of suitors on existing misogynistic concepts of women as guardians. From Noel James Menuge’s work on wardships, it seems that there was a literary tradition portraying women as weak, vindictive, or perhaps incapable of providing the necessary protection for wards.\textsuperscript{124} From Walker’s research there did not seem to be a custom of granting women custody in military tenures. Due to perceptions of women as unfit for military service, they did were not considered ideal instructors of feudal obligations for future generations. Walker asked, “How could her nurture have been an introduction to the skills of a military society?”\textsuperscript{125} The idea of nurture and development of children would seem to play little role in this structure.

Yet the extent to which either or both of these ideas combined to effect the outcome of a woman’s suit is debatable, especially when approaching Tudor wardship. By this time, the wardship practice was evolving into an institution. No longer was the impartial lord taking the uncertain future of a young vassal out of the greedy clasps of relatives into his own hands to shape and marry the heir as the father would have done. The supreme “impartial” lord, who despite theory had always stood to gain something from wardship, now selected an equally “impartial” committee through which all suits would pass through. In effect, this caused the price of wardship to go up dramatically. The institutionalization of a wardship court turned the grant of guardianship from the monarch’s direct decision into a fiscal and a judicial decision made on the king’s behalf. This in principle depersonalized the wardship process and disconnected it from the feudal

\textsuperscript{124} Menuge, 101-127.

\textsuperscript{125} Walker, 166.
structure, making the primary qualification of suitors money instead of military prowess.

Land held by other tenures than military tended to follow a different pattern of inheritance and wardship. Following the death of a man who held land by socage tenure, his estate would fall to his eldest son or heir and, if that person were still a minor, the wardship of his body and estate went to the next living relative unable to inherit, usually the mother. Bracton asserted this tradition, saying that “... if it [the inheritance of the heir] descends from the father’s side the wardship belongs to the mother, since she is the nearer relative because of her proximity of blood...” Socage tenure differed from military tenure in the method of payment for land usage. Where military tenure required knight services or the supply of arms and weapons, socage tenure was based on payment schedules of agricultural goods or labor. Although the socage tenant might still be constrained by certain structures of feudalism, such as having a lord to whom he must swear fealty, there was no hard and fast rule other than strong tradition which dictated the matter of course for wardship. The tradition in socage cases was to grant the custody to the next blood relative.

While the requirements of these two tenures both developed within a hierarchical system of lords and vassals, the tradition of child custody seems to have been based on completely different concepts of each. For the child of a vassal holding by military tenure, the system gave the wardship to a stranger, for a socage vassal, wardship went to a relative. Both of these methods aimed at protecting the ward from greedy relatives, but each provided a different method of granting custody. Why then, as the feudal structure

126 Bracton, 254.
diminished and its military services became increasingly less utilized and necessary, did the requirements for child custody not revert or evolve into the precedent of socage?

To bring an added dimension to this argument, the Court of Wards had jurisdiction not only over minor heirs, but also over those termed “idiots” or “lunatics.” When a person of disputable sanity or intelligence was in line to inherit at a minor age, he or she entered a different line of wardship than a regular heir. The possible use of the land and estate belonging to an idiot or lunatic was severely restricted. All surplus created by the land had to be accounted for and could not be used for the profit of the guardian. In addition, the marriage of an idiot or lunatic could not take place for fear of issues of disparagement on the side of the prospective spouse and for reasons of abuse concerning the idiot or lunatic. Without the lands and the marriage, the wardship of these specially designated wards was relatively worthless to guardian and crown alike. They rarely sold or sold for very little, going, in fact, to the trusteeship of the family rather than on the wardship market.127

These traditions of familial custody of wards, makes military wardship stand out. While lunacy was not a prominent form of wardship, socage was widespread and visible in sixteenth century England. Socage could act as a model for the reformation of a corrupting system, and so it did. At that time, there were many calls for a reform of the Court of Wards, though blatantly unsuccessful. It was not until the Court of Wards was

127 The terms lunatic and idiot are the legal terms used in the treatises on wardship. A lunatic was someone of questionable sanity, but who may have periods of lucidity at times. An idiot refers to those with a mental deficiency which would prevent them from knowing basic things such as their age, the names of their parents, or how to count to twenty. See Bell, 128-9; Hurstfield, 76-7.
reformed during the reign of King James that the family of a ward eventually received a small concession. The "Instructions" of 1610 granted a period of one month for the family to place a bid on wardship before it was sold to another. Bell perhaps said it the best when he noted that

the practice actually followed, whatever social evils it brought in its train, was nevertheless typical of that partnership between the monarchy and the most influential section of the Tudor dynasty. . . . What was hateful to men as tenants in chief was profitable and attractive to them as royal committees.

The Tudor government, created and advised by the peerage of the day, was invested in the sale of wardships as a highly lucrative business, for monarch and peer alike. Even though this often jeopardized their own homes and the future of their children and estates, the financial gains available to the suitors of wardships often offset the concern for their own families. The government also operated on a user based economic system, allowing people to pay for the services of bureaucratic administration in a more direct manner than is familiar or comfortable to today's expectations of government. These two aspects of the Tudor government and peerage left the distributions of wardships in a highly compromised situation. Those who could afford the price of wardships, received them, and those who could not would have to forgo them, even if they forfeited what modern social customs would consider their rights. Women in particular fell into this latter category. Regardless of their maternal feelings toward their children, they simply might not be able to afford the wardship. Inheriting a dowry by no means meant wealth and

128 Bell, 137.

129 Bell, 127-8.
absolute freedom for most widows. The final cost of wardship, after all the fees, bribes, and actual price of the wardship had been paid, might have been more than a widow could afford, especially considering that they would most likely have more children to care for than just the ward.

There were ways around this, however. The sale of wardship by the Court of Wards was not the final death toll of a mother’s efforts to gain the custody of her child. Walker discussed several alternatives available to mothers. What she called *de facto* guardianship was the practice of allowing the mother to raise the child in her home, even though the actual wardship and marriage had been sold to another. She noted this particular arrangement between King Edward’s daughter and Phillipa Mortimer, the widow of Roger Mortimer and mother of the minor heir granted to the princess. They reached an agreement whereby the child would be raised by the mother and the guardian would pay for his expenses.\(^{130}\) While the mother still did not have ultimate control of the ward, who could be pulled from her home at the guardian’s desire, it did allow a mother the chance to raise her child. This system proved to be beneficial for many guardians, as well. They would pay an allowance to the mother for the upbringing of the ward and would not be bothered with the actual process of raising and teaching a child, but could concentrate on the profit of the use of the ward’s estates and marriage.

The wardships of children already purchased or granted to a guardian could also be sold to the widow second hand. In this way, the patronage system played a significant role, since the wardship could be applied for and cheaply purchased by patrons using the

\(^{130}\) Walker, 162-3.
influence available to them, who would then turn around and sell the wardship to another. This method, though probably more frequent than is recorded, carried the possibility of high expense, since the first purchaser of the wardship usually required a profit from this venture and would inflate the price above what was originally paid. Hurstfield noted that Mrs. Elizabeth Hampden wrote to Robert Cecil that the enormous sum of £800 required for her son’s wardships was well beyond what her dower could afford. However, through the aid of friends, she was able to pay the sum, but wondered to whom the remaining £500 would go to when the actual price of the wardship, £153, and the lease of the lands, £90, was paid.\(^{131}\) This could go both ways and there were a couple of instances where mothers gained the wardships of their children and sold them.\(^{132}\) However, it cannot be known how many mothers actually were able to keep the guardianship of their children nor how many tried. The frequencies of the cases cannot be judged because such transactions were private and not recorded in the Court of Wards unless a dispute arose.

Walker’s statement given earlier that “...[the fact that] feudal women did not make greater attempts to secure control over their children does not suggest weakness or indifference, but rather their acceptance of prevailing societal attitudes as to the raising of future feudatories, male and female” seems less relevant in fact, but more so in theory, when applied to a Tudor environment.\(^{133}\) Though she spoke of a medieval feudal structure, the idea that there was a prevailing societal force directing the patterns of

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\(^{131}\) Hurstfield, 264.

\(^{132}\) Walker, 161; Bell, 124

\(^{133}\) Walker, 166-7.
wardship and custody rings true for the sixteenth century. However, by this time the force
of the feudal system was waning and the rising motivation appeared more and more
monetary.

It appears from this analysis, however, that although the patterns of wardship were
lucre driven, women rarely acted with respect to their finances when it came to their own
children. This may explain a great deal about why women were not favored as highly in
the wardship process. While Hurstfield noted that Lord Burghley occasionally tried to
merge the needs of the crown for wealth and the mother’s demand for her children, it
seems that there was no consistent favor given to one side or the other. The favor seems
to have fallen on the third party, the suitor with money to invest. While Burghley was
once lauded for his sympathy to the “natural mother,” Hurstfield claimed that the records
of the Court of Wards did not support such praise. “Mothers,” he wrote, “were still
without any special title to be the guardian of their children and could merely take their
place in the wild scramble for profitable wardship.”\(^\text{134}\)

Although not prohibited from participating in petitioning for wardships, women do
not appear to have been successful in the wardship process on a routine basis. This
explains not only why merely a quarter of all suits were awarded to women, but also why
only two women appear as repeat suitors to wards unrelated to themselves. It is
important to note that they were both ladies of the chamber, and were significant players
in the art of patronage. Not only their titles, but their positions in Elizabeth’s household
granted them influence in the court and peerage. There were few outright positions of

\(^{134}\) Hurstfield, 282.
influence for women to occupy in Elizabeth’s court and administration. Women could become powerful patrons through the wealth and power of their familial connections. Yet, considering herself to be “... fitter to keepe the house then to go any whether...,” a widowed mother could not have claimed such capabilities on the courtly scene, and would thus be forced to resort to participating as a client in the patronage system rather than as a patron.\textsuperscript{135}

As was presented earlier, women usually did not participate in the legal system, except to protect their property and dower. The wardships of their children, however, could not be construed as protection of property. They could not inherit from the ward and while they might gain control of the child’s lands, the utilization of it necessary to compensate for the expense of the wardship would only impoverish their own family further. Considering too that women usually received lower annuities per year for the maintenance of their wards than the average, it seems that they were less likely to be compromised by the wealth of the ward they were charged to protect.

Yet if their intentions were on the whole less pecuniary than male suitors, what was their motivation in petitioning for their children’s wardships? It seems that women were trying to protect their positions as mothers, nurturers, and protectors of their children. In their supplications to Lord Burghley for the wardships of their children, women used their status as the mother to place emotional familial demands on his conscience and elicit a more favorable outcome to their suit. They were not successful often enough to convince modern scholars that maternity was viewed more highly than

\textsuperscript{135} Lands., v. 57, no. 51 fo. 51.
wealth. This does not necessarily slight the role of mothers in the Tudor period. It merely highlights the Elizabethan bureaucratic and governmental methods of relying on financial resources which did not return wealth into the country’s economic system, but choosing instead to enrich the already wealthy elite, in order to uphold the economic stability of England with a cycle of wealth that was both insecure and counterfeit.

This system was the direct result of a hybrid of two ages, meshing the old feudal system with the new early modern government. Within this entangled period, maternal feelings seemed to fade before the rising fiscal demands of the government. Like the feudal age, they took a back seat to the needs that the executive authority viewed as more pressing. Soon after Elizabeth’s reign, though, this governmental dilemma would become an openly evident problem. The Stuart age in England would eventually come to the crisis where government and royalty would have to depend on new methods of raising wealth to finance the country. It seems that the Court of Wards and other governmental institutions during the Elizabethan era were suspended between the inheritance of the past and the predicaments of the future on a delicate weave of modern politics, ever-present greed, and old feudal customs.

Women caught in this system of wardship, compelled to sacrifice their children to its financial demands, were no more “indifferent” to the fate of their children than the mothers in Walker’s medieval wardships. Unlike Walker’s statement, however, it cannot be assumed that women in the Elizabethan period did not rail against this system or that they were so integrated into the themes of their age that they succumbed to the ‘prevailing societal attitudes.’ Yet like Walker’s analysis of the mothers of medieval wards, it seems
that women did succumb, not to the prevailing societal attitudes, but to a bureaucratic system potent in its reliance on competitive cupidity. They took an active interest in the futures of their children, seeking to work within the system, rather than struggling vainly against it.

Not withstanding the fact that they were not awarded the guardianship of their children, mothers wrote to Burghley on behalf of their children in wardship, desiring his attention to their state of health or education, or thanking him for his attentions to their situations. Lady Elizabeth Russell, seen before as the guardian of her two daughters Elizabeth and Anne, wrote to Burghley, her brother-in-law, on behalf of her son from a previous marriage. She requested that Burghley aid him in a search to settle on a given profession and to take him into his services so that Burghley might not only teach him but also keep an eye on his wayward habits. Similar to the situation of other mothers who had purchased the wardship of their children, Lady Russell was highly concerned with the cost of raising her son and providing a proper education for him, with her other children also demanding financial care, as well. She appears to have purchased the wardship of her elder son Edward in 1567 and would soon after this letter purchase the wardships of her two daughters.136

Lady Mary Grey also wrote in March of 1568 to Lord Burghley, entreating him on behalf of her son “... for that he ys fatherlesse, be you I pray you hys father...”137 She, in effect, placed not only a request, but also an emotional appeal to regard her son in


137 Lands., vol. 10, no. 37, fo. 135.
his time of need. This regard reflected on herself and her family, who were also thrown
into a time of need by the death of her husband. She approached Burghley as her ‘cosen’
and applied to his good favor, as a mother and also as a widow, with supplications to aid
where she was powerless.

Although Lawrence Stone argued against the case that familial love and regard
was extensive in any period prior to the eighteenth century in England, it seems that the
evidence provided by Shulamith Shahar, Barabara Hanawalt, and Clarissa Atkinson would
coincide with this study to suggest differently. Women showed a strong inclination to
gain the custody of their own children, no matter how small the annuity, suggesting that
relations with their sons and daughters meant more than merely money or investments to
them. They plead with the master of the court to remember themselves and their children
kindly in the court’s decisions and sought the benefits of their children, even when they
were taken out of their own guardianship. They appear to be actively engaged, as far as
they were able, in invoking the aid of a powerful statesmen to not only influence the minds
of their young sons, but also to conduct the mechanics of the court in their favor. It is not
a far cry to suggest that maternal affections were a predominant motivation for the suits of
these women. In fact, the statistics appear to suggest just that. It seems likely that
women in the past loved their children much the same as women do today and sought for
their best interest.

One might ask why it is important to study parenting and particularly women’s
part in that process. Like any other historical inquiry, the investigation of women as
mothers is not only important to the future development of women’s studies, but also
lends an understanding of how ideas about motherhood originated and how they have altered. Although traditionally women were excluded from most power based occupations in history, the vast majority of them have belonged to a large network of women who have undergone the same experiences of childbirth and child rearing. This network is not just a social network but perhaps also a spiritual one. Not only did women then gain a social identity and a connection with one another through their collective role as mother, but this identity may also allow for women of today to connect to women of the past through a shared experience, a shared consciousness.
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