

Gender, Property and Succession in the Early Modern English Aristocracy: The Case of Martha Janes and her Illegitimate Children

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Abstract:

This article addresses the boundaries of female power within early modern aristocratic families. It asks the question: could a woman's influence and authority with her husband and kin, and over matters of inheritance and succession, expand or contract through her ability – or not – to have children? The focus of the article is the family arrangements of Lord Emmanuel Scroop whose marriage to Elizabeth Manners was childless. The research set out to uncover Lord Scroop's relationship with their servant, Martha Janes, the birth of four illegitimate children by this relationship, and the property litigation pursued by both wife and mistress after Lord Scroop left the family estates to these children. The article argues that the case of Janes and her children sheds light on the hidden histories of bastardy and property within aristocratic families. It investigates how Janes and her children ultimately played a central role in the inheritance and succession strategies of Lord Scroop, and examines how much importance aristocratic men attached to the concept of a legitimate male bloodline. The objective is to shine a light on economic and legal relationships in aristocratic families and reveal the relative – and relational – power an unmarried woman could gain through maternity.

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This article focuses on the impact of the family arrangements of Lord Emmanuel Scroop, Earl of Sunderland, whose marriage to Elizabeth Manners was childless and whose affair with a family servant – Martha Janes – led to the birth of four illegitimate children.¹ The consequences of illegitimacy are explored in relation to aristocratic families, not least because the case of Martha Janes and her illegitimate children reinforces how important name and dynastic memory actually was to aristocratic men. The case sheds new light on the hidden histories of bastardy and property within aristocratic families and the unexpected power that mothers of illegitimate children could wield through maternity. Ultimately, this article sets out to show how the boundaries of female power could expand or contract through women's ability – or not – to have children.

In one sense, Martha Janes and her illegitimate children form a fairly standard case study of family inheritance and succession strategies of the English aristocracy. The primacy of Lord Scroop's only son and reversion of property to daughters after the son's death were all completely typical aristocratic procedures. Yet, the case raises vital questions about how the concept of a legitimate male bloodline was socially constructed. It also reveals that there was a social double standard when it came to bastardy in early-modern English society. What mattered to Lord Scroop, as will be seen, was that he legitimised in name the blood offspring he could have outside of a childless marriage. What mattered to his wife and mistress – as will also be seen – was that their status be established by property provision. However, for Martha Janes the key to this lay in protecting through the law courts her children's inheritance, because it was on them that her own power and authority entirely rested.²

Relatively little attention has been paid to the issue of elite illegitimacy and its consequences either for inheritance practices or for women's place and status within aristocratic families. The gap on elite illegitimacy and property is surprising given the existence of three related bodies of literature: on histories of the family; on the social (and political) role of women in family life and kin networks; and on early modern illegitimacy more generally. Firstly, research on histories of the family has addressed affective relationships and the practical and political economies of kinship.³ Much of this work has focused on elite families, principally because of the availability of personal papers – including valuable marriage settlements – that can be used to supplement church and municipal records of births, deaths and marriages.⁴ Only Lawrence Stone's *Family, Sex and Marriage* attempted to link demographic information – mortality rates for example – to theories about aristocratic family life, though Ralph Houlbrooke used

qualitative sources quickly to disprove some of his conclusions about low levels of affection in the early modern family.⁵ Surprisingly, too, work on elite succession strategies, marriage dissolutions and internecine conflicts has done little to address aristocratic succession strategies in cases where illegitimate children were involved.⁶ Yet Naomi Tadmor's model of 'the household-family', or the family in which lodgers and boarders crossed functional boundaries with blood-related kin, might suggest that mistresses and illegitimate children could sometimes fit into a wider familial whole as well.⁷

Secondly, recent work that has brought gender as a category of analysis to the historiography of the family has highlighted the role of women as the managers of family estates, the negotiators of marriage alliances and the gatekeepers of conduct.⁸ Women were also the keepers of family memory and sometimes their genealogists.⁹ Barbara Harris, Amy Froide, Barbara Todd and James Daybell, for example, have all argued that female authority stemmed from both the legal, familial and maternal role of wife, mother and sometimes guardian, to the point that a widow might hold a social power that began in her married life and left her the 'ever-married woman'¹⁰ and, indeed, sole-surviving parent.¹¹ This raises questions: if women's authority and capacity to act in and for family affairs was partly dependent on the agency of maternity, could unmarried women who were mothers sometimes become the shapers and movers of family and landed estate, even when there was a living – but childless – wife? Despite the burgeoning body of research on women, family power and property, comparatively little has been said about the existence of either mistresses acting as the cuckoo in the nest or the inheritance of land and property by illegitimate heirs.

Thirdly, what methodologically-systematic research has been done on early modern illegitimacy has tended to focus on non-elite families and on the demographic aspects of bastardy.¹² According to Christopher Wrigley's calculation, in a stationary population 20 per cent of men who married left no children and 20 per cent only daughters.¹³ A lack of male issue was a problem for many members of the elite, as Barbara English, Lawrence and Jeanne Stone have shown.¹⁴ Yet there is a bias towards non-elite illegitimacy in the historiography, as has been noted by Katherine Carlton and Tim Thornton.¹⁵ The stories of illegitimate children in elite families have been told more obliquely, randomly and sparsely in individual and family biographies, on genealogical websites and the *Oxford Dictionary of National Biography*. It is known, for example, that the illegitimate co-heiresses, Thomasina and Elizabeth de la River, were conveyed a part of their father's estate in Yorkshire in 1557 and that only a few years

later, in 1569, Sir Nathaniel Bacon married Anne Dutton, the illegitimate daughter of his uncle Sir Thomas Gresham and his servant.¹⁶ In 1609 another illegitimate daughter, Mary Wolley, received the manor of Burgham in Surrey through the will of her father, Francis Wolley.¹⁷ There is also the eighteenth-century example of Frances Shephard, the illegitimate daughter of a wealthy speculator who brought a dowry of £60,000 to her marriage to the 9th Viscount Irwin.¹⁸ However, collective accounts of illegitimate children in aristocratic families do not exist.

By contrast, parish records have revealed more clearly the experience of poorer members of communities who bore illegitimate children. Peter Laslett and Karla Oosterven, for example, reviewed bastardy figures from 1561 onwards, reaching the conclusion that although the average of illegitimate births in England probably hovered around 3.5 per cent of the total, in some regions – even as early as the late sixteenth century – that proportion could be closer to 10 per cent.¹⁹ What these studies of local parish responses to illegitimacy have primarily revealed is that local authorities were firmly motivated by financial concerns: they wanted to avoid illegitimate children falling upon poor relief. When the father of an illegitimate child could not be named, attempts were made to establish a man as the father who could bear the financial burden of raising the child. Furthermore, midwives often pressed labouring mothers to name a father if there was not one evident.²⁰ Chastity was a mainstay of early modern femininity and bearing a child out of wedlock was, therefore, highly visible.²¹ Even though Joanne Begiato has demonstrated that cohabiting couples could be accepted if they did not affect the peace of the community, it was a different matter if they needed parish support.²²

Community attitudes to illegitimacy could be complex, divisive and varied, as work by Dave Postles on obstreperous and defiant parents of pregnant girls has shown.²³ Yet David Cressy's study of Agnes Bowker's cat does reveal the lengths to which unmarried pregnant women would go to conceal their infants.²⁴ What we aim to show with the case of Martha Janes is that money could buy the elite out of such problems and that there was, therefore, a social double standard operating around the birth of illegitimate children. Wealthier and more powerful members of early modern society could do one of two things. Either they paid to hide illegitimate births or they absorbed the costs of illegitimate children into family finances, where their bastards remained hidden in plain sight. This is what happened in the case of Lord Scroop's servant Martha Janes and her children.

A few months before his death, Lord Scroop used a series of conveyances to bequeath his estates to his illegitimate children, initially to his son, with reversion to his three daughters who eventually inherited his estates after the death of his son.²⁵ Moreover, Lord Scroop honoured his relationships with his wife and mistress, by making provision for them both after his death.²⁶ The family arrangement resulted in property litigation pursued by Janes – over at least seven years – which aimed to protect the inheritance of the children against powerful men who wished to seize it for themselves. The telling of the Martha Janes story benefits from a particularly high volume of contemporary source material and what follows is based on legal case papers from Chancery and the court of Wards and Liveries along with birth, death and marriage records and published family and local histories.²⁷ Dependency on legal records necessarily shapes the story we can tell: there is, for example, less focus here on contemporary opinions of the family, or the personal motivations and decision-making behind the legal decisions made by Lord Scroop and Martha Janes. The surviving records simply do not offer this kind of qualitative evidence. The survival of records for Elizabeth (née Manners), Lady Scroop, is more limited than for her husband and his mistress and so her continued social authority in the family has to be inferred from the circumstantial evidence of provision for her, living arrangements and her obvious contact on many occasions with the illegitimate children. Taken as a whole, our source materials allow for a rich and well-documented account of the dynastic arrangements of the Scroop family, shedding light for the first time on the complex and complicit succession strategies of an aristocratic family beset by infertility and illegitimacy. The evidence reveals most clearly that Martha Janes attained a rise of social status for herself and for her children that was quite remarkable in early-modern society, demonstrating just what it was possible for the mother of aristocratic illegimates to achieve – both legally and socially – in a way that was simply not possible for lower status mothers of illegitimate children.

The article is split into three main sections, each examining a different part of the Martha Janes story in order to throw light on the boundaries of female agency in relation to motherhood, succession and property within aristocratic families. The first section examines Martha Janes and her relationship with her master and his wife and the extraordinary series of legal conveyances that not only allocated property to Lord Scroop's illegitimate children, but to Janes herself: thus demonstrating the flexibility of traditional power dynamics and inheritance practice within an early modern family. The second section considers the question of gender and guardianship, as it was taken up and fought over for its benefits in relation to the inheritance of the Scroop children. It focuses on Martha Janes's illegitimate children by looking at the

years immediately following Lord Scroop's death. It demonstrates that the lives of his children were profoundly shaped by their status as heirs and heiresses and the resulting desire of other men to control their inheritance. In the third section, we turn to the issue of maternal agency and a period of intense litigation in the life of Martha Janes and her daughters. Despite being of low social origin, Janes protected and defended the property of her children so that they, in turn, could do the same for their children. This section demonstrates how Janes and her daughters overcame the barriers of gender, social status and circumstances of birth by exploiting the power of property.

Illegitimacy, property and family relations

Martha Janes appears to have begun life in rural Buckinghamshire, although given the available documentation, her origins and early life are somewhat obscure. She was described within later historical sources as a 'servant', 'housekeeper' and a 'person of low extraction' who worked in the Scroop household.²⁸ One of the earliest historical accounts that mentions Janes – dated 1692 and so written posthumously – refers to her as the daughter of 'John Jeanes a Taylor, living sometimes in the Parish of Turfield near to Great Wycomb in Bucks'.²⁹ Turfield was also known as Turville and was located in the Chiltern Hills, 8km west of High Wycombe. A Martha Jones is listed in the parish register for Turville as being born in 1600 to John Jones. If this is indeed her, then she had many siblings: Stephen (b. 1584), Sarah (b. 1591), Susanna (b. 1593), Judeth (b. 1596), Daniell (b. 1598), Nathaniel (b. 1602), Moses (b. 1607) and James (birth date unknown). There is also a record of a John Janes occupying a 'messuage called Hall Place' in Turville, Buckinghamshire in 1598, which might suggest that the family were not completely poor.³⁰

Lord Emmanuel Scroop, Earl of Sunderland, was of a very different social standing. He was born in 1584, the only child and heir of Sir Thomas Scroop.³¹ He was Lord President of the Council in the North (although his political success was hampered by his 'Catholic sympathies' and lack of local following) and he had estates in Yorkshire, Nottinghamshire, Buckinghamshire and Leicestershire.³² He married Lady Elizabeth Manners, the daughter of the 4th Earl of Rutland, in 1605 but they had no surviving issue. Quite how Janes ended up in the Scroop household is unclear, but Turville lay in the adjacent parish to the Scroop family manor of Hambledon where Lord Scroop had built a large manor house in 1604.³³ Thus, it

seems plausible that Janes went there as a servant at some point in the later 1610s or early 1620s and that there she met Lord Scroop. Subsequently, they had some form of relationship which resulted in four illegitimate children being born in the 1620s. These were Mary (b. c1623), John (b. c1625), Elizabeth (b. c1628), and Annabella (b. c1629).³⁴

Gowing has argued that a ‘significant minority’ of early modern servants bore their masters’ illegitimate children, though the extent to which such interactions between masters and servants contributed to bastardy rates in wealthier families is not fully known.³⁵ However, it is clear from the examples of Frances Sheppard, Mary Wolley and Anne Dutton, mentioned above, that illegitimacy in aristocratic families was far from unheard of. Furthermore, it is not always clear how complicit wealthier women might be in hiding or accepting of their husbands’ behaviour. In the case of seventeen year old Jane Cooknoe, for example, her mistress whisked her away after she was impregnated by her master, who was the vicar of Thornborough in Buckinghamshire. In this particular case a clergyman’s wife, no doubt wanting to protect her own position and reputation, arranged for her female servant to have the baby at the house of her own mother to avoid any scandal. The female servant was then returned to the household and offered a job for life, but not until the two older women colluded to give the baby away to a childless couple. Jane Cooknoe’s mistress ensured that her own financial position was secure and there was no aristocratic title to consider.³⁶

Given the relative social statuses of Lord Scroop and Martha Janes, there was clearly an unequal power dynamic in their relationship within which scope for exploitation. Thus we do not know if their relationship was consensual. Early modern elite households typically contained servants – as also did many non-elite households – yet the tensions inherent in what Laura Gowing has called this ‘ambiguous triangle of relations’ led to some uneasy disposition of power.³⁷ As Gowing argues, ‘mastery in the household naturally carried with it authority over the household’s bodies’ and so for some elite men ‘sex was part of the master-servant contract’.³⁸ Whatever the precise nature of their relationship, by the time she was 23 Martha Janes was the mother of an illegitimate child fathered by Lord Scroop, with three more children born over the next six years. Yet, the outcome of Janes’s story differs significantly from those of other single women in service who found themselves in such a position. She did not suffer the social humiliation and financial consequences of finding herself in such a position like the servant Susan Lay, mother to two illegitimate children by her master and his son, who was forced to leave her employment and ‘shift for herself’.³⁹ Instead, her illegitimate children

inherited vast estates and she herself lived relatively comfortably on a portion of the Scroop property right up to her death in 1687.

We know relatively little of Janes's life in the Scroop household. Not until Lord Scroop's death in 1630 do we learn more about her and her relationships with property. Lord Scroop died aged 46 following a 'languishing sicknes' that his correspondent, James Howell, attributed to an old injury to his chest gained whilst playing football.⁴⁰ Presumably aware that he was dying, Lord Scroop executed a series of legal manoeuvres to settle his affairs in the final year of his life. He named his wife Lady Elizabeth Scroop (née Manners) as his executrix, but in the absence of a legitimate heir, or even a nephew or niece, he made the decision to settle all of his lands upon his natural, illegitimate children.⁴¹ A series of indentures were delivered up to the Court of Wards and Liveries in November 1630 that were inscribed into the Inquisition Post Mortem on Lord Scroop's lands.⁴² They show that in May 1629, in the default of 'heires males of his body lawefully begotten' (surely a forlorn hope at this stage of his life), Lord Scroop settled his lands onto John, 'the naturall and reputed sonne of the said Earle and Sonne of Martha Janes al[ia]s Janes Sandford', followed by his three daughters.⁴³ Janes was referred to as 'Martha Janes alias Sandeford' in this and subsequent legal records, with both these names also occasionally being carried by her children. We do not know the reason for this alias: she may have been previously married, and now widowed, but in this document, she is named as a 'spinster'. For the raising of marriage portions for his daughters – 20,000 li for Mary and 10,000 li each for Elizabeth and Annabella – in June 1629, Lord Scroop conveyed large parts of these lands to Matthew Gayle and John Wells in trust to raise the portions, with reversion to John.⁴⁴ In March 1630 he also conveyed the manor of Eye Kettleby in Leicestershire specifically for the use of his eldest daughter, Mary.⁴⁵ These were vast sums and a lavish provision for his daughters which may suggest Lord Scroop's real emotional attachment to his illegitimate daughters, though he was also almost certainly looking ahead as well to future connections with other wealthy and/or aristocratic families.

This left Martha Janes in a powerful position as the mother of Lord Scroop's inheriting children. Furthermore, Scroop did not just provide for his natural children, but also for his mistress. When he had married Elizabeth Manners, his father had conveyed a jointure to her in the form of land for her widowhood. However, just a few months before he died in March 1630, Lord Scroop altered the settlement: a conveyance specified that instead of the manors of Epperstone (Nottinghamshire) and Hambledon (Buckinghamshire), his widow would be provided with the

manors of Langar and Barneston (both Nottinghamshire).⁴⁶ Even more unusually, Lord Scroop also provided something that resembled a widows' jointure for his mistress Martha Janes, but using the form of conveyance. In June 1629 he granted her lands in Grandborough and Winslow (both Buckinghamshire), and Ellerton upon Swale and Caplebank (North Yorkshire).⁴⁷ According to the later Civil War composition accounts, Lady Elizabeth Scroop (née Manners)'s jointure was worth 1800 li per annum, whilst Janes's lands were worth 540 li per annum.⁴⁸ Although Janes's provision was less than a third of that of his wife, this ex-servant was to receive the modern purchasing equivalent of between £60,000 and £70,000, a not insignificant amount. Janes received two out of three of Lord Scroop's Buckinghamshire manors. One of these manors, Biggin Farm in the parish of Grandborough, was only obtained by Lord Scroop in 1628, a year before he conveyed it to Janes. She was then listed as 'of Biggin', and so seemingly living on the property, as if she was already provided for.⁴⁹ Stephen Janes, a linen draper and Martha Janes's brother, was tenant on the manor of Biggin in 1637 and John Janes – the son of another brother – died in 1658 when he was described as yeoman farmer of Grandborough.⁵⁰ These family connections suggest that Lord Scroop purchased the manor specifically for Janes's use and that her natal family later benefited from her landholding in the area.⁵¹ Thus, Scroop provided for his mistress as well as his widow, and deliberately altered his wife's jointure so she did not receive lands in Buckinghamshire (a county closely associated with his mistress and her family). The relationship that Martha Janes had with her former employer had given her a quite significant influence on the decisions he made about the dispersal of his property before he died.

Janes's almost 50-year life following Lord Scroop's death (in which she does not appear to have ever married) was characterized by a degree of residential mobility, disruption and changing relations with property that also indicates something about the personal relations between her and her former mistress, Lady Elizabeth Scroop. Unfortunately, there is very little surviving evidence for how Lady Scroop viewed her husband's affair during his life or the children he left behind.⁵² Yet, we do know that in 1634, Janes moved into one of Lady Scroop's manor houses for the yearly rent of just 10 shillings.⁵³ The low rent indicates some ongoing provision for Janes and her children by Lady Scroop, one of whom, perhaps not coincidentally, shared a name with her. The name Elizabeth was, of course, extremely common, yet so too was a naming of daughters after older women in a kin network who might offer godparenting or other types of spiritual and financial protection.⁵⁴ Lady Scroop's will contains details that further suggest she may have viewed her husband's children as the legitimate members of the

Scroop family memory and dynasty. When she died in 1654, Elizabeth Scroop bequeathed to Mary – Janes’s eldest daughter – ‘all the picturies in the Gallerie which belong to the Famelyes of Scroope and Howard’.⁵⁵ This passing on of material objects so explicitly tied to the Scroop family was, along with Lord Scroop’s indentures at the end of his life, another way of acknowledging that Mary, was – in Lady Scroop’s mind – a rightful heir of the Scroops.⁵⁶

Martha Janes’s engagement with property went far beyond concerns about material comfort, heirlooms and residential location. Instead, she was actively involved in litigation intended to protect her and her children’s inheritance. The next section will examine the guardianships of the Scroop children and their extensive property and consider how the children’s value as heirs and heiresses fundamentally shaped their experiences. Even though they were illegitimate, as the inheriting children of a landed aristocrat they became valuable commodities that powerful men attempted to command in order to benefit from the property that they stood to possess. Thus, the property passed onto them by their father had, in a sense, transformed the children themselves into property. Nevertheless, this section will also show how the Scroop children, in alliance with their mother, attempted to ensure that when they came into their inheritance and marriage portions they received what their father had intended to give them.

Gender, Guardianship and Female Power

When Lord Scroop died in 1630, Martha Janes was *not* widowed (as Elizabeth Scroop was, at least legally), but the four illegitimate children – then aged between approximately one and seven years old – *were* left fatherless. It was a situation that increased the social power of their mother through the claim of guardianship, though this came at a price and needed to be fought for.⁵⁷ When Lord Scroop died, other father figures came to the fore offering to protect and care for the estate. As the bodies of the children were bound up with the estate, this also meant that they became subject to the desire of other men to control and gain possession of the Scroop lands. They became property in themselves, or commodities to be controlled and acquired by other powerful men in order for their wealth to be subsumed within the estate of large local landowning families. The daughters’ dowries became lucrative ways of enriching the family estates of others, transforming them into embodied assets.⁵⁸

Lord Scroop established a trust to provide guardians and financial security for his children and ensure that his illegitimate children were provided for after he had died. His intention was to

guarantee the continuance of his property in his bloodline. The trust granted Martha Janes, John Wells and Matthew Gayle the custody of the children, the management of their estates and the right to arrange their marriages.⁵⁹ It was an arrangement remarkably similar to the provisions of a wardship granted by the crown.⁶⁰ Wells and Gayle were named in Scroop's will as 'servants' and they were both granted 200 li a year out of his estate, a retainer practice that was very common as part of such an arrangement as a way of keeping guardians from being too grasping.⁶¹ In a later Chancery dispute, Wells was described as 'much trusted and imployed ... both by the said earle of Sunderland, in his life tyme and after his decease by the now Comp[lianan]t [Janes] about the manageinge and ordering the estate of the said Earle of Sunderland'.⁶² The reliance that Lord Scroop placed on these two men to manage his children's estates demonstrates the various meanings of the term 'servant' in an early modern aristocratic household and the potential for a flexible power dynamic between male servants and masters.

The role of Wells and Gayle in the managing and maintaining the estate of Lord Scroop's illegitimate children (alongside their mother) lends support to the arguments of Alexandra Shepard, Helen Berry and Elizabeth Foyster that fatherhood was more than just biological in early-modern England.⁶³ Childless men, in particular, used all sorts of ways to perform the functions of patriarchal manhood in society. Indeed, paternity and fatherhood could be distinct ideas and many figures within a community could take on the role of father outside of a biological relationship, including by becoming a surrogate in the form of guardianship of children or those assigned by the parish to care for illegitimate offspring. In the case of Martha Janes's illegitimate children, Wells and Gayle were not the only ones appointed to guardianship. In 1630 Christopher Wandesford, a local elite landowner and MP for Yorkshire, was granted the Tuition and Curation of Elizabeth Scroop (who was then around 2 years old) by the Dean of Middleham in the Archdeaconry of Richmond.⁶⁴ This was not uncommon in the case of children who did not come under the provision of wardship, though no records have been found to show that any of the other children were granted Tutors.⁶⁵ Will Coster's research on guardianship in the diocese of York between 1500 and 1668 has shown that where a guardian was appointed by a church court, instead of by a will, then local elites played a more prominent role.⁶⁶ Tutors and curators were appointed to protect a child and their property and arrange their marriages, where a guardian – as in wardship – was just appointed to protect their property. These guardians could be chosen by the child themselves after they had reached a certain age (14 for males, 12 for females) or appointed by a church court on the urging of a third party.⁶⁷ The tuition and curation of Elizabeth Scroop shows that from the very early years of Martha

Janes's children's lives, other elite men strove to use legal mechanisms to gain the possession of their estates and the right to arrange their marriages, for their own financial gain.

Once the children grew older they asserted more of their own agency over the vast inheritance that their father had provided for them. This provides a counterpoint to the impression that these and other aristocratic children were merely pawns in the attempts of wealthy men to gain possession of their land. Janes's daughters, led by their mother, were clearly concerned about the administration of their marriage portions in the 1640s. In a Chancery dispute in which the three daughters were named as plaintiffs 'by Martha Janes their guardian', they complained that following the death of John Wells, Mathew Gayle had the sole management of that estate and so 'ought to be accomptable and to render unto the Complainants respectively a iust and true accompt for the same'.⁶⁸ This was a common tactic and Martha Janes and her illegitimate children were far from the only ones suing guardians for what was referred to as waste of an estate in Chancery.⁶⁹ They argued that Gayle had 'grown very aged' and 'the rentes and profitts by him received out of the premisses doe nowe arise to a great sum[m]e of money'.⁷⁰

The key concern for Martha Janes and her illegitimate children was that they might never see the money, or, at least, not as intact as they wanted and expected. They argued that:

'it would be very perilous and inconvenient unto and for them the said Complaynants If the said Mathew Gale should dye intestate or leaue the same unto such Executors of his last will or any others that should be unknowne or not responsall for the same unto them the said Complaynants which was never intended by the said Earle of Sunderland theirre father deceased'.⁷¹

All of this suggests that Gayle was not acting as an adequate trustee of the estate and that he was not preserving the rents from the estate for their marriage portions as he ought to have done. They asked, therefore, for an account of the sums of money received on the estate and that Gayle might 'assure over his interest', which indicates some degree of legal knowledge and agency on the part of the daughters, alongside their mother, with, of course, the help of a lawyer. Importantly, this litigation reveals the expansion of the power of Martha Janes through maternity that was legally embedded in her guardianship of her illegitimate children.

A case of June 1646 brought to the ecclesiastical court in York over the administration of Lord Scroop's will reveals that whilst Mary – the eldest daughter and in receipt of the largest amount – had received her marriage portion, her sisters Elizabeth and Annabella still had not. They stated that before Mary's marriage she had received 5,000 li out of her portion as well as lands assigned to her in Leicestershire in lieu of a further 4,000 li.⁷² After the death of John Wells, Moses Janes (Martha's brother) took administration of his goods. In other words, while Martha Janes was overseeing the management of her children's estates by Lord Scroop, her natal family were integrally involved in property arrangements. Martha Janes's daughter Mary, now Lady Carey, and her husband took control of Wells's goods as some recompense for the 11,000 li not received for her portion. Following this, Mary received several sums that amounted to her entire marriage portion but 'the two sisters are not likely nor Cann by any meanes receive by the same their p[ro]portions', largely because the trust was set up in 1630 only to last for 16 years.⁷³ Elizabeth and Annabella had received 'noe part or parcell of the said Twenty thousand pounds giuen to them as aforesaid for their maintenance education p[re]ferment and advancement' since the death of their father.⁷⁴ Thus it seems clear that the younger daughters of Lord Scroop did not benefit from the large marriage portions that their father had intended for them.

Yet, events of the 1640s changed things again for Janes's daughters. In 1646, Martha Janes's eldest and only son, John, died of plague. This meant that Janes's daughters inherited Lord Scroop's extensive lands, so mitigating the issues over their marriage portions. They did not come into immediate possession of the estate, however. John, Colonel Scroop, had commanded a royalist garrison at Bolton Castle which had fallen to Major General Poyntz in November 1645.⁷⁵ It was later claimed that Martha Janes played an active role in her son's garrison and that she had forced a local resident there to give up horses, cattle and goods to the value of 156 li. She – obviously – denied any knowledge of this *post facto*, and stated that if it had taken place 'the said Castle was only under the power and com[m]and of the souldiers'.⁷⁶ The Castle was ordered to be destroyed by Parliament in February 1647, and all of the Scroop lands placed under Parliament's control, so John's sisters resorted to petitioning collectively to have their lands returned throughout the 1650s.⁷⁷ The estate was ultimately recovered, the division between Janes's daughters being decided by the drawing of lots by Mary, Elizabeth, Annabella (along with their husbands) and the debtors of Martha Janes.⁷⁸ All of the daughters inherited substantial lands, which they brought to their marriages. Mary married Henry Lord Cary and later Charles Powlett, 1st Duke of Bolton, in 1653.⁷⁹ Elizabeth married Thomas Lord Savage in

1647 and Annabella married John Howe, the marriage to this untitled man taking place sometime between 1649 and 1651.⁸⁰ Thus, the large Scroop estates descended through several elite families but the lack of any male heirs meant that the barony of Scroop and earldom of Sunderland became extinct.⁸¹

It is clear that the relationship between the Martha Janes's illegitimate children and their guardians was dominated by the issue of property and landed wealth. The transmission of land, intact, within the Scroop family (even if that meant to 'bastards') must have been a motivating factor for Lord Scroop in drawing up his conveyances at the end of his life. Ultimately, his daughters inherited the estates, which meant that the land and manors were divided, and subsumed within the estates of their husbands (presumably not Lord Scroop's primary intention given that he had a living son at the time of his death, although in naming his daughters as the reversioners, he undoubtedly accepted this possibility). Martha Janes and her daughters used litigation to ensure the transmission and protection of their father's estates to and through them and they ultimately made successful and prosperous marriages: a familiar and desirable trajectory for aristocratic children. However, the success of Janes's daughters was not guaranteed from the moment of their father's conveyance in 1629. The extraordinary role Martha Janes played in litigating for her children – especially her daughters – is brought out in the next section.

Litigation, succession and maternal agency

As well as the relationship between aristocratic fathers and children, the relationships between aristocratic mothers and daughters were also shaped by the protection and transmission of land.⁸² Women like Lady Anne Clifford, Countess of Pembroke, Dorset and Montgomery, and Henrietta Cavendish Harley, Countess of Oxford and Mortimer, for example, emulated the perseverance of their mothers when they came to take responsibility for the fight for their own inheritance.⁸³ Despite not receiving the informal training in matters of law and inheritance that many aristocratic women benefited from, Martha Janes took on the role of mother of aristocratic children and effectively used litigation to protect and defend her daughter's inheritance. Ultimately her use of the Court of Chancery ensured that when the estates transitioned to her children they were not encumbered by debt and that her daughters inherited estates that were intact and preserved for subsequent generations.

The first major legal challenge that Janes faced as a mother of inheriting aristocratic children came from Henry Rich, Earl of Holland. Rich was known for being a highly opportunistic man: in the 1630s he was a relatively successful courtier but he was forced to supplement his meagre landed income with money from other sources, including seeking wardship warrants from the King.⁸⁴ In June of 1637 he set his sights on the children of Martha Janes, and their significant inheritance, and obtained a writ of command from the king under his privy Signet for guardianship of the children.⁸⁵ Martha Janes was forced to physically deliver up her children except for the youngest, Annabella, who was only 8 years old.⁸⁶ A few months later, in November 1637, Sir Christopher Wandesford approached Sir Arthur Ingram – who was in the service of Henry Rich – to broker an agreement with the earl for the custody of Elizabeth ‘so that I may inioye her w[i]th the good pleasure of his Gracious Ma[jes]ty’ and eventually marry her to his son.⁸⁷ In response to these events, Janes entered into litigation in order to regain the custody of the children, claiming that if they continued in the custody of the earl the ‘trust could not bee performed’ and also hearing that ‘they were to bee Transffered to another stranger’.⁸⁸

In February 1638, after a separation of nine months, Martha Janes regained custody of her children, their estates and the legal status as their guardian.⁸⁹ She even managed to obtain a warrant from the king to confirm the return of her children. It stated that:

‘sithence the said Children hath bene in his [the earl’s] custody some of them have not had their healthes soe well as in former times, and thereupon, upon conference with you for the better preservac[i]on of their healthes, the said Earle hath thought fitt to recomitte the said Children into your Custody’.⁹⁰

This statement suggests that, the king and/or Henry Rich intended for compassion to be perceived as a motivation for the return of these children. The phrase ‘upon conference with you’ implies some sort of direct negotiation process between Janes and the king (or one of his delegates) and Rich over the fate of the children: quite an extraordinary turn of events for this servant woman.

In order to gain the right to live with her children, and control their estates, it was agreed that Janes would pay 4000 li, and another 500 li a year, to the Earl of Holland until the end of John’s minority.⁹¹ The money was to come out of the profits on John’s estate, which his mother

managed and had access to as his guardian. As part of the agreement nine penalty bonds of 1,000 li were drawn up and Martha, Moses Janes and John Wells were bound for the payment of 500 li a year, a very high and punitive sum.⁹² The bonds for the debts were assigned to Sir Arthur Ingram by the Earl of Holland and over time, four of the bonds were paid and cancelled, suggesting good management of the debt by Martha Janes and her natal network.⁹³

During this period Janes claimed that the earl did not uphold his promise to defend the estate, despite there being many suits held against it. After John Scroop's death in 1646, according to the terms of Lord Scroop's 1629 conveyance, the whole estate reverted to his sisters. This meant that Janes was divested from the estate and 'deprived of all meanes to continue' the payment.⁹⁴ She argued, therefore, that she ought to be acquitted of the bonds 'according to the said trust agreements and according to equity', but the earl refused to deliver them up.⁹⁵ He in turn assigned them to Dr Phynees Hodgson, who died, and so Frances Fisher, his executor, attempted to 'arrest the Complaynant upon the said bonds'.⁹⁶ In 1647 Martha Janes responded to the challenge by going to Chancery (at a time when the court was operating under commissioners and a new seal) to request subpoenas to be directed to the Earl of Holland, Arthur Ingram, and Francis Fisher.⁹⁷ The case she brought as plaintiff in 1647 indicates the extraordinary determination she had to retain control for herself and her illegitimate children and to exercise her legal agency as *feme sole* and mother. Witnesses were called, and the record examined, but the earl refused to appear. Ultimately, Chancery decided the case not on the basis of whether or not Janes *ought* to be liable for the bonds after John's death (an argument she and her counsel seem to have been pursuing), but on the legality of the Earl of Holland's original manoeuvres to gain possession of the children in 1637. The court stated that 'the said Letters of command were illegall and that the said bonds weere gained from the Complaynant by colour of high straine of prerogative and by fraud and oppression'.⁹⁸ Furthermore, the court accused Arthur Ingram of being 'a great director' therein and that 'the Complaynant ought in equity to be reli[e]ved against the said five bonds yet unpaid'.⁹⁹ The bonds were ordered to be delivered to Janes and the debt was cancelled. In other words, Martha Janes won.

Martha Janes demonstrated considerable determination as well as significant financial and legal agency in her efforts to protect her children's property. She was involved in at least seven separate Chancery cases between 1647 and 1654 and four of these were brought by her, as plaintiff, in direct relation to the provision provided for her children in Lord Scroop's conveyances. In 1651 Martha Janes and her legal counsel relieved the estates of her children

from substantial debts. Through the 1640s she had listed her own debts to Sir Arthur Ingram as 3,000 li.¹⁰⁰ According to the particulars of John's estate he also owed debts of 10,000 li 'for the mainteyning of his possession by suits in lawe and for the freeing of himself and his sisters from the Earle of Holland'.¹⁰¹ It is therefore difficult to overstate the financial burden that these bonds must have put on the Scroop estates and the immense victory that Janes won in the court of Chancery in 1651. She may have been in part the lucky beneficiary of a favourable political situation: both the man who had sought out her children and their estates for his financial gain – the Earl of Holland, and the man who he had colluded with him to grant it, Charles I – had been executed by Parliament in 1649. Nevertheless, it is clear that Janes was also incredibly persistent in her use of the court in her attempts to free herself and her children from the penalty bonds and may well have taken advantage of this period of political upheaval for her own benefit.¹⁰² Thus, in her efforts made to ensure the smooth transition of Scroop properties to her daughters, Martha Janes embodied the role of aristocratic widow and mother. She enabled these vast estates to be passed on unencumbered by huge debts and for her daughters to make prosperous marriages. Despite the fact that many contemporaries regarded the succession of daughters as 'the end of the family, its very dying out',¹⁰³ Martha Janes's success was to ensure that these lands would go on to enrich the families of her and Lord Scroop's grandchildren and great-grandchildren.

Janes's efforts also ensured that her illegitimate daughters made marriages befitting young aristocratic women. That the concept of 'illegitimacy' could be shifted by a person's wealth and status – themselves preserved as a result of Janes's financial and legal agency on behalf of her daughters – is illustrated by two final details of the story. In 1653, Sir Hugh Cholmley the younger was fervently courting the rich young widow Lady Mary Carey (née Scroop, Martha Janes's eldest daughter). As part of his foreword to his father's published memoirs, he described Mary and her sister Elizabeth thus:

'Ladies they were, of as great fortune, so unquestioned descent, if the circumstance of their birth had not been injurious to the fame of their mother, whose blood too, it cannot be denied, was not so much to their honour as what flowed in their veins from the loins of the noble Lord their father'¹⁰⁴

According to Sir Hugh, Mary and Elizabeth's 'unquestioned descent' was intrinsically linked to the noble blood of their father.¹⁰⁵ This was fundamental to these daughters' ability to marry

into the upper classes and, in the case of Annabella, to claim aristocratic lineage for herself. In 1663, Annabella (the only daughter to request it) obtained the royal license to enjoy the same rank and precedence 'as if she had been the legitimate Daughter of Emmanuel late Earl of Sunderland' and was to be styled Right Hon. the Lady Annabella Howe.¹⁰⁶ The fortune of the Scroop children originally came about because their father wanted to ensure the descent of his lands in the absence of legitimate issue. Yet it was the persistent exertions of their mother, as well as their own continued efforts, that protected the privileged position of these illegitimate heiresses. This was surely the final victory for Martha Janes, a woman who spent her life raising her illegitimate children to be aristocrats.

Conclusion

This paper has utilized the case of Martha Janes and her illegitimate children to examine the hidden histories of bastardy and property succession in early modern aristocratic households. It has explored the ways intimate sexual relationships could profoundly alter the manner by which property was inherited in future generations and the boundaries of maternal power and authority in circumstances where a mistress was the mother of inheriting children. Male anxiety about the descent of property through bloodline was a prevailing characteristic of this period. As Patricia Crawford once argued, the 'honour of a father's blood' was an important concept in early modern society and it resulted in male desire to control female sexuality and ensure transmission of land through legitimate, male bloodlines.¹⁰⁷ Yet the case of Martha Janes complicates this by suggesting that men were less concerned about *legitimate* bloodline than their deployment of the term 'honour' would suggest. Certainly, the high-profile marriage-separation cases of the late seventeenth century sprung from elite men's anxieties about passing on property to the illegitimate children of their wives, but a sexual double standard made them sometimes happy to transfer all the financial benefits of legitimate succession to illegitimate children of their mistresses.¹⁰⁸

The double sexual standard in early modern England sustained and justified patriarchal structures that generally punished women accused of adultery and those who bore illegitimate children. In the case of Martha Janes, the same anxieties about the consequences of illegitimacy – *viz.* corrupted male bloodlines – combined with contingent circumstances when Lord Scroop failed to have a legitimate (male) heir to open up opportunities for property ownership and social mobility by three illegitimate daughters. Martha Janes's later determination in managing

and protecting that property on behalf of her female children was identical to the efforts of other wealthy women: that she achieved this despite her precarious position in the family unit – as a former mistress – and her relatively lowly social standing at birth, makes her all the more remarkable. While more work on the place of property-owning mistresses and illegitimate (female) children within elite families is necessary if we are to fully establish exactly how representative the Janes/Scroop experience was, the case nevertheless clearly demonstrates the complexity of power relations within the early modern aristocratic family and the mutability of male thinking over the descent of property. Within this framework some women – including Martha Janes and her daughters – were able to benefit and flourish, overcoming the boundaries of gender, status and birth by exploiting the power of property.

The case of Martha Janes and her illegitimate children then is a story about the agency of women – specifically mothers – and the flexibility of power dynamics over property transmission within an early modern aristocratic family. It highlights how significant decisions about the transmission of land and other property were in determining the circumstances in which illegitimate children could go from being an economic and social threat to society, to being able to inherit vast estates and sums of money and make prosperous marriages. Furthermore, it shows how a woman did not necessarily need to be a wife to exercise some agency in the spheres of property, finance and law providing she was *feme sole* and able to sue (and be sued) for herself and her children. In this way, Janes's story contributes to the burgeoning literatures on elite women's engagements with land and other property and on female litigation and agency in early modern England. It demonstrates once again that the patriarchal ordering of the word was not all it seemed, and that women – even low-born or illegitimate ones – could wield considerable social, economic and legal power within the early modern family and the wider world.

¹ 'Janes' can be found in the records spelt as: James, Jones, Jeanes. 'Scroop' can be found in the records spelt as: Scroope, Scrope, Skrope.

² See Amanda L. Capern, 'Maternity and Justice in the Early Modern English Court of Chancery', *Journal of British Studies* 58 (forthcoming 2019); Tim Stretton, *Marital Litigation in the Court of Requests 1542-1642* (Cambridge: Cambridge University Press, 2007).

³ Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (Harmondsworth: Penguin, 1979); Ralph Houlbrooke, *The English Family 1450-1700* (London: Longman, 1984); Lloyd Bonfield, 'Seeking Connections Between Kinship and the Law in Early Modern England', *Continuity and Change* 25, no. 1 (2010): 49-82; Naomi Tadmor, 'Early Modern English Kinship in the Long Run: Reflections on Continuity and Change', *Continuity and Change* 25, no. 1 (2010): 15-48. For work on particular elite families, see: Anna M. D. W. Stirling, *The Hothams: Being the Chronicles of the Hothams of Scarborough and South Dalton* (London: Jenkins, 1918); Frances Parthenope Verney, *Memoirs of the Verney Family* (London: Longmans, 1892); Susan Whyman, *Sociability and Power in Late-Stuart England: the Cultural World of the Verneys, 1660-1720* (Oxford: Oxford University Press, 1999); Rosemary O'Day, *An Elite Family in Early Modern England: The Temples of Stowe and Burton Dassett, 1570-1656* (Martlesham, Suffolk: Boydell & Brewer, 2018).

⁴ Gordon Mingay, *Land and Society in England, 1750-1980* (London: Longman, 1994); John V. Beckett, *The Aristocracy in England, 1660-1914* (Oxford: Blackwell, 1986); Kimberley Schutte *Women, Rank, and Marriage in the British aristocracy, 1485-2000: An Open Elite?* (Basingstoke: Palgrave Macmillan, 2014).

⁵ Stone, *The Family, Sex and Marriage*; Houlbrooke, *The English Family*. See also, Randolph Trumbach, *The Rise of the Egalitarian Family* (New York: Academic Press, 1978). Lawrence Stone did use court records to tell a story of emotions and conflict in *Uncertain Unions: Marriage in England, 1660-1753* (Oxford: Oxford University Press, 1992).

⁶ John V. Beckett, *The Aristocracy in England 1660-1914* (Oxford: Blackwell, 1984); Gordon Mingay, *Land and Society in England, 1750-1980* (London: Longman, 1994); John Habakkuk, *Marriage, Debt and the Estates System: English Landownership, 1650-1950* (Oxford and New York: Clarendon Press, 1994).

⁷ Naomi Tadmor, 'The Concept of the Household-Family in Eighteenth-Century England', *Past & Present*, 151 (May, 1996): 111-140.

⁸ Briony McDonagh, *Elite Women and the Agricultural Landscape, 1700-1830* (London: Routledge, 2018); idem., "'All towards the improvements of the estate": Mrs Elizabeth Prowse at Wicken, 1764-1810', in *Custom, Improvement and the Landscape in Early Modern Britain*, ed. R. W. Hoyle (Aldershot: Ashgate, 2011): 263-88; Amy Froide, *Silent Partners: Women as Public Investors during Britain's Financial Revolution, 1690-1750* (Oxford: Oxford University Press, 2017); Rosemary O'Day (ed.), *Cassandra Brydges, Duchess of Chandos, 1670-1735: Life and Letters* (Woodbridge: Boydell & Brewer, 2007); Amanda L. Capern, Briony McDonagh and Jennifer Aston, *Women and the Land, 1500-1900* (Boydell and Brewer, in press 2019).

⁹ See, for example, Cassandra Willoughby's manuscript account of *The Willoughbys of Wollaton* for an important example of a family history left by a woman: Jo Ann Hoepfner Moran Cruz (ed.), *An Account of an Elizabethan Family: The Willoughbys of Wollaton by Cassandra Willoughby (1670-1735)*, Camden 5th Series, vol. 5 (Cambridge: Cambridge University Press, 2018).

¹⁰ Amy Froide, 'Marital Status as a Category of Difference', in *Singlewomen in the European Past*, eds. J. M. Bennett and Amy M. Froide, (Philadelphia: University of Pennsylvania Press, 1999), 236-269.

¹¹ Barbara J. Harris, *English Aristocratic Women, 1450-1550: Marriage and Family, Property and Careers* (Oxford: Oxford University Press, 2002); Barbara Todd, 'The Virtuous Widow in

Protestant England', in *Widowhood in Medieval and Early Modern Europe*, eds. Sandra Cavallo and Lyndan Warner (Harlow: Longman, 1999); James Daybell, 'Gender, Obedience, and Authority in Sixteenth-Century Women's Letters', *Sixteenth Century Journal* 41, no. 1 (2010): 49-67; Hannah Worthen, 'Supplicants and Guardians: The Petitions of Royalist Widows during the Civil Wars and Interregnum, 1642-1660', *Women's History Review*, 26:4 (2017): 528-540.

¹² Peter Laslett and Karla Oosterveen, 'Long-term Trends in Bastardy in England: A Study of the Illegitimacy Figures in the Parish Registers and in the Reports of the Registrar General, 1561-1960', *Population Studies* 27, no. 2 (1973); David Levine and Keith Wrightson, 'The Social Context of Illegitimacy in Early Modern England', in *Bastardy and its Comparative History: Studies in the History of Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, the United States, Jamaica, and Japan*, eds. Peter Laslett, Karla Oosterveen and Richard M Smith (London: Edward Arnold, 1980), 165; Richard Adair, *Courtship, Illegitimacy and Marriage in Early Modern England* (Manchester: Manchester University Press, 1996), 49.

¹³ Cited in Eileen Spring, *Law, Land, & Family: Aristocratic Inheritance in England, 1300 to 1800* (The University of North Carolina Press), 10.

¹⁴ Lawrence Stone and Jeanne C. F. Stone, *An Open Elite? England, 1540-1880* (Oxford: Clarendon Press, 1984); Barbara English, *The Great Landowners of East Yorkshire, 1530-1910* (Hemel Hempstead: Harvester Wheatsheaf, 1990).

¹⁵ Katharine Carlton and Tim Thornton, 'Illegitimacy and Authority in the North of England, c.1450-1640', *Northern History* 48, no. 1 (2011): 23-40.

¹⁶ A. Hassell Smith, 'Sir Francis Bacon (1546?-1622)', *Oxford Dictionary of National Biography* <https://doi.org/10.1093/ref:odnb/998>; 'Parishes: Dalby with Skewsby', in *A History*

of the County of York North Riding: Volume 2, ed. William Page (London: Victoria County History, 1923), 125-127.

¹⁷ 'Parishes: Worplesdon', in *A History of the County of Surrey: Volume 3*, ed. H. E. Malden (London: Victoria County History, 1911), 390-395.

¹⁸ McDonagh, *Elite Women*, 104.

¹⁹ Laslett and Oosterveen, 'Long-term Trends in Bastardy in England', 255.

²⁰ Laura Gowing, *Common Bodies: Women, Touch and Power in Seventeenth-Century England* (Great Britain: Yale University Press, 2003), 180.

²¹ For chastity see: Kate Aughterson (ed.), *Renaissance Woman, a Sourcebook: Constructions of Femininity* (London: Routledge, 1995); Suzanne Hull, *Chaste, Silent and Obedient: English Books for Women 1475-1640* (San Marina, CA: Huntington Library Press, 1982).

²² Joanne Bailey, "'All He Wanted Was to Kill Her that He Might Marry the Girl": Broken Marriages and Cohabitation in the Long Eighteenth Century', in *Cohabitation and Non-Marital Births in England and Wales, 1600-2012*, ed. Rebecca Probert (United Kingdom: Palgrave MacMillan, 2014), 52.

²³ Dave Postles, 'Surviving Lone Motherhood in Early-Modern England', *Seventeenth Century*, 21:1 (2006): 160-183.

²⁴ David Cressy, *Agnes Bowker's Cat: Travesties and Transgressions in Tudor and Stuart England* (Oxford: Oxford University Press, 2001).

²⁵ East Riding of Yorkshire Record Office (ERYRO), DDCC/133/21, *Inspeximus by Letters Patent of a Settlement (1641)*.

²⁶ *Ibid.*

²⁷ All birth, death and marriage records have been found using *Find My Past* genealogical website (<https://www.findmypast.co.uk/>).

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- ²⁸ Joseph Foster, *Pedigrees of the County Families of Yorkshire* (London: W.W. Head, 1874); G. N. B. Huskinson, 'The Howe Family and Langar Hall 1650 to 1800', *Transactions of the Thoroton Society of Nottinghamshire* 56 (1953): 55; John W. Clay (ed.), *Yorkshire Royalist Composition Papers: Volume 1* (Yorkshire Archaeological Society, 1893), 61.
- ²⁹ Anthony Wood, *Athenae Oxonienses* (London: 1692), 382;
- ³⁰ Buckinghamshire Record Office, D-X 977/2/1, Bargain and Sale (1598).
- ³¹ 'Scrope, Emanuel, earl of Sunderland (1584–1630)', *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), <https://doi.org/10.1093/ref:odnb/37946>.
- ³² Ibid.; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790* (London: Chapman, 1966), 220.
- ³³ 'Parishes: Hambleton', in *A History of the County of Buckingham: Volume 3*, ed. William Page (London: Victoria County History, 1925), 45-54.
- ³⁴ No birth records have been identified for these children, instead all birth dates have been approximated using corroborating contemporary evidence where age is noted: The National Archives (TNA), C 5/10/34, Janes versus Glynn (1650); West Yorkshire Archive Service (WYAS), Leeds, WYL100/L/31, Martha Janes versus Henry Earl of Holland (1647); Borthwick Institute (BI), Cause Papers, CP.H.5448 (1646).
- ³⁵ Laura Gowing, 'The Haunting of Susan Lay: Servants and Mistresses in Seventeenth-Century England', *Gender & History* 14, no. 2 (2002): 187; see also Adair, *Courtship, Illegitimacy and Marriage*, 83, who cites the research of Miranda Chaytor 'Household and Kinship: Ryton in the late 16th and early 17th Centuries', *History Workshop Journal* 10, no. 1 (1980): 56, who found that in late sixteenth and early seventeenth century Ryton (County Durham) there was evidence of intermarrying between the servant's family and the household head in 27% of non-elite households.

³⁶ Huntington Library, Temple Family Papers (Stowe Collection), STT, Legal Box 2, No. 57, Affidavit of Jane Cooknoe, 17 September 1647.

³⁷ Gowing, 'The Haunting of Susan Lay': 188.

³⁸ Gowing, *Common Bodies*, 61.

³⁹ Gowing, 'The Haunting of Susan Lay': 184.

⁴⁰ James Howell, *Epistolae Ho-elianae familiar letters domestic and forren* (London: 1673), 170-171.

⁴¹ TNA, PROB 11/239/727, Will of Elizabeth Countess of Sunderland, Dowager (1654); There are numerous cases that show Elizabeth acting as Lord Scroop's executrix: TNA, C 8/106/55, Cholmeley versus Lady Sunderland (1650); TNA, C2/ChasI/S118/7, Scroope versus Countess of Sunderland, ([1625-1660]); TNA, C 2/ChasI/S15/31, Scroope versus Countess of Sunderland, ([1625-1660]).

⁴² ERYRO, DDCC 139/10, Affidavits of John Wells and Mathew Gayle, (1630); TNA, WARD 7/82/183, Inquisition Post Mortem: Lord Sunderland, ([1631-1632]).

⁴³ TNA, WARD 7/82/183; ERYRO, DDCC/133/21, Inspecimus by Letters Patent of a Settlement (1641).

⁴⁴ TNA, WARD 7/82/183.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Clay (ed.), *Yorkshire Royalist Composition Papers: Volume 1*, 55-56. For a note of caution on the reliability of the land valuations in these papers see: C. B. Phillips, 'The Royalist Composition Papers and the Landed Income of the Gentry: A Note of Warning from Cumbria', *Northern History* 13, no. 1 (1977): 161-174.

⁴⁹ 'Parishes: Grandborough', in *A History of the County of Buckingham: Volume 4*, ed. William Page (London: Victoria County History, 1927), 48-50

⁵⁰ Hertfordshire Record Office, ASA7/31, ff. 4, 6, 55 (1626), transcribed: http://www.winslow-history.org.uk/winslow_biggin.shtm, (accessed June 25, 2018); TNA, PROB 11/143/693, Will of John Janes Yeoman of Turfield Buckinghamshire (1624); TNA, C 2/JasI/landJ1/20, Janes versus Janes, ([1603-1625]).

⁵¹ She must have remained in possession of at least some of this estate until late in life, as in 1677 she conveyed Biggin to Sir Robert Clayton: George Lipscomb, *The History and Antiquities of the County of Buckingham: Volume 1* (London: J. & W. Robins, 1847), 248.

⁵² On women's changing relations with property throughout their life-courses, see McDonagh, *Elite Women*, 24; Sarah Shields, *Maid, Wife, Widow, Mother: Women's Life-Course and Estate Management in Eighteenth-Century England* (Unpub. PhD, University of Hull, 2019).

⁵³ TNA, C 7/191/15, James versus Willoughby ([1620-1713]).

⁵⁴ Helen Berry and Elizabeth Foyster, 'Childless Men in Early Modern England', in *The Family in Early Modern England*, eds. Berry and Foyster (Cambridge: Cambridge University Press, 2007), 181.

⁵⁵ TNA, PROB 11/239/727. Emanuel's grandfather, Thomas Scroop, 10th Baron Scroop of Bolton, was married to Margaret Howard, daughter of Henry Howard, Earl of Surrey.

⁵⁶ On women's material bequests in wills see: Amy L. Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993), 290; Susan E. James, *Women's Voices in Tudor Wills, 1485-1603* (Farnham: Ashgate, 2015), 231-279.

⁵⁷ Amanda L. Capern, 'Rumour and Reputation in the Early Modern English Family', in *Fama and Her Sisters: Gossip and Rumour in Early Modern Europe* (Turnhout: Brepols, 2015), 85-113.

⁵⁸ Patricia Crawford, 'Women and Property: Women as Property', *Parergon*, 19 (2002), 151-71.

⁵⁹ Recounted in: WYAS, WYL100/L/31, pp. 1-2; TNA, C 5/10/34; BI, CP.H.5448.

⁶⁰ On wardship see: John H. Baker, *An Introduction to English legal history* (London: Butterworths, 2002), 240.

⁶¹ TNA, PROB 11/158/4, Will of The Right Honorable Emanuel Earl of Sunderland (1630).

⁶² TNA, C 5/10/34.

⁶³ Alexandra Shepard, 'Brokering Fatherhood', in *Remaking English Society: Social Relations and Social Change in Early Modern England*, eds. Steve Hindle, Alexandra Shepard and John Walter (Woodbridge: Boydell & Brewer, 2013), 41-63; Berry and Foyster, 'Childless Men in Early Modern England', 158-83.

⁶⁴ The Tuition and Curation of Elizabeth did contain a clause that gave Martha Janes an important right of veto over Elizabeth's marriage: WYAS, Leeds, R D/AC/1/5/33, Commission to the Dean (1630).

⁶⁵ R. H. Helmholz, 'The Roman Law of Guardianship in England, 1300-1600', *Tulane Law Review* 52, no. 2 (1978): 223-257.

⁶⁶ Will Coster, "'To Bring Them Up in the Fear of God": Guardianship in the Diocese of York, 1500-1668', *Continuity and Change* 10, no. 1 (1995): 23-25.

⁶⁷ *Ibid.*, 12.

⁶⁸ TNA, C 8/84/30, Scroope versus Janes ([1625-1649]). Note that the defendant 'Janes' named in this case was Martha's brother Moses.

⁶⁹ For which, see Capern, 'Maternity and Justice in the Early Modern English Court of Chancery'.

⁷⁰ TNA, C 8/84/30.

⁷¹ *Ibid.*

⁷² Borthwick Institute (BI), Cause Papers, CP.H.5448 (1646).

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Anon., *Four Great Victories* (1645); John Vicars, *Magnalia Dei Anglicana* (London: 1646), 318.

⁷⁶ TNA, C 10/476/158, Janes versus Ward (1654).

⁷⁷ 'House of Commons Journal Volume 5: 26 February 1647', in *Journal of the House of Commons: Volume 5, 1646-1648* (London: His Majesty's Stationery Office, 1802), 98-99; Clay, ed., *Yorkshire Royalist Composition Papers: Volume 1*, 57-61.

⁷⁸ Nottinghamshire Record Office, M/1639, Deed to Declare Uses of Fine (1654); Cornwall Record Office, CF/1/2445, Deed of Division (1652).

⁷⁹ Clay, ed., *Yorkshire Royalist Composition Papers: Volume 1*, 53; Foster, *Pedigrees of the County Families of Yorkshire*.

⁸⁰ Clay, ed., *Yorkshire Royalist Composition Papers: Volume 1*, 60.

⁸¹ 'Scrope, Emanuel, earl of Sunderland (1584–1630)'.

⁸² Ingrid Tague, 'Aristocratic Women and Ideas of Family in the Early Eighteenth Century' in *The Family in Early Modern England*, eds. Berry and Foyster (Cambridge: Cambridge University Press, 2007), 184-208; Harris, *English Aristocratic Women, 1450-1550*.

⁸³ Jessica L. Malay, 'The Marrying of Lady Anne Clifford: Marital Strategy in the Clifford Inheritance Dispute', *Northern History* 49, no. 2 (2012): 251-264; McDonagh, *Elite Women*, 107-108.

⁸⁴ Barbara Donagan, 'A Courtier's Progress: Greed and Consistency in the Life of the Earl of Holland', *The Historical Journal* 19, no. 2 (1976): 317-353.

⁸⁵ WYAS, WYL100/L/31, p. 3.

⁸⁶ TNA, C 5/10/34.

⁸⁷ WYAS, WYL00/C3, p. 116.

⁸⁸ TNA, C 6/102/66, Ingram versus Holland (1647).

⁸⁹ Ibid.

⁹⁰ WYAS, WYL100/L/31, King's Warrant.

⁹¹ Ibid., pp. 5, 8, 25.

⁹² Ibid., pp. 6-7; see also TNA, C 6/102/66.

⁹³ WYAS, WYL100/L/31, p. 9.

⁹⁴ Ibid., p. 10.

⁹⁵ Ibid., p. 11.

⁹⁶ Ibid., p. 10.

⁹⁷ TNA, C 5/10/34.

⁹⁸ WYAS, WYL100/L/31, p. 31.

⁹⁹ Ibid., p. 31.

¹⁰⁰ Clay, ed., *Yorkshire Royalist Composition Papers: Volume 1*, 63.

¹⁰¹ Ibid., 56.

¹⁰² Martha Janes may not have been alone in using periods of political turmoil to her own ends. See for example: Lois Schwoerer, 'Women and the Glorious Revolution', *Albion*, 18:2 (1986): 195-218; Patricia Higgins, 'The Reactions of Women, with Special Reference to Women Petitioners', in *Politics, Religion and the English Civil War*, ed. Brian Manning (Edward Arnold, 1973), 179–224; Ann McIntee, "'The [un]civill-sisterhood of oranges and lemons": Female Petitioners and Demonstrators, 1642–53', *Prose Studies*, 14, (1991): 92-111; Ann Hughes, *Gender and the English Revolution* (Routledge, 2012).

¹⁰³ Spring, *Law, Land & Family*, 19.

¹⁰⁴ Sir Hugh Cholmley, *Memories of Sir Hugh Cholmley* ([London]: 1787), xii-xiii; See also: Jack Binns, eds., *The Memoirs and Memorials of Sir Hugh Cholmley of Whitby 1600-1657* (Woodbridge: Yorkshire Archaeological Society, 2000), 41.

¹⁰⁵ Patricia Crawford, *Blood, Bodies and Families in Early Modern England* (Harlow: Pearson, 2004), 114.

¹⁰⁶ Foster, *Pedigrees of the County Families of Yorkshire*; Thoroton, 'Parishes: Langar & Barneston', 201-209.

¹⁰⁷ Crawford, *Blood, Bodies and Families*, 113.

¹⁰⁸ For example, John Manners, Lord Roos was involved in an infamous, and very public, separation case in 1670. See: Stone, *Road to Divorce* (Oxford: Oxford University Press, 1990), 309-313; Amanda L. Capern, 'Adultery and Impotence as Literary Spectacle in the Divorce Debates and Tracts of the Long Eighteenth Century', in *Spectacle, Sex and Property in Eighteenth-Century Literature and Culture*, eds. Julie A. Chappell and Kamille Stone Stanton (Brooklyn, New York: AMS, 2016). See also, Nicole Greenspan, 'Charles II, Lucy Walter, and the Stuart Courts in Exile', *The English Historical Review* 131, no. 553 (2016): 1386-1414.