

# The Caroline Court of Wards and Liveries, 1625-41

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# Abstract

This thesis titled 'The Caroline Court of Wards and Liveries, 1625-41' seeks to contribute towards existing scholarly research into both the Court and early seventeenth century English society. It utilises archival material (principally manuscript material in Ward Class 9) that exists in The National Archives and which has been used very infrequently, while it also enhances historians' knowledge about a number of issues that have been noted or focused upon in the existing historiography for this period of English history. The thesis achieves this by examining the following areas that are addressed and debated within the current historiography. These areas are: parliament, patronage, Roman Catholicism and the relationship that Caroline institutions had with their respective frameworks of governance. Also by considering the relationship the Court of Wards had with these specific areas, this thesis can additionally shed light on the matters of fiscal feudalism, the level of continuity and change in the masterships, first Sir Robert Naunton and then Francis Baron Cottington, as well as the level of continuity and change during the Personal Rule of Charles I.

The first chapter looks at the parliamentary bills, speeches, petitions and decisions directly relating to parliament's view of the Court of Wards as well as the master's level of involvement within parliamentary proceedings. The second chapter focuses on how the Court administered wardship and livery towards the nobility, both with and without office, in order to provide a useful insight into the world of Caroline patronage. Chapter three examines the relationship between the Court of Wards and Catholic members of the nobility while chapter four analyses the relationship the Court had with the laws, orders and customs governing a specifically selected number of areas. Finally, the fifth chapter returns to the issue of Catholicism by examining the nature of the connection between the Court of Wards and the Catholic gentry. In turn the results of this research contributes towards existing historical knowledge by, amongst other things, providing a new dimension to the issue of fiscal feudalism, as well as highlighting the effects that not only the change in the mastership of the Court but also the Scottish Covenanter rebellion had on the administration of the Court of Wards.

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# Foreword 1

A large debt of gratitude is owed to Mr M. J. Hawkins who has offered regular and expert assistance in the development of this thesis from the beginning to its eventual completion. Mr Hawkins has made a significant contribution to this thesis in a number of ways and it is important to outline his input.

Mr Hawkins completed an undergraduate degree in History at the University of Oxford in the 1950s with first class honours which subsequently led to an award of an M.A. by the University. Mr Hawkins then began a D.Phil. at Oxford which focused on the Court of Wards and Liveries, 1612-60. Sadly this thesis was never completed (due, by his own admission, to over-ambition and the sheer bulk of the Wards' records) but Mr Hawkins subsequently published some of his research in this area.<sup>1</sup> It is a minority of data from this D.Phil. that forms the principal contribution Mr Hawkins has made to this thesis. Mr Hawkins has very kindly allowed this author to utilise his transcribed, translated and tabulated wardship data for Yorkshire, Sussex and the English nobility, all for the period 1625-41. Mr Hawkins has also provided the names of feodaries for the English counties and, where possible, their length of service, all of which have been taken from the sources outlined below.

Mr Hawkins obtained this wardship data from the extents and the schedules of sales of wardships which are in Ward Classes 4 and 5, as well as the various entry books for the sale of wardships and the wardship section of the 'Receiver-General's Accounts', both in Ward Class 9. All are located in The National Archives. The extents were 'in English, on parchment, from which the "inessential" information (except the place and date of the I.P.M.) was omitted, but in which was inserted a calculation of that part of the estate which was in the King's hands and could be leased'. The schedules of sales were 'a paper schedule, on which space was left for the details of the sale of the wardship. These were the date, name of the committee, price and days of payment, exhibition, if any, to be paid to maintain the ward and whether the grant was to the use of the ward or committee'.<sup>2</sup> The relevant entry books likely consist of multiple, bound, paper volumes which provide basic

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<sup>1</sup> See M. J. Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, Somerset Record Society, 67 (Yeovil, 1965); Hawkins, 'Royal Wardship in the Seventeenth Century', *Genealogists Magazine*, 16, 2 (1969), pp. 41-45; Hawkins, 'Wardship, Royalist Delinquency and too Many Children: The Portmans in the Seventeenth Century', *Southern History*, 4 (1982), pp. 55-89.

<sup>2</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xviii.

information for the sales of wardships. The 'Receiver-General's Accounts' were created on a 'charge'/'discharge' basis.<sup>3</sup> 'The act founding the Court of Wards imposed on the receiver-general the obligation of accounting annually before the attorney and the auditor, and on the auditor the duty of engrossing the account in parchment'.<sup>4</sup> This information was then transcribed, translated and tabulated, where necessary, by Mr Hawkins and provides the most important basic information for wardship in this thesis.<sup>5</sup>

The analysis of this wardship data and the arguments derived from this analysis, unless stated otherwise, are wholly mine. Furthermore petitions for wardships, idiots and lunatics come from this author's transcription and translation of the entry books titled 'Entry Books of Petitions and Compositions for Wardship, Leases etc'. It is also important to note that all data for the Court of Wards' management of livery also comes from the numerous entry books as well as the livery section of the 'Receiver-General's Accounts' which again this author has transcribed, translated and tabulated.<sup>6</sup> The entry book volumes are titled 'Abstracts of Inquisitions', 'Entry Books of Liveries' and 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates'. All other primary sources used for this thesis, with the exception of the data that has been provided by Dr. J. T. Cliffe has also been gathered (and where necessary) transcribed/translated/tabulated by the author.<sup>7</sup>

However without the guidance, experience and expertise that Mr Hawkins has accumulated over years of research into the Court of Wards and which Mr Hawkins gave freely and on occasion with considerable effort on his part, it is

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<sup>3</sup> J. Hurstfield, 'The Profits of Fiscal Feudalism, 1541-1602', *Economic History Review*, 2<sup>nd</sup> Series, 8, 1 (1955), pp. 53-61; p. 54, footnote (n.) 2.

<sup>4</sup> H. E. Bell, *An Introduction to the History and Records of the Court of Wards and Liveries* (Cambridge, 1953), p. 190.

<sup>5</sup> This information includes the date of wardship sale, name of deceased tenant, date of tenant's death, name of heir and relationship to the deceased, the heir's age, the value of the land which was normally from the IPM, committee who brought the wardship, the price of the wardship, whether the wardship was for the use of the ward or the committee, date for payment of the fine, the value of the land to the crown and the payments made to the Court of Wards. References in the main body of the thesis to M. J. Hawkins wardship data will consist of: 'Hawkins' Wardship Data'. For detailed information about where to find the sources which M. J. Hawkins' wardship data is based upon, see Appendix 1.

<sup>6</sup> See the introduction for more details on these various manuscript sources.

<sup>7</sup> See Foreword 2 for more information on Dr. J. T. Cliffe's contribution to this thesis.

possible that this thesis may never have been completed. This is because Mr Hawkins is the only known and living expert on the Caroline Court of Wards and Liveries. It is therefore hoped that this foreword will go some way to honour the invaluable contribution that Mr Hawkins has made to this thesis.

## Foreword 2

A debt of gratitude is also owed to Dr. Cliffe. Dr. Cliffe has offered valuable advice, constructive criticism and support after kindly reading my chapters. Dr. Cliffe has also, through his considerable generosity, provided this thesis with quite a lot of material relating to the Yorkshire gentry in the early seventeenth century. It is for these reasons that it is necessary to provide an outline of how Dr. Cliffe has contributed to this thesis.

Dr. Cliffe kindly made available information on a number of issues including Yorkshire Catholics, Yorkshire officials, information derived from feodary certificates/surveys for some Yorkshire families, Chancery legal cases, land values for some noble families and a note on the Court of Wards and Liveries by Thomas, Earl of Strafford. However, only some of this information has been used in this thesis due to the constraints of both time and space. Nonetheless it is important to note the material used, its origins and where it has been deployed.

The information Dr. Cliffe provided relating to Yorkshire Catholics in the early seventeenth century and Yorkshire Catholics who experienced wardship during 1625-41, has been used in this thesis. The list of Yorkshire Catholics comes from a variety of sources while the list of Yorkshire Catholics who experienced wardship was possibly obtained through the 'Indentures of Wardships and Leases' found in Ward Class 6 and 'Miscellaneous Books including Books of Contracts of Wardships and Leases, Petitions, Decrees and Affidavits' in Ward Class 9 amongst other sources.<sup>8</sup> This data has been incorporated within chapter five which looks at the

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<sup>8</sup> The 'main sources were' Exchequer, Recusant Rolls, E.366 and E.367; Archiepiscopal Visitation Books and High Commission Act Books from The Borthwick Institute for Archives; North Riding and West Riding Quarter Session Records; British Library Lansdowne MSS 153; Commonwealth Exchequer Papers, SP 28/215-Yorkshire Sequestration Accounts; E. Peacock, ed. *A List of the Roman Catholics in the County of York in 1604* (1872); H. Foley, ed. *Records of the English Province of the Society of Jesus (1877-83)*; J. C. H. Aveling, *Post-Reformation Catholicism in East Yorkshire, 1558-1790* (York, 1960); Aveling, 'The Catholic Recusants of the West Riding of Yorkshire, 1558-1790', *Proceedings of the Leeds Philosophical and Literary Society*, 10, 6 (1963), pp. 191-306; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790* (London; Dublin, 1966); A number of volumes of the Catholic Record Society including x and xi (records of the English College at Douai), liii (compositions for recusancy) and liv and lv (records of the English College at Rome). Commonwealth Exchequer Papers, SP 28/215-Yorkshire sequestration accounts. TNA: Ward Class List: WARD Class 6 'Counterparts of Indentures of Wardship and Lease' and WARD Class 9: 'Miscellaneous Books'. The specific references are unknown. J. T. Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War* (London, 1969), p. 390. References in the main body of the thesis to Dr. J. T. Cliffe's data will consist of: 'Cliffe's Data'. For detailed information about where to find the sources which Dr. J. T. Cliffe's data is based upon, see Appendix 2.

relationship between the Court of Wards and the Catholic gentry. This complements the wardship data generously provided by Mr Hawkins.

The analysis of this wardship data and the arguments derived from this analysis, unless stated otherwise, come entirely from the author of this thesis. Furthermore petitions for wardships, idiots and lunatics come from this author's transcription and translation of the entry books titled 'Entry Books of Petitions and Compositions for Wardship, Leases etc'. It is also important to note that all data for the Court of Wards' management of livery also comes from the numerous entry books as well as the livery section of the 'Receiver-General's Accounts' which again this author has transcribed, translated and tabulated.<sup>9</sup> The entry book volumes are titled 'Abstracts of Inquisitions', 'Entry Books of Liveries' and 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates'. All other primary sources used for this thesis, with the exception of the data that has been provided by Mr Hawkins and Dr. Cliffe, has also been gathered (and where necessary) transcribed/translated/tabulated by the author.

However Dr. Cliffe has provided valuable information and has also given important advice and constructive criticism during the stages of both research and writing which has greatly improved this thesis. It is therefore hoped that this foreword will go some way to honour the important contribution that Dr. Cliffe has made to this thesis.

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<sup>9</sup> See the introduction for more details on these various manuscript sources.

# Acknowledgements

There are a number of important acknowledgements that need to be made. To begin with it is important to both note and thank my supervisors, Professor J. A. Sharpe, Dr. J. P. D. Cooper and Professor W. J. Sheils for their support, patience and understanding throughout the four years of my research. I have benefitted from the wisdom and experience of both Professor Sharpe and Professor Sheils as well as the vision, energy and commitment that Dr. Cooper has brought to my research as a supervisor. Undoubtedly without their assistance the past four years would have been far more traumatic and demanding than it has been.

I also wish to thank two archivists: C. Webb and J. Baker. C. Webb is Keeper of Archives at Borthwick Institute for Archives and has principally provided me with a great deal of assistance in transcribing and translating various Court of Wards' manuscripts from The National Archives. J. Baker, formerly lead archivist at Teesside Archives and now Education and Outreach Co-ordinator at the Highland Archive Centre, has also provided me with, primarily, similar help. The manuscript records relating to the Court of Wards can be demanding documents to deal with and I am indebted to them for their help and advice. I have used their translations and transcriptions of documents as templates for my own translation and transcription of various manuscript sources which form the basis of this thesis.

The assistance that Mr Hawkins and Dr. Cliffe have provided me with has already been noted in the above forewords and it would be unnecessarily repetitive to outline their input again. Nonetheless I must thank them both once more for everything they have done to help me with my research.

Finally, and most importantly, I wish to thank my family. My mother and my uncle have given me untold amounts of financial and emotional support throughout the past four years. If I had not received such aid it is highly unlikely that this thesis would every have seen the light of day. Therefore this research must ultimately stand as a testament to everything that they have done for me over many, many years. I hope that this research will honour their love and support.

# Introduction

The lord Cottington...For, besides being Chancellor of the Exchequer, he was likewise Master of the Wards, and had raised the revenue of that court to the King to be much greater than it had ever been before his administration; by which husbandry, all the rich families of England, of noblemen and gentlemen, were exceedingly incensed, and even indevoted to the Crown, looking upon what the law had intended for their protection and preservation to be now applied to their destruction; and therefore resolved to take the first opportunity to ravish that jewel out of the royal diadem, though it was fastened there by the known law upon as unquestionable a right as the subject enjoyed any thing that was most his own.<sup>10</sup>

Edward Hyde, Earl of Clarendon's judgement on the administration of the Court of Wards and Liveries, which would have been primarily based on the way the Court functioned during the latter years of the Personal Rule of Charles I, suggests that part of the historical significance of the Court of Wards lies in the role the administration of the Court played in the subsequent political strife that marked the relationship between king, parliament and sections of the Caroline populace during the early 1640s. This significance of the Court of Wards, in contributing towards the problematic relationship between king, parliament and sections of the Caroline populace, has been developed more specifically by historians over the years in regards to the work of two titans of this subject, H. E. Bell and J. Hurstfield.<sup>11</sup>

Bell believed that 'perhaps its main historical significance [the Court of Wards] lies in the part that it was able to play in counteracting, to some extent, the financial embarrassment of the monarchy, consequent upon the price rise and other factors'. Bell also saw the Court's real political significance as: 'Bearing in mind

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<sup>10</sup> E. Hyde, 1<sup>st</sup> Earl of Clarendon, W. D. Macray, ed. *The History of the Rebellion and Civil Wars in England*, 1 (Oxford, 1888), pp. 198-99. It should be noted that primary and secondary sources that have been utilised within other secondary sources are only included in references if it is either a quotation or the secondary source has clearly stated where the information originates in the text. Primary source lists which are contained within: J. C. Sainty, 'Lieutenants of Counties, 1585-1642', *Bulletin of the Institute of Historical Research*, Special Supplement, 8 (1970), <http://www.history.ac.uk/publications/office> and B. Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws* (London, 1983), are not included in footnotes. This is in order to avoid further complicating existing footnotes which are already highly detailed.

<sup>11</sup> The most important are: Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*; J. Hurstfield, *The Queen's Wards: Wardship and Marriage under Elizabeth I* (London; Cambridge, MA, 1958); Hurstfield, 'Lord Burghley as Master of the Court of Wards, 1561-98', *Transactions of the Royal Historical Society*, 4<sup>th</sup> series, 31 (1949), pp. 95-114; Hurstfield, 'The Revival of Feudalism in Early Tudor England', *History*, New Series, 37 (1952), pp. 131-45; Hurstfield, 'Wardship and Marriage under Elizabeth I', *History Today*, 4 (1954), pp. 605-612; Hurstfield, 'The Profits of Fiscal Feudalism, 1541-1602', pp. 53-61. All dates are in New Style.

how many of the Parliament party held lands in chief of the crown, it is not unfair to include the Court as an important subsidiary cause of the Civil War'.<sup>12</sup> However, Hurstfield took a not entirely unrelated view by locating the importance of the Court of Wards within the system of 'fiscal feudalism, feudalism kept alive for no other reason than to bring in revenue to the government'. He also argued that this fiscal feudalism 'had a dual role to play: to bring an income to the Crown and, in lieu of salary, an income to the government service'.<sup>13</sup> But subsequent 'masters were obliged to extract the maximum income from the institution they directed; and it was left, therefore, to Robert Cecil and his successors in the seventeenth century to kill the goose which was laying the golden eggs'.<sup>14</sup>

To fully appreciate Clarendon's judgement of the administration of the Court of Wards it is important to understand not only the origins but also the administrative functions of this Tudor and early Stuart institution. The Court's origins lay in feudalism and the different types of tenures with which tenants held their lands. These tenures carried a variety of obligations to the lord or crown through whom the land was held. The 'principal tenures' were knight service in chief, grand serjeanty, socage in chief, petty serjeanty, common knight service and common socage. Knight service in chief and grand serjeanty carried the most obligations as they included wardship, marriage, primer seisin, relief, licence to alienate, prerogative wardship and 'primer seisin of all other lands held of common persons'.<sup>15</sup> It is also important to explain prerogative wardship. 'If a tenant-in-chief died leaving an heir who was

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<sup>12</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 46-149.

<sup>13</sup> Hurstfield, 'The Profits of Fiscal Feudalism, 1541-1602', pp. 53-60. It is clear the Court of Wards was exploiting the feudal rights of the crown for financial gain. However when the term 'exploitation' is used in the main body of this thesis it refers to a level of exploitation that was greater than the exploitation other comparable social groups experienced when encountering the Court of Wards.

<sup>14</sup> Hurstfield, 'Lord Burghley as Master of the Court of Wards, 1561-98', p. 114.

<sup>15</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 75, n. 6 which is based on J. Ley, *A Learned Treatise Concerning Wards And Liveries* (1642). There were other feudal incidents such as primer seisin which 'was the King's right to take a year's profits after the death of his tenant holding by socage in chief or by knight service in chief (in the latter case the right extended to the tenant's whole estate, whether it was all held by knight service in chief or not). This did not apply when the tenant's heir was under age'. Mean rates 'were the profits of the estate between the heir's coming of age and suing livery'. Relief was 'the rate of £5 per knight's fee and proportionately' after livery. Licence to alienate involved 'fines paid for licences'. This comes from Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xvi, n. 2; Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 79; based on Hurstfield, *The Queen's Wards: Wardship and Marriage under Elizabeth I*, p. 319; J. M. W. Bean, *The Decline of English Feudalism, 1215-1540* (Manchester, 1968), p. 79.



under age, wardship was exercised not simply on the lands held in chief, but from all lands held by the heir. This had been a grievance in magna carta, but by the mid fifteenth century was established as a lawful right'. However 'mesne lords...did have a statutory right to payment by the king's officers of any actual rents that might be due'.<sup>16</sup>

The most important of these feudal obligations in the early modern period were wardship and marriage, despite the title of the institution being the Court of Wards and Liveries.<sup>17</sup> 'The theoretical basis of wardship was that, for the defence of the kingdom, the king must have military service from his tenant or, when the tenant was too young to give it, the means of securing it elsewhere'. A male heir only reached full age at twenty-one while the female heir reached full age at fourteen. Therefore during an heir's minority 'the Crown had [the] custody (or wardship of the body, as it was called) and the disposal of [the] marriage' as well as 'the right to lease [the] property'. But the crown lost both the wardship and marriage if the heir had become a knight which signified the ability to serve in battle, or had entered into marriage before the minority began.<sup>18</sup>

As far as livery is concerned: 'an heir to lands held of the crown had to "sue for livery"', that is, the right to enter the inheritance'.<sup>19</sup> Suing for livery could be difficult and this will quickly become apparent. The heir had to see the surveyor-general for 'tendering his livery'. Then the heir had to carry 'the tender', the IPM (inquisition post mortem) and the survey of the feodary to the clerk of the liveries. The clerk provided a schedule which the heir took to the auditors 'to enable them to cast the rates of full age'. The rates had to be paid, as well as the fine for a special livery, if it was being utilised. Then the clerk of the liveries provided the 'indentures of livery' while 'the heir [bound] himself to enrol the livery in the auditor's office

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<sup>16</sup> M. J. Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714* (Manchester, 1996), pp. 72-73; Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 79. As this thesis is only concerned with the feudal rights of the crown it will simply refer to the crown when talking about the feudal rights of the crown and other lords.

<sup>17</sup> Based on Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714*, p. 73.

<sup>18</sup> A female heir remained in the custody of the crown until the heir turned sixteen if she was still single. There is ambiguity about what obligations still existed if an heir was married and/or knighted within age and before his ancestor died between Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 79-80 and Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xv.

<sup>19</sup> Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714*, p. 73.

within six months and to observe the covenants of the indenture'. If all of this was not enough 'The patent had to be sought within three months after the making of the warrant'. The 'heir had to take the oath of supremacy and allegiance... [while] homage was no doubt done, or respited', then the heir 'obtained the final writ of livery, ordering the escheator to put [him/her] in possession'. Yet both relief and fees had to be met by the heir, the former at the end and the latter throughout the above process. There are also the different types of liveries that could be sued to be considered. James Ley, Earl of Marlborough and at one time an attorney of the Court of Wards, wrote in his *A Learned Treatise Concerning Wards and Liveries* that possibly after the statute of 1541 the practice of suing various types of livery was that heirs who inherited lands which were found by an IPM to be at or under the value of £5 a year sued a 'generall Livery under value'. Heirs who were in possession of lands which were discovered by an IPM to be worth over £5 but under £20 a year sued a 'generall Livery above value'. Finally heirs, who according to the IPM held lands worth more than £20 a year, or heirs who claimed to have lands worth more than £20 a year, sued a 'speciall Livery'. The special livery was a 'most significant development'. It was 'rated at half a year's value' and 'pardoned all that had been wrongfully done in the way of entry or intrusion, and gave the heir the profits of [the] land immediately'. Also 'to the heir who had been in ward... [they] did not need to have proved [their] age'. Indeed a special livery could be sought while the heir was within age and it was more secure, although Sir Edward Coke complained about 'the fees and charges' involved.<sup>20</sup> It was these feudal obligations, amongst others, that the Court was meant to manage upon its creation in the reign of Henry VIII.

The Court of Wards and Liveries was created by two statutes. The first statute of 32 Henry VIII c. 46 'established the Court of Wards as a court of record, with a seal to be kept in the custody of the master'. Also the 'accounts of such were to be made to it, instead of to the Exchequer', while 'no process was to issue from the Exchequer for matters under the survey of the Court'. The second statute of 33 Henry VIII c. 22 added 'the office of master of the liveries' to the Court of Wards which led to the establishment of the Court of Wards and Liveries. These two acts, to

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<sup>20</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 76-79; J. Ley, *A Learned Treatise Concerning Wards And Liveries* (1642), pp. 61-62; For the differences between knight service tenures and socage tenures see Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 79.

a large extent, gave statutory authority to current practices. However, the motives behind the creation of the Court varied and are worth considering.<sup>21</sup>

The creation of the Court of Wards can in part be located within the financial problems the crown was experiencing, where after the problems with other revenue-raising devices, it required 'the efficient collection of [its] feudal revenues'. Also the Statute of Uses, 27 Henry VIII c.10, was another reason for the formation of the Court because of the 'consequent increase in the business of livery and wardship'. The administration of the Court of Augmentations, which placed a tenure of knight service in chief on lands and abbeys, was another reason for the introduction of the Court of Wards. Furthermore the 'Court of Wards was created also to raise the stature of the master and his officials and to make possible the concentration of power in one office and in the person of one minister'. There were other reasons as well, but these were amongst the most important causes behind the statutory birth of this institution.<sup>22</sup>

As already mentioned, the two parliamentary acts gave, largely, statutory authority to current practices but it is important to briefly consider the institutional procedures relating to the management of wardship and livery in order to convey the problematic processes that families and friends who had the misfortune of encountering the Court of Wards experienced.<sup>23</sup> Any description of the operation of the Court needs to start with its place within crown government, the regulatory framework in which it operated and the senior officials who worked within the Court of Wards.<sup>24</sup> To begin with, the Court 'was primarily a financial court' and it can be described as a 'revenue department' which theoretically operated throughout England and Wales.<sup>25</sup> The regulation of the Caroline Court of Wards stemmed from the statutory requirements contained within the two acts creating the Court of Wards

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<sup>21</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 13-15. The Court of Wards was abolished on 24 February 1646 and confirmed by the statute of 12 Charles II c. 24.

<sup>22</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 13-14; Hurstfield, 'The Revival of Feudalism in Early Tudor England', pp. 144-45.

<sup>23</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 81.

<sup>24</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 16.

<sup>25</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 46; G. E. Aylmer, *The King's Servants, The Civil Service of Charles I, 1625-42* (2<sup>nd</sup> edn., London; Boston, Massachusetts, 1974), p. 32.

and Liveries, the Jacobean Instructions of either 11 December 1618 or 21 August 1622 and the ‘decisions...by the Master and Council of the Court’.<sup>26</sup>

All of the main Westminster officials who worked within the Court of Wards were appointed by the monarch and apart from ‘the clerks, usher and messenger they were reckoned judges of the Court’, although ‘with the exception of the attorney, the balance of their functions was executive rather than legal’.<sup>27</sup> The power of the master was overall superior when compared to other prominent crown officials and the master was in charge of all of the officials employed by the Court of Wards.<sup>28</sup> The second official was the surveyor-general of the liveries. The surveyor-generalship ‘had been originally a technical office to be held by an experienced lawyer [but] had become a prize for the courtier or politician’.<sup>29</sup> The third official was the attorney who occupied the main legal position.<sup>30</sup> In addition there were also two auditors who were the ‘chief financial officers’ as well as a receiver-general, another ‘financial office’ which appears to have been junior to the auditors.<sup>31</sup>

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<sup>26</sup> R. E. Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635* (London, 1981), p. 108. See chapter four for a more detailed explanation of the ambiguity regarding which set of Instructions the Court of Wards was following. It is difficult to assess what influence the monarch or Privy Council had on the functioning of the Court of Wards.

<sup>27</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 16.

<sup>28</sup> M. J. Havran, *Caroline Courtier: The Life of Lord Cottington* (London; Basingstoke; Columbia, 1973), p. 136. The Caroline masters were: Sir Robert Naunton 2 October 1624-8 March 1635; Francis Baron Cottington 25 March 1635-13 May 1641; Sir Robert Heath, 13-17 May 1641; William, Viscount Saye and Sele 17 May 1641-16 November 1642. The information for office holders in the Court of Wards at Westminster comes from <http://www.history.ac.uk/publications/office>. Consulted 29/9/2011. Different sources can provide varying information regarding the chronology of tenures. The above dates for the length of the various masterships have not been used for the chronological perimeters in the analysis of the continuity and change during the masterships of Naunton and Cottington as the author was not aware of these dates when this analysis took place. The dates that were used when carrying out the analysis of the continuity and change during the masterships of Naunton and Cottington were 30 September 1624 to 16 March 1635 for the mastership of Naunton and 16 March 1635 to ‘shortly before 17 May’ 1641 for the mastership of Cottington. See Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 153; Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 96-128. The Oxford Dictionary of National Biography appears to state that Cottington resigned in the Spring of 1641. F. Pogson, ‘Cottington, Francis, first Baron Cottington (1579?-1652)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com.ezproxy.york.ac.uk/view/article/6404>, accessed 21 Dec 2011].

<sup>29</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 20-22. Sir Benjamin Rudyerd, 17 April 1618-1647.

<sup>30</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 22. Sir Walter Pye, 2 February 1621-26 December 1635; Sir Henry Calthorpe, 23 January 1636-29 September 1637; Sir Rowland Wandesford, 29 September 1637 onwards.

<sup>31</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 24-25. The possible auditors in the Caroline years were John Tooke, 22 March 1610-22 May 1634; Thomas

Amongst the officials of the Court of Wards who worked in the localities, the most important was the feodary. One feodary was appointed by the master to each county although there could be ‘interference by the crown’.<sup>32</sup> Feodaries were able to appoint deputies but this needed to be approved by the attorney of the Court.<sup>33</sup> Feodaries held office until the granter or they died, the feodary chose to give up his position or was dismissed for bad behaviour. The feodaries held a number of responsibilities which rose over time, but the most important related to ‘the descent of property held of the crown in chief’. Here the feodaries needed to be at all of the IPMs to ensure that the crown’s interest was protected and, when necessary, carry out their own certificates/surveys.<sup>34</sup> The certificate was introduced on 24 January 1612 and provided an ‘improvement in values [which] was from the start much larger than in the surveys’. They were also ‘in English and on paper’.<sup>35</sup> The feodary surveys were in Latin, written on parchment and were to give ‘improved values of the estates found in’ IPMs. However, the rise in the valuations was minimal and in the early Stuart period they suffered from similar problems in regards to valuations as the IPMs did even though they were ‘intended to supplement’ IPMs. Consequently after 24 January 1612 the ‘Latin parchment surveys showing small increases in values continued to be drawn up, but they were confined to instances when the heir was of full age or to concealments when the Court was prepared to sell the ward on favourable terms to an informer and was thus not interested in a high price’.<sup>36</sup>

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Tooke, 5 June 1624-9 June 1634; Charles Maynard, 22 May 1634-5 February 1638 and possibly afterwards: James Tooke, 9 June 1634-5 February 1638 while Walter Prichard is mentioned on 5 February 1638.

<sup>32</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 38-45. Sussex feodaries were Henry Bartlett, 1605-1635; Francis Walker, 1636-1641. Yorkshire feodaries were split into three Yorkshire Ridings. North Riding feodaries were William Nelson, 1623-1628; Richard Stowpe, 1628-1641? West Riding feodaries were William Cartwright, March 1625-1627; John Goodhand, May 1627-1635/1636; Thomas More, 1636-1641. East Riding feodaries were Thomas Danby, 1625-1626; Christopher Ridley, 1626-1641. This information comes from M. J. Hawkins, which in turn possibly originates from Ward Classes 4 and 5. Another source is Ward Class 9, ‘Feodaries Bonds’, Ward 9/274 (1-21 CI) and possibly ‘Entries of Letters Patent appointing Feodaries etc’, Ward 9/275-76 (40 EI-21 CI).

<sup>33</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 39.

<sup>34</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 39-40.

<sup>35</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xviii.

<sup>36</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xviii-xix.

Wardship was a long process and involved multiple stages. The first started with a tenant's death. The Court of Wards would normally be notified by the escheator or feodary (both of whom received fees for the IPM), a wardship petitioner, or the heir (if they were of age). The clerk of the wards had to record the petition from whichever source it came without any fees being levied. Normally the IPM was based on a writ/commission from Chancery after a warrant from the Court. These 'Writs directing the taking of inquisitions fell into two classes-those which ordered the normal inquiry post mortem, and those issuing upon some defect in a former inquisition'.<sup>37</sup> The IPM sought to establish what the lands were, also their worth, 'of whom they were held' and the tenure involved, as well as the particulars of the heir.<sup>38</sup>

The second stage witnessed the taking of an IPM and, where necessary, the feodary certificate. The organisation of the IPM was principally the duty of the escheator unless the escheator was banned from any involvement. The escheator also had to inform the feodary of the IPM 'in advance of the time and place' as well as the heir/s, or those on the heir/s behalf and the tenants. This official then had to ensure an order was given to the sheriff to set up a jury.<sup>39</sup> Once the IPM had been carried out, the escheator was required to send the IPM within one month to

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<sup>37</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 69-80. IPMs were occasionally not carried out if a special livery had been sued or the crown had issued a pardon.

<sup>38</sup> As far as the first group of IPMs are concerned, 'the most usual was the *diem clausit extremum*, which was used when information of the death was received within reasonably short time; this was usually sought by the heir, and was delivered to him. When a year and a day had passed without an inquisition, and the question arose who had held the lands during that period, the more peremptory *mandamus* issued; it was also used where a previous inquisition was for any reason found void'. *Certiorari* was deployed 'if the escheator having taken an inquisition had not returned it into the Chancery at the time of his death', while *devenerunt* was used 'if the heir had died in wardship'. If 'the escheator had died or had been removed from office after receiving a writ, but before taking an inquisition upon it', then a *datum est nobis intelligi* was utilised. The second group of IPMs included: *melius inquirendum* which was used to 'seek remedy against inaccurate or imperfect findings by the taking of a new office'. *Que plura* was used when 'some of the ancestor's lands had not been included in the inquisition, or indeed where the specific phrase *et non habet plura terras sive tenementa* had been omitted'. The writ of *amotus* was used when 'an escheator had been discharged before taking an inquisition'. Commissions could be used which involved an IPM 'taken before specially appointed commissioners'. This was normally done through a writ of *supersedeas*. The 'Commissions exhibit similar varieties to the writs upon which they were based, and they fall into the same two categories'. Occasionally the escheator by *virtute officii* took IPMs but only if the estate was worth £5 or less annually. This comes from Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 71-72.

<sup>39</sup> As far as the escheator being banned is concerned this could occur 'If, for instance, an escheator was "affectioned", which perhaps meant unwilling to urge findings favourable to the crown'. Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 72-73.

Chancery. The clerks of the Petty Bag ‘transcribed it into the Court of Wards’ if it related to wardship or livery.<sup>40</sup> If the IPM ‘found the heir to be a minor and the wardship to belong to the crown’, there was a period of thirty days where the feodary was expected to create a certificate based on ‘a survey of the state of the ward, in stock, leases, ready money or otherwise; he had also to survey the lands and certify their value’ without telling anyone.<sup>41</sup> The heir was allowed to use a traverse to challenge the findings of an IPM if he considered them to be unfair, but ‘the dice were heavily weighted against the man who set out to overthrow the king’s title’ because of the strict criteria that had to be met for a traverse to be permitted. Also there was the crown’s option of either deciding to ‘maintain its own title or disprove that of the traverser, whichever seemed the easier’. Indeed officials did not like traverse, while traverse’s ‘arduousness’ and potential expense were additional problems for heirs.<sup>42</sup>

The final part of this process took place at the Court of Wards in Westminster. A ‘schedule of the value of the ward’s property, corresponding with the inquisition, was drawn up’. The schedule was used when ‘compositions for wardships’ took place. The ‘feodary’s certificate and the petitioner’s own confession of value were available for comparison with the schedule, and it was the clerk of the wards’ responsibility to see that no schedule should pass without being checked either by separate inquisitions from all the counties where the ward’s lands lay or, failing them, supplementary surveys by the feodary; he also had to certify whether any inquisition remained of record in the Court giving a better value than the present’. Once an agreement had been made, information about the grant was written at the bottom of the schedule and then both the master and the attorney signed it. The clerk of the wards provided the committee with a contract ‘and, upon sight of schedule and contract, one of the auditors made out the indentures of grant... [also]...the grantee... [obtained]... two sureties for the payment of the fine. Thereupon a bill for receiving the exhibition was granted under the royal sign manual’. Then

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<sup>40</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 74-75; Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xviii.

<sup>41</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 40; Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xviii. The latter is based on Bodleian MS. Rawlinson B. 437, folio (f.) 3.

<sup>42</sup> ‘...subject’s right to traverse an inquisition, if he were wronged by it’. All from Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 76.

there was the process concerning ‘the signet and the privy seal before the great seal was obtained, and it had to be enrolled by the auditor’.<sup>43</sup>

The procedure for suing livery when the heir was at full age has already been noted above, but it is worthwhile considering the greater problems for an heir who had been in wardship and had reached full age. The heir had to obtain a writ of *de aetate probanda* to show that he was at full age. This was achieved through reference to the documentation in the hands of the Court of Wards. This consequently made it ‘easier for the genuine claimant and more difficult for the imposter’. Indeed by the act of 2 Edward VI c. 8 the heir received ‘a statutory right to prosecute the writ *de aetate probanda* when he reached full age, even if by the findings of the inquisition post mortem he was still a minor’. If the heir was successful with the pursuit of the writ of *de aetate probanda* the crown was forced to allow livery even if the heir’s claim was incorrect. It is also worth noting that when ‘it was definitely proved that land had been taken into the king’s hand wrongfully, it was clearly unnecessary for the heir to sue livery’ but an *ouster le main* was needed to obtain custody of the estate. Also ‘when the king’s title was disproved upon traverse, *monstrance de droit*, or petition’ then the writ of *amoveas manum* needed to be deployed. If after an *ouster le main* had been properly sued and new evidence proved the original claim of the crown, then the writ of *scire facias* was used for the crown to re-take the lands.<sup>44</sup>

Clearly the process of going through wardship and livery was problematic to say the least. It is therefore unsurprising that ‘there was some danger that a petitioner would have second thoughts and fail to pursue the grant’. Consequently the Court of Wards utilised devices such as bonds, the loss of a wardship and fines as well.<sup>45</sup> Indeed it is quite possible that the procedures set out above for wardship and livery

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<sup>43</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 81. Sales of wardships were described as ‘compositions’ and the purchasers of wardships were called ‘committees’. Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xvi.

<sup>44</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 83-85.

<sup>45</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 82. This mainly refers to the orders of the clerk of the Wards, John Hare, Ward 1/22 order of 11 February, 10 James I and Instructions of 21 August 1622, T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), p. 401.



may have contributed to the decision of some parliamentarians to raise issues relating to the Court in parliament during the period 1625-41.<sup>46</sup>

Now that both the origins and the principal operations of the Court of Wards have been introduced it is possible to return to Clarendon's judgement of the Court and consider how his opinion relates to the research of other historians. The Caroline Court of Wards has been inadequately covered by existing scholarly research and this reflects a general neglect by historians of this significant institution. Instead, on the rare occasions that any in-depth work has been undertaken, historians have tended to focus on issues such as the significance and purpose of the Court, the social groups that were most affected, as well as the public image of the Court of Wards and its relationship with Catholicism.<sup>47</sup> The significance of the Court has already been discussed above, but as far as the purpose of this institution is concerned, Bell has provided a definition of the content of the Jacobean Instructions which can be translated into the purpose of the Court of Wards as well and this appears to be generally accepted. Bell argued that the Jacobean Instructions were 'an odd mixture of care for the Court's profits and for the ward's welfare'. 'Unfortunately, as will be seen, and as may be guessed, the two sides of this policy were generally quite incompatible'.<sup>48</sup>

Re-considering the Court of Wards prompts the question: which social group within Caroline English society was most affected by the operations of the Court? R. E. Schreiber argued that a large section of the gentry were covered by the Court of Wards.<sup>49</sup> Bell considered an opinion of F. Philipps, an 'apologist of the Court' that there were 'minority descents at not more than one in three or four' as a 'significant' estimate.<sup>50</sup> L. Stone has argued that since 'the Court of Wards normally took care that a nobleman's estate was kept in the custody of the family or family friends and trustees, peers had far less cause for the fears which beset lesser men lest rapacious guardians during a minority should run down the stock and cut all the

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<sup>46</sup> See Chapter One.

<sup>47</sup> See the bibliography for the relative paucity of in-depth research into this area in the last forty years. Most of M. J. Hawkins' work into the Court of Wards appears to have been unpublished.

<sup>48</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 65-66.

<sup>49</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 97.

<sup>50</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 134. This reference includes reference to F. Philipps, *Tenenda non Tollenda* (1660), p. 34.

woods'.<sup>51</sup> Also Cliffe believes that 'it was the minor gentry who found the charges most burdensome'.<sup>52</sup> There would appear to be a consensus that the worst effects of the Court fell upon the gentry. Moreover, as we shall see, Catholic families, gentry or non-gentry, might also be concerned by their possible vulnerability to the Court of Wards.

Research into the English public's perception of the Court of Wards under the early Stuarts is quite sparse, while research into the relationship between the Court and English Catholics is not that much better. Bell has been the only historian to make a broad but brief national chronological study of the public image of the Court of Wards. He conveyed the impression that the Court was almost unanimously viewed in a negative way. He argued that 'the agitation against specific practices had long since grown into a demand for the abolition alike of the Court and of the feudal tenures that it administered'. This suggests that opposition to the Court of Wards had become more generalised throughout its existence.<sup>53</sup>

Fortunately research into the relationship between the Court of Wards and Catholicism has been livelier, although the obvious consequences of the custody of wardship are principally focused upon. Cliffe has argued that on a theoretical level the Court posed a serious threat to Catholic families, and G. Anstruther believed that wardship created a large risk to these families because the buyer of the wardship could control all aspects of the heir's life. On a more practical level Bell suggested that the Court of Wards was quite careful in ensuring that wards were brought up as Protestants. Stone argued that William, Lord Burghley, when master of the Court was successful in removing the heirs of Catholic noble families to Protestant households and converting them to Protestantism. Indeed J. C. H. Aveling stated that Thomas Wentworth and his associates used wardship against recusancy and that the Long Parliament made use of the Court of Wards against Catholic families.<sup>54</sup>

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<sup>51</sup> L. Stone, *The Crisis of the Aristocracy 1558-1641* (London, 1965), p. 296.

<sup>52</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 134.

<sup>53</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 133-49.

<sup>54</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 184; G. Anstruther, O.P., 'Vaux of Harrowden', (Newport, 1953), p. 231 cited in P. J. Doyle, 'Catholics and the Court of Wards', *London Recusant*, 1 (1971), pp. 85-90; p. 85; Partly from 'P.R.O. S.P. 14/69, no. 69, discourse to the Court' as well as F. Philipps, *Tenenda non Tollenda* (1660), p. 71 and 'C.S.P. Dom. Addenda 1625-49, p. 730', in Bell, *An Introduction to the History and Records of the Court of Wards*

However, historians such as Cliffe also argue that, although the threat was there, in reality the Court of Wards had little interest if un-convicted recusants were on the committee which petitioned for, and was granted, a wardship. Indeed, Cliffe went as far as to say that the heirs of Catholic families were generally given a Catholic upbringing and that wardship had little effect on the religious beliefs of heirs who experienced wardship. This is supported by Aveling who believed that ‘No doubt gentry public opinion-hostile to the Court of Wards-would never stand for a policy of systematic taking of wards away from their next of kin’.<sup>55</sup>

Therefore the overall historiography appears to suggest, with the exception of Bell, that the early seventeenth century Court of Wards generally took little interest in the committees purchasing Catholic wards. P. Doyle has argued that the Court was more concerned about generating revenue than it was about Catholicism, although this view will be challenged, in part, during this thesis.<sup>56</sup> This thesis will also show that all of the existing research above represents only a part of the contribution the Court of Wards can make towards historians’ understanding of early seventeenth century England.

The insight the Court of Wards can bring to aid historians’ understanding of the historical period during its existence can be partly seen in Clarendon’s judgement of the Court which in turn raises a number of broader and interesting historical issues. When he wrote that ‘The lord Cottington... raised the revenue of that court to the King to be much greater than it had ever been before his administration’, Clarendon was touching upon not only the issue of fiscal feudalism but also the level of continuity and change in the administration of the Court of Wards during the masterships of Naunton, Cottington and during the Personal Rule.

The term fiscal feudalism was first used by Hurstfield in articles and a monograph in the middle of the twentieth century.<sup>57</sup> Hurstfield defined fiscal feudalism as being ‘feudalism kept alive for no other reason than to bring in revenue to the government’. This is because ‘Tenants owed obligations to their lord, the

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*and Liveries*, pp.124-25; Stone, *The Crisis of the Aristocracy 1558-1641*, p. 739; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, pp. 224-303.

<sup>55</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, pp. 184-85; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, p. 224.

<sup>56</sup> Doyle, ‘Catholics and the Court of Wards’, p. 88.

<sup>57</sup> See the bibliography for a full list of his research into the Court of Wards.

original justification having been that their lands had been carved out of his demesne. Long before our period [1558-1714] these obligations had become encumbrances on the land and sources of revenue to the lord'.<sup>58</sup> Indeed J. Bean has argued that 'in the period covered by the present work [1215-1540] English feudalism is, to all intents and purposes, a fiscal system'.<sup>59</sup> Nonetheless it was 'the task of [Sir Richard] Empson, [Edmund] Dudley and a whole group of civil servants at the beginning of the sixteenth century rudely to awaken the sleeping tenants-in-chief of the crown'.<sup>60</sup>

Hurstfield saw the practice of fiscal feudalism as having two distinct phases. The first was where fiscal feudalism 'had a dual role to play: to bring an income to the Crown and, in lieu of salary, an income to the government service'. This phase lasted from the statutory creation of the Court of Wards until the end of the reign of Elizabeth I when Robert Earl of Salisbury became master of the Court. Now, in 'a short space of time, Robert Cecil turned upside down the established doctrine upon which the Court of Wards had been operating during the sixty years since its erection'.<sup>61</sup> The second phase was brought about by the 'deepening financial crisis [which] led to the adoption of measures by later masters which Burghley was unwilling to employ, though aware of the acuteness of the situation in his own day. It is clear that the changing social and political structure of England was in any case hastening the abolition of the Court of Wards. In spite of this, the masters were obliged to extract the maximum income from the institution they directed; and it was left, therefore, to Robert Cecil and his successors in the seventeenth century to kill the goose which was laying the golden eggs'.

Therefore, the second phase of fiscal feudalism can be seen to have relevance for the Caroline years of 1625-41 because of 'the enormously high figures of net revenue in Charles I's reign'.<sup>62</sup> Also the abolition of the Court of Wards took place only a handful of years later in 1646 which, combined with the large profits produced by the Court, suggests that the Caroline period of 1625-41 is an important

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<sup>58</sup> Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714*, p. 72.

<sup>59</sup> Bean, *The Decline of English Feudalism, 1215-1540*, p. 6.

<sup>60</sup> Hurstfield, 'Wardship and Marriage under Elizabeth I', p. 606.

<sup>61</sup> Hurstfield, 'The Profits of Fiscal Feudalism, 1541-1602', p. 60.

<sup>62</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50.

time in the history of this institution. This, therefore, leads on to the role the officials in the Court of Wards played during these important years, particularly the master of the Court.

Throughout almost the entire period of 1625-41 the position of master was held by two men, first Naunton and then Cottington. Naunton's mastership began on 2 October 1624 and ended 8 March 1635. Cottington's mastership then began from 25 March 1635 and ended 13 May 1641 when he probably 'resigned out of fear for his life and estates'.<sup>63</sup> It was during the years of Cottington's mastership that the profit generated by the Court of Wards went to levels that had never been seen before.<sup>64</sup> This is demonstrated by the following table.

**Table 1: Annual Net Income for the Court of Wards and Liveries.<sup>65</sup>**

Year	Income from wardships and marriages in £	Income from liveries in £	Annual net income in £
1625	14,793	1731	36,731
1626	18,304	2401	46,655
1627	23,653	4177	49,069
1637	29,405	2205	61,972
1638	33,404	1970	66,724
1639	45,313	997	83,085
1640	41,234	1317	76,274
1641	32,910	1224	69,297

Bell argued that 'it was on the administrative improvements of their period of office [Burghley, Salisbury, and the clerk of the wards, John Hare] that the possibility of the higher revenues of the Court's later days was based', while he also

<sup>63</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 153. Cottington was reappointed as master of the Court of Wards on 4 January 1644. The dates come from <http://www.history.ac.uk/publications/office> Date Consulted 29/11/2011.

<sup>64</sup> Based on Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93.

<sup>65</sup> This table is based on Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93. It is based on the 'Receiver-General's Accounts', Series C. Bell does not provide figures for the years 1628-1636. Please see Bell, *An Introduction to the History and Records of the Court of Wards and Liveries* for more detailed information. On the advice provided by M. J. Hawkins this thesis has decided not to compare the annual figures for the Court of Wards, 1625-34, provided by Schreiber in *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 163-64 with the table above. This is because they may not be comparable. M. J. Hawkins has possibly expressed concern over the accuracy of Bell's figures for the years 1640 and 1641.

acknowledged that ‘Behind the increased productivity...lay long-term policies of the Court, some of which had been in operation, with varying success, since the earliest days of Burghley’s mastership and even before’.<sup>66</sup>

A number of the ‘policies’ and ‘administrative improvements’ are worth noting, for example the ‘most constant of these [policies] was the Court’s effort to keep track of tenants in chief so that they could be made to fulfil their obligations to the crown’. This policy appears to have been pursued during the latter half of the sixteenth century to the beginning of the seventeenth century. Also ‘the Court endeavoured to combat concealments...by the encouragement of private informers, whose aid was enlisted by a species of bribery closely comparable to that employed in the discovery of concealed lands’. Furthermore, as far as estimates of the value of an heir’s lands were concerned, there was also a process which involved a ‘comparison with records of previous inquisitions, and other record material in court, [which] was made as a matter of course’.<sup>67</sup>

There were also ‘collusive conveyances’, which were ‘tackled by means of legislation, but for the most part it had to be dealt with by the Court in its judicial capacity, hearing the legal arguments for and against in particular cases’. Indeed IPMs also posed difficulties as well as the ‘possibilities for fraud in the inquisition post mortem were considerable...Against any, and all, of these eventualities the Court had to guard, and it did so by securing that its own officers, the feodaries, should be present at every inquisition, holding a watching brief for the crown’, while the Court of Wards ‘exercised an ever closer control’ over the feodaries as well.<sup>68</sup> Indeed it is in connection with the feodary that Bell highlighted ‘a system of checking the inquisition by a subsequent survey, or certificate, executed by the feodary in whose county the lands lay’. The origin for the development of the feodary survey beyond ‘building up a careful record relating to lands held of the crown’ are located in ‘the latter years of Burghley’s administration and the period immediately succeeding it’. A clear purpose for the feodary survey during this period and afterwards, to be found, was for an ancestor whose lands were located in two or more counties because ‘the jurors had not, except for their own county, the necessary

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<sup>66</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 48-50.

<sup>67</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 50-57.

<sup>68</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 52-53.

local knowledge on which to base their findings'. In conjunction with this function, the feodary survey was utilised to provide 'higher values...than in the inquisitions post mortem'. Also 'There developed the distinction between the survey proper, made where the heir was of full age, and the certificate or estimate, made where he was a minor. It is in documents of the second category (sometimes entitled, significantly enough, "Certificate of the Improved Value") that there occur the greatest increases over values found in the inquisitions'.<sup>69</sup>

According to Bell, 'the over-all increase in nett income that the century witnessed is to be accounted for rather by the great prosperity of certain of the Court's revenues than by the uniform development of them all'. This is because 'The separate sections of the Court's revenue were differently, and unequally, affected by the policies that have been examined; and, in addition, each was subject to a whole set of conditioning factors peculiar to itself'. It was 'the sales of wardships and marriages [that] were the part of the Court's revenues that prospered best'.<sup>70</sup> In this context there were additional measures such as a 'formalizing of the business of sales that was probably not without effect in securing higher prices', during and after Burghley's mastership. Also, Bell believed 'that really basic to the rise in revenues from sales of wardships were...[the feodary] certificates' and it's 'immediate and most obvious reflection [was] in larger sums demanded from purchasers' of wardships and marriages.<sup>71</sup>

However this interpretation by Bell, which stresses medium and long-term factors for the development of the revenue generated by the Court of Wards, including the late 1630s and the beginning of the 1640s, has been challenged by historians such as A. J. Cooper, M. J. Havran and Hawkins. Mainly these historians argue for the primacy of short-term factors in the generation of profit during this period. Cooper has argued that Cottington continued 'to make inroads on the large number of concealments of wardships, and to increase the annual value of the lands investigated by the "inquisition post mortem" to more realistic figures' as well as maintaining 'sale prices...close to the feodaries' certified annual values'. Also Cooper believes that Cottington 'showed himself to be concerned with the expected

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<sup>69</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 54-56.

<sup>70</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 57.

<sup>71</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 57-59.

revenue which failed to materialise, although the arrears since the inception of the Court were only estimated to be £20,000 in 1640'. Cottington also used the case of John Goodhand, a West Riding of Yorkshire feodary, as 'a good opportunity to set an example to lax feodaries, and indeed to any whose activities were against the interest of the Crown'. Yet perhaps of most importance is Cooper's suggestion that 'Since the time of Salisbury, the officials and middlemen involved in Wardship, both inside and outside the Court, had not been organised and controlled as they were under Cottington'. Here Cottington 'encouraged the appointment of men experienced in the procedure and business of wardship to positions in the Court...gave a free hand to the bureaucracy of legal experts,-middlemen who facilitated the discovery of concealed wards, and who assisted the inexpert to grants of wardship, in return for a share in the profits'. Consequently there 'was an increase in the sales of wardships in the Midlands, the West, the North and Wales...where previously concealment had been relatively easy'. This followed with 'an increase of about 31 in the average number of sales per annum over the previous five years; and an increase of over 100 in the prices asked'. Even a lot of rents were raised by Cottington as well.<sup>72</sup>

Havran and Hawkins add further explanations for the increase in profit produced by the Court of Wards during Cottington's mastership. Havran noted that Cottington 'had had wide experience in fiscal matters, and had learned a good deal about land law as Chancellor of the Exchequer', and he 'improved its [the Court's] operations by increasing the number of clerks in the auditor's office as well as of the feodaries and informers employed in the counties'.<sup>73</sup> On the other hand, Hawkins argues that 'in the later 1630s informing was used much more systematically and that the central Court encouraged informers to concentrate on particular localities' while 'a more effective informing system enabled higher prices to be demanded for unconcealed wards without the fear that such a policy would increase concealment'.<sup>74</sup> Admittedly Hawkins also emphasises the importance of the feodary certificate by arguing that 'If the rise in sale prices of wards in the seventeenth century can be ascribed to a single factor it was the feodaries' certificates'. Nonetheless Hawkins still suggests that 'the combined increase of certificate and

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<sup>72</sup> A. J. Cooper, 'The Political Career of Francis Cottington 1605-1652' (University of Oxford B.Litt. Thesis, 1966), pp. 160-63.

<sup>73</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 137.

<sup>74</sup> Hawkins, 'Royal Wardship in the Seventeenth Century', p. 43.



sale values was still greatest from 1635 to 1641'.<sup>75</sup> Some of these arguments, and others, from Cooper, Havran and Hawkins will feature in this thesis because it will be demonstrated that the change which occurred in the administration of the Court of Wards once Cottington became master can be explained by the differences between Naunton and Cottington, both as men and as administrators.

The broader historiography surrounding the masterships of both men is very limited. It calls out for greater research. The few historians who have looked into this area are generally Schreiber, Cooper, Havran and F. Pogson.<sup>76</sup> Amongst the most important issues within the historiography are the religious belief, personal integrity and ability of masters. The sole historian who has shown any real interest in Naunton's mastership is Schreiber. He identifies Naunton as possessing a 'deep and public commitment to the protestant cause...and a profound suspicion of papal influence in England and elsewhere'.<sup>77</sup> Naunton's mastership is viewed as a period when the abuse of power by officials was not as bad as it could have been. Schreiber has argued 'to the court's credit...under Naunton, it did make some effort to keep the more blatant misdemeanours in check', yet he has also stated that Naunton 'had neither the inclination nor the ability for the work, and he often left it to others less scrupulous than himself'.<sup>78</sup> As far as his ability and success as master of the Court of Wards is concerned, although Schreiber suggests in the *Oxford Dictionary of National Biography* that 'Naunton remained and prospered in the post for just about a decade', he has also pointed to Naunton being 'not well suited for the post of Master of the Wards'.<sup>79</sup>

The historiography relating to Cottington's tenure as master of the Court of Wards is slightly more diverse. Havran, G. E. Aylmer, Cooper, M. B. Young and

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<sup>75</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xviii-xxiii.

<sup>76</sup> The historiography is confined to Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*; Havran, *Caroline Courtier: The Life of Lord Cottington*; Cooper, 'The Political Career of Francis Cottington 1605-1652'. There are also entries by Schreiber for Naunton and by Pogson for Cottington within the *Oxford Dictionary of National Biography*.

<sup>77</sup> R. E. Schreiber, 'Naunton, Sir Robert (1563-1635)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/19812>, accessed 25 Aug 2011].

<sup>78</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 106-135.

<sup>79</sup> R. E. Schreiber, 'Naunton, Sir Robert (1563-1635)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/19812>, accessed 25 Aug 2011]; Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 134.

Pogson all accept that Cottington had a connection with the Catholic faith although the exact nature of that connection is disputed.<sup>80</sup> In relation to Cottington's integrity, B. Coward has argued that 'Historical judgements of the financial administration of [Richard] Weston and Cottington have too often been coloured by the disparaging way in which [William] Laud and Wentworth referred to them in their correspondence as "Lady Mora and her waiting-maid"'.<sup>81</sup> Coward's argument provides a good lens with which to view Cottington's integrity. Historians such as F. C. Dietz, Aylmer and Cooper have taken a poor view of Cottington. Dietz considered him 'venal', while Aylmer described Cottington as possessing 'greed', 'deviousness', and also as a man who engaged in the 'candid exploitation of high office for private gain'.<sup>82</sup> It is assumed that these supposed traits were demonstrated in Cottington's position as master as well as in his post as Chancellor of the Exchequer. Cooper, moreover, believed that Cottington had a "'dissembling nature"' in religious and political affairs, probably dictated by calculated self-interest'.<sup>83</sup> However, these views have been challenged by Havran and Pogson. The former has argued that Cottington 'showed compassion towards persons whom he could easily have victimised' and was 'dutiful and industrious to a fault as a diplomat and administrator', while Pogson believes that 'Cottington avoided treating others with malice and remained respected by most of those who knew him'.<sup>84</sup>

Yet the views that historians take of Cottington's ability as master of the Court of Wards are generally more consistent. Aylmer rather grudgingly accepted that the decision of Charles I to appoint Cottington rather than William Earl of

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<sup>80</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 181; Aylmer, *The King's Servants, The Civil Service of Charles I, 1625-42*, p. 357; Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 210; M. B. Young, *Charles I* (Basingstoke, 1997), p. 123; F. Pogson, 'Cottington, Francis, first Baron Cottington (1579?-1652)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/6404>, accessed 25 Aug 2011].

<sup>81</sup> B. Coward, *The Stuart Age, England 1603-1714* (3<sup>rd</sup> edn., Harlow, 2003), p. 166.

<sup>82</sup> F. C. Dietz, *English Public Finance, 1558-1641*, 2 (2<sup>nd</sup> edn., London, 1964), p. 276; Aylmer, *The King's Servants, The Civil Service of Charles I, 1625-42*, pp. 115-349.

<sup>83</sup> Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 210.

<sup>84</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, pp. 137-80; F. Pogson, 'Cottington, Francis, first Baron Cottington (1579?-1652)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/6404>, accessed 25 Aug 2011].

Salisbury as master aided the productivity of the Court.<sup>85</sup> Cooper was more forthright in his recognition of Cottington's achievements. Cooper noted the 'increase in the sales of wardships in the Midlands, the West, the North and Wales, that is the belt between 150 and 250 miles from London, where previously concealment had been relatively easy'. Furthermore Cooper also argued that there was an 'increase of about 31 in the average number of sales per annum over the previous five years' and more generally remarked on Cottington's 'achievements in raising the revenues and increasing the efficiency of the Court of Wards'.<sup>86</sup> Havran described Cottington's tenure as master as 'extremely successful'. Havran believed this was brought about by, amongst other things, his 'aggressive administration', his decision to 'reassert the authority of the Master by closer personal supervision of the Court's operations and officers, especially in the North and in Wales', and also by getting the 'officials and functionaries of the Court into line', not to mention 'increasing the number of clerks in the auditor's office as well as of the feodaries and informers employed in the counties'.<sup>87</sup> In a similar vein, Pogson's entry in the *Oxford Dictionary of National Biography* claims that Cottington 'ran [the Court of Wards] efficiently, resulting in a substantial increase in revenue'.<sup>88</sup> All of which suggests that Cottington's abilities have impressed historians more than his character.

It is also important to note that, as far as the revenues of the Court of Wards are concerned, the ultimate expression of the second phase of fiscal feudalism occurred not only during Cottington's mastership, but also during the Personal Rule. The revenues generated by the Court rose tremendously from 1626-40. The profit achieved in 1626 stood at £46,655 but in 1639 the profit gained was a far greater sum of £83,085.<sup>89</sup> Consequently it needs to be asked: what was the relationship between the Court of Wards and the Personal Rule? Thankfully the historiography

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<sup>85</sup> Aylmer, *The King's Servants, The Civil Service of Charles I, 1625-42*, pp. 114-117.

<sup>86</sup> Cooper, 'The Political Career of Francis Cottington 1605-1652', pp. 162-210.

<sup>87</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, pp. 135-38.

<sup>88</sup> F. Pogson, 'Cottington, Francis, first Baron Cottington (1579?-1652)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/6404>, accessed 25 Aug 2011].

<sup>89</sup> Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93.

for the Personal Rule is far more extensive than the research undertaken into the masterships of Naunton and Cottington. As R. Hutton has explained, 'Ever since the time of [S. R.] Gardiner's great Victorian narrative, the Personal Rule has generally been treated as a time of unpopular, inefficient and at least potentially despotic government, never viable in the long term and brought to an end by public opposition'. However K. Sharpe has argued against this interpretation, seeing the Personal Rule as consisting of a couple of distinct phases. This model of the Personal Rule sees the turning point in the Scottish Covenanter rebellion which 'ruined royal policies in England that had been enjoying a reasonable amount of success...and transformed the "natural" course of events'.<sup>90</sup>

These two models of the Personal Rule are arguably at opposite ends of a range of opinions.<sup>91</sup> Historians such as A. Hughes disagree with Sharpe, arguing that the Personal Rule consists of one period where the Scottish Covenanter rebellion 'wrecked the personal rule in England because of the depth of alienation that existed anyway amongst much of the political elite and elements of the broader populace'.<sup>92</sup> There is also R. Asch who has developed a very interesting model for the period of 1624-40 when examining the policy of the crown towards monopolies. Asch has argued that 'Three phases can be distinguished in the process of reviving monopolies...Between 1624 and 1629, when parliaments met frequently, strong pressure was still exerted to comply as precisely as possible with the provisions of the 1624 act'. The second period started in 1629 and closed around 1634-35. During this period 'some major monopolies were established' while a lot of schemes were talked about but unless the money guaranteed for the crown was significant it was difficult to receive permission for such schemes. The final period of 1635 to 1639-40 witnessed the large scale use of monopolies. 'Some of them were at least potentially very profitable to the crown; others were beneficial only to courtiers whom the king had to keep satisfied after the Scottish crisis had begun to weaken his position from 1637 onwards'.<sup>93</sup> There are other arguments that stand between the very different

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<sup>90</sup> R. Hutton, *Debates in Stuart History* (Basingstoke, 2004), pp. 82-83.

<sup>91</sup> Hutton, *Debates in Stuart History*, p. 82.

<sup>92</sup> A. Hughes, *The Causes of the English Civil War* (2<sup>nd</sup> edn., Basingstoke; New York, 1998), p. 158.

<sup>93</sup> R. G. Asch, 'The Revival of Monopolies: Court and Patronage during the Personal Rule of Charles I, 1629-1640' in R. G. Asch and A. M. Birke, eds. *Princes, Patronage, and the Nobility: The Court at the Beginning of the Modern Age c. 1450-1650* (London; Oxford, 1991), pp. 357-92; pp. 362-63.

interpretations utilised by supporters of the traditional model of the Personal Rule and Sharpe with his view of this period. Indeed Coward argues ‘There is no single “correct” interpretation of the 1630s’.<sup>94</sup> However, it is Sharpe’s model of the Personal Rule that will form a key part of the methodology followed in this thesis, although it is important to remember that it is only in retrospect that historians can see that July 1637 was the beginning of the Scottish Covenanter rebellion. Nevertheless this date can be utilised as an imperfect but helpful dividing line between the first and second periods of the Personal Rule and it is issues relating to the records, chronology and methodology that will now be considered.<sup>95</sup>

This thesis is primarily based on the manuscript records of the Court of Wards held at The National Archives (TNA). The records used in this thesis consist of the entry books and the ‘Receiver-General’s Accounts’. There is also wardship data kindly provided by Mr Hawkins which is also based on records in TNA and this has been already noted in a foreword to this thesis.<sup>96</sup> Furthermore, the records of parliamentary proceedings for the Caroline parliaments of 1625, 1626, 1628, the Short Parliament of 1640 and the opening session of the Long Parliament have also been extensively utilised.<sup>97</sup> Other sources include the statutes creating the Court of

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<sup>94</sup> Hutton, *Debates in Stuart History*, p. 82; Coward, *The Stuart Age: England, 1603-1714*, p. 165.

<sup>95</sup> The two points in the main body of the text and the following point made in this footnote come from Professor R. Cust and Dr. M. Jenner. When arguments in this thesis are made about the effect that the Scottish Covenanter rebellion had on increasing the attention being given to the finances of the crown, it should be stressed that war was not decided upon in July 1637, and it is unlikely that it was considered to be an option at this time either. Therefore July 1637, in the context of this argument, should again be seen as an imperfect but useful point for dividing the first and second periods of the Personal Rule.

<sup>96</sup> TNA, London, Ward Class 9, ‘Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates’, Ward 9/273 (21 JI-16 CI); Ward Class 9, ‘Entry Books of Liveries’, Ward 9/75, Ward 9/77, Ward 9/78, Ward 9/79, Ward 9/80, Ward 9/81, Ward 9/82, Ward 9/83 (17 JI-21 CI); Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI); Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431, Series C (22 JI-17 CI); Ward Class 9, ‘Entry Books of Petitions and Compositions for Wardship, Leases etc’, Ward 9/218, Ward 9/219, Ward 9/220 (1629-1645); Hawkins’ Wardship Data. It should be noted that inevitably there are variations in the spelling of names in these sources and to save space and time the different spelling of names, resulting from the phonetic-based English existing in the early seventeenth century, are not included in the text or footnotes.

<sup>97</sup> M. Jansson, W. B. Bidwell, eds. *Proceedings in Parliament, 1625* (New Haven, CT, 1987); W. B. Bidwell, M. Jansson, eds. *Proceedings in Parliament 1626* (4 vols, New Haven, CT; London, 1991-96); R. C. Johnson, and others, eds. *Commons Debates, 1628* (6 vols, New Haven, CT; London, 1977-83); E. S. Cope, W. H. Coates, eds. *Proceedings of the Short Parliament of 1640*, Camden Society, 4<sup>th</sup> Series, 19 (London, 1977); J. B. Maltby, ed. *The Short Parliament (1640) Diary of Sir Thomas Aston*,

Wards and Liveries as well as the numerous Jacobean Instructions which set out additional rules relating to the administration of the Court.<sup>98</sup>

The entry books were created by the Court of Wards to provide a summarised record of daily business and constitutes the principal type of source used. This is because they tend to be calendared, are normally in English or Latin, some contain indexes, and their survival rate may be higher than the 'original proceedings'.<sup>99</sup> It can be suggested that 'drafts and working copies have a value all their own' such as a 'scribbled note' and an 'instruction'.<sup>100</sup> However, the above advantages of the entry books outweigh the 'vast mass of original proceedings, judicial and administrative, embarrassing alike in its bulk and lack of order'.<sup>101</sup> Four types of entry books are used: 'Abstracts of Inquisitions', 'Entry Books of Liveries', 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', as well as the 'Entry Books of Petitions and Compositions for Wardship, Leases etc'.<sup>102</sup>

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Camden Society, 4<sup>th</sup> Series, 35 (London, 1988); M. Jansson, ed. *Proceedings in the Opening Session of the Long Parliament* (7 vols, Woodbridge, 2000-07).

<sup>98</sup> The Court of Wards, 32 Hen. VIII. c. 46; An Acte concerninge the Order of Wardes and Lyveries, 33 Hen. VIII. c. 21, 22 both in A. Luders, and others, eds. *Statutes of the Realm: From Original Records and Authentic Manuscripts, (1101-1713)*, 3 (1810-28), pp. 802-863; *State Papers Domestic Series from the Reign of Charles I*, (S. P. 14/61 No. 6.), INSTRUCTIONS AND DIRECTIONS; 'De quibusdam Instructionibus pro Curia Wardorum & Liberaturarum; Certaine Additions of Instructions and Directions in oure Courte of Wardes and Liveries dat. vicesimo nono Januarii millesimo sexcentesimo decimo septimo'; 'Magistro Curie [?] Wardorum & Liberatorum de quibusdam Instructionibus & Directionibus pro eadem Curia'; 'De Instructionibus quibusdam Curie[?] Wardorum & Liberaturarum' all in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), pp. 61-406, Eighteenth Century Collections Online. Date consulted 14/5/2011; 'A COMMISSION WITH INSTRUCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks', Early English Books Online. Date consulted 28/4/11.

<sup>99</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 186.

<sup>100</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 88.

<sup>101</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 186.

<sup>102</sup> Due to the nature of the manuscript sources for the Court of Wards it is difficult, even impossible, to know who compiled many of them and the individual entries within them. Indeed even when a signature is located within the documents it does not necessarily signify that these individuals actually created the records within the entry books.

The 'Abstracts of Inquisitions' consist of five volumes, are principally in Latin and approximately cover the period 1600-40.<sup>103</sup> This series contains basic information taken from the copied IPM. This generally consists of the county where the IPM took place, the name of the deceased and the writ used, a reference number to the full IPM held in Ward Class 7, date of the IPM, value of the land, date of the tenant's death, the feudal tenure of the land, the heir and relationship to the deceased as well as the age of the heir. The 'Abstracts of Inquisitions' appear to be laid out in accordance with one, or two, law terms. When the clerks of the Petty Bag 'transcribed it [the IPM] into the Court of Wards', it is possible that officials within the Court assigned a reference number to the IPMs and made an entry in the 'Abstracts of Inquisitions' which involved the recording of basic information as well as the reference number of the IPM.<sup>104</sup> This procedure would probably have taken place during the second stage of the wardship process which has been outlined above.

The 'Entry Books of Liveries' that have been used comprise eight volumes, are again principally in Latin and cover the years, approximately, 1619-46.<sup>105</sup> This series appears to possibly contain the writs of livery which were issued to an heir who had almost completed the process of suing livery and it instructed 'the escheator to put him in possession'.<sup>106</sup> The writs of livery could contain information relating to former IPMs, the ancestor, heir and other relatives, both the lands and the feudal tenures, as well as references to homage, mean rates, relief and the date when the writ of livery was issued. However, these entry books also contain indexes at the beginning of each volume which generally give the name of the tenant and ancestor, their relationship, the type of livery sued, as well as the county where the lands were situated and the page number.<sup>107</sup> The index at the beginning of each volume is alphabetical. It appears that officials would create an alphabetical index at the front

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<sup>103</sup> H. E. Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', *The National Archives*, p. 54. This is contained in the Ward Class List file located in the second floor reading room at The National Archives.

<sup>104</sup> See Ward Class 7 IPMs for the reference numbers which should correspond with the entries in 'Abstracts of Inquisitions'.

<sup>105</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', pp. 67-69.

<sup>106</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 78.

<sup>107</sup> This is based on the translation and transcription of extracts from both the index and the writs of livery by archivists which have then been used as templates for further translation and transcription.

of each volume and then add the relevant information in the index and the writ of livery on the first available page. This would account for the unsystematic recording of writs of livery. These entry books are likely to have been utilised by officials at the very end of the livery process which was marked by the writ of livery.

The 'Entry Books of Petitions and Compositions for Wardship, Leases etc' consists of three volumes. They are in a mixture of both English and Latin and cover the period 1629-45. However there are gaps for the years 1625-28 and 1633-36.<sup>108</sup> All of the volumes contain entries recording the different stages of the grant of a wardship, lease, or idiot/lunatic.<sup>109</sup> Entries vary enormously, but they can begin with the recording of the date, the county the ward came from, and the surname of the ward, followed by a petition. At the end the decision made by the Court of Wards regarding who would receive the grant or lease was recorded. Between these stages there would probably be a direction by the Court for a writ. A schedule showing the value of the lands and the annual rents as well as the agreed fine and yearly rent could also be included. Information about children and lands, probably of the deceased, could be mentioned as well.<sup>110</sup>

Furthermore there is also an index which is alphabetical and is located at the beginning of each volume. However, the index provides little detail with generally just the surname, the relevant county (the words 'idiot' or 'lunatic' are included when a grant involves such an individual) and a page reference.<sup>111</sup> It appears that clerks would create an alphabetical index at the beginning of each volume and then add the relevant information in the index and the first stage of a potential grant on the first available page. Subsequent developments regarding the same grant would be recorded on the same page at a later date. This would again explain the lack of method in the arrangement for the recording of grants and leases. This set of entry books appears to encompass the entire range of the wardship process and are therefore particularly valuable. The first stage is possibly represented by the recording of the petition by a clerk as well as the record of a warrant being

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<sup>108</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 36.

<sup>109</sup> Entries can be incomplete.

<sup>110</sup> It is unclear whether entries opposite the schedules refer to children and lands. This is after consulting an archivist on the matter. This description of the layout of the information contained in the three volumes is based on an entry in Ward 9/218 f.1. Entries could vary a great deal.

<sup>111</sup> See Chapter Four for further information on idiocy and lunacy.



issued by Court of Wards' officials. The second stage is highlighted through the inclusion of information derived from IPMs/certificates/surveys by escheators and feodaries. The final stage is then indicated by a brief copy of the schedule that had been created, as well as a very basic record of the result of the agreement between the Court and the committee.

The 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates' consists of one volume approximately covering the years 1623-41.<sup>112</sup> This volume is almost completely in Latin and consists of entries recording livery fines and mean rates. Records for livery fines generally contain information about the ancestor, the heir, the year the entry was made and their relationship, that the money had been paid, the type of livery that had been sued, the fine, payments, and possibly any individuals providing security for the payment of the fine.<sup>113</sup> The index is again alphabetical and normally contains the name of the heir and the page number. The clerks would create an alphabetical index at the beginning of the volume and then add the relevant information in the index and the basic details relating to the livery fine/mean rates on the first available page, which would explain the disorderly entries of livery fines and mean rates in this volume. It is possible that this book was created from other sources including the indenture of livery after the main details relating to the livery had been decided upon, as well as the 'Receiver-General's Accounts' after payments had been made, in which case it is possible that this entry book series was created after the writ of livery had been issued and the payments had been made.

The 'Receiver-General's Accounts' were created on a 'charge'/'discharge' basis.<sup>114</sup> 'The act founding the Court of Wards imposed on the receiver-general the obligation of accounting annually before the attorney and the auditor, and on the auditor the duty of engrossing the account in parchment'.<sup>115</sup> This led to the creation of three series. The first was the 'Original accounts in English', the second was the

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<sup>112</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 39.

<sup>113</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 81.

<sup>114</sup> Hurstfield, 'The Profits of Fiscal Feudalism, 1541-1602', p. 54, n. 2.

<sup>115</sup> The year 1625 onwards saw the master, surveyor-general, attorney and auditor/s sign the accounts. This comes from Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 190.

'Paper drafts of formal accounts in Latin' while the third was the 'Parchment engrossments of formal accounts in Latin'. The first series will be used as it is 'in book form', in English, is 'virtually complete' and provides a better annual account of the Court's finances.<sup>116</sup> More specifically the charge section of the 'Receiver-General's Accounts' included 'arrearages, issues of wards' lands, sales of wardships and marriages, mean rates...fines for liveries, and fines for leases', as well as other small revenue streams. The discharge section consisted of the 'fees and diets of the officers, annuities, jointures and exhibitions' amongst other things.<sup>117</sup> It is therefore possible to ascertain the profit generated by the Court of Wards through subtracting the expenses from the gross income.<sup>118</sup> It is also important to note that these accounts can serve as an excellent source of basic information for both the sales of wardships and the fines for liveries, which can act as a starting point for a deeper examination of the records.<sup>119</sup>

Clearly these manuscript records relate to the chronology of this thesis which, as alluded to earlier, encompasses the period of 1625-41. This chronology has relevance for the existing historiography of the early seventeenth century regarding the debate over the Personal Rule as well as the short, medium and long-term causes of the English civil wars. The historiography relating to the Personal Rule has already been considered but it is important to provide an overview of the latter historical debate. 'Whig' historians and those stemming from a 'Marxist' tradition view the English civil wars as resulting from 'long-term causes'. Whigs believe in 'intensifying divisions over religion and politics, with Parliament defending the rule of law, property rights and individual liberties against an autocratic monarchy'. However, Marxists view 'political division developing on a foundation of long-term social and economic change'. In contrast to these two beliefs, 'revisionists' 'have rejected the implicit notions of inevitable and progressive development found in both Whig and Marxist accounts'. Yet 'post-revisionists' can believe, amongst other things, 'that the civil war did have long-term origins'.<sup>120</sup>

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<sup>116</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 190-91.

<sup>117</sup> Exhibitions were paid 'for the maintenance of the wards'. See Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 57-192.

<sup>118</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 191.

<sup>119</sup> This point comes from Mr S. Healy.

The choice of this chronology is grounded in a long-term interest in the reign of Charles I. As Hughes has argued, 'It may be that it [the civil war] looms too large in seventeenth-century historiography, distorting our understanding of developments that deserve a more straightforward treatment in their own right'. Therefore the chronology of this thesis is a deliberate attempt to consider the Caroline Court of Wards as an institution worthy of study in and of itself.<sup>121</sup> There are also practical considerations to take into account. The records of the Court start to diminish by the end of 1642. After Charles I ordered the Court of Wards to come to Oxford on 27 December 1642 the survival rate for the records of the Oxford Court, and to a lesser extent the Westminster Court of Wards, become a problem.<sup>122</sup> Finally there is the sheer volume of material for the Court in The National Archives to also bear in mind.<sup>123</sup> Therefore a strict chronological limit for this time-restricted research is required, making the chronology of 1625-41 a feasible period for study.

The issue of feasibility leads on to the geographical perimeters of this thesis. The functioning of the Court of Wards within the counties of Yorkshire and Sussex will be examined by this study. The selection of these two counties ensures an approximate balance between the north and south of England and also broadly helps to make the analysis, arguments and conclusions more representative of the nation as a whole.<sup>124</sup> The geographical aspect of this methodology inevitably feeds in to the historical debates surrounding the research into the counties of sixteenth and seventeenth century England. Revisionism has 'emphasized the importance of the "county community" to the gentry of seventeenth-century England'. A. Everitt has suggested that there were unavoidable problems in the relationship between national and local issues, with the latter frequently prevailing over the former, while the 'landed gentry of provincial England naturally focused on their county as the arena for most of the important aspects of their lives'. Consequently there was 'little room

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<sup>120</sup> Hughes, *The Causes of the English Civil War*, pp. 6-8.

<sup>121</sup> Hughes, *The Causes of the English Civil War*, p. 9.

<sup>122</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 150-52.

<sup>123</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 186.

<sup>124</sup> J. Binns has argued that, in the context of county studies, 'What might be true of Kent or Suffolk did not necessarily apply anywhere else in England' in J. Binns, *Yorkshire in the Civil Wars: Origins, Impact and Outcome* (Pickering, 2004), p. xvi.

for gentry interest or involvement in national or international affairs, or for provincial enthusiasm for doing the king's business'.<sup>125</sup>

Post-revisionists, on the other hand, can disagree with this interpretation.<sup>126</sup> It is argued that this interpretation is unlikely to be correct because of the 'highly integrated and centralized political system' England possessed. This resulted from 'the early strength of the English monarchy, both Anglo-Saxon and Norman...one common law...a national framework for local administration' and 'one national representative body which voted taxation for the whole kingdom'. It has also been suggested that it is wrong to talk about 'the centre and the localities' because they 'were so inextricably intertwined in English politics' this phrase conveys 'a polarity that contemporaries rarely recognized'. Therefore it can be argued that there was an overlap between 'the centre and the localities' which suggests that Yorkshire and Sussex can be viewed as being, to a very limited extent, representative of the English political nation as a whole.<sup>127</sup>

Another key part of the methodology employed in this thesis relates to the approach that has been taken in order to assess the size of the wardship and livery fines the Court of Wards imposed on individuals and families. This is because a large part of the analysis in this thesis is connected to fiscal feudalism and therefore it is important to understand how feudal fines are examined. The fines for wardship and livery were principally based on the feodary certificate/survey and to a much lesser extent, on the IPM.<sup>128</sup> IPMs were taken regardless of the age of the heir, but feodary certificates were only taken if wardship was available, while the feodary surveys 'were confined to instances when the heir was of full age or to concealments'.<sup>129</sup> All three had their flaws, but, as far as the crown was concerned, perhaps the worst was the fact that 'the land values found in the I.P.M.s had become stabilized, often at early sixteenth-century levels'.<sup>130</sup>

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<sup>125</sup> Hughes, *The Causes of the English Civil War*, pp. 19-20.

<sup>126</sup> Hughes, *The Causes of the English Civil War*, p. 20.

<sup>127</sup> Hughes, *The Causes of the English Civil War*, pp. 54-56. The term 'political nation' is intended to cover all those who were 'from yeomen upwards' in D. Sharp, *The Coming of the Civil War, 1603-49* (Oxford, 2000), p. 16.

<sup>128</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xviii-xix.

<sup>129</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xvii-xix.

The ‘potential problems about the accuracy of the IPM as an expression of the value of estates and the implications which this has for...[the]...analysis’ in this thesis needs ‘a clear discussion’.<sup>131</sup> To begin with ‘the possibilities for fraud in the inquisition post mortem were considerable—a tenant might be said to hold by a base tenure implying no duties to the crown, when really he held by knight service in chief; an heir might be declared of age, when he was not; the death of the ancestor might be post-dated to lessen the mean rates due; lands held by the deceased might be omitted; above all, the property concerned might be undervalued’. The Court of Wards needed to counter one, more than one, or the whole set of these ‘eventualities’ and this was done through ensuring its employees, the feodaries, should attend all IPMs to protect the interests of the crown. Yet, ‘Individual feodaries were not, on every occasion, beyond reproach, and the *Collections* of 1617 suggest that the practice of taking inquisitions before commissioners may even have been a retrograde move; commissioners were often partial, and even if feodary and escheator were of their quorum might “overcrowe and outcountenance” them both’.<sup>132</sup>

Also, ‘Where some of the ancestor’s lands had not been included in the inquisition...a further office was ordered upon the writ *que plura*’. As far as the jury were concerned, ‘Legislation, some of it medieval, existed to ensure genuine findings: inquisitions were to be taken in towns openly, before people of good fame’. Also when ‘juries were sometimes troublesome, especially when the inquisition touched the interests of some man of substance in the locality...the escheator was entitled to adjourn to take advice—indeed, after 1617, where a finding against the crown within a year of the tenant’s death was involved he was forced to take this course...[and]...if a jury proved hopelessly biased against the crown, it was always possible to issue a commission superseding the original writ or commission, for this involved automatically the impanelling of a new jury’.<sup>133</sup> Indeed, ‘it was important

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<sup>130</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xviii.

<sup>131</sup> This comes from Professor R. Cust and Dr. M. Jenner.

<sup>132</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 53. This reference includes reference to ‘B. M. Hargrave MS. 358, ff. 4-7’. The ‘*Collections for the King’s Majesties service, in point of his highnes Prerogative*’ was created by an unknown writer. See Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 51.

<sup>133</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 72-74.

that the jury should themselves be in a position to know the truth of the evidence before them-hence the Court's opposition to inquisitions on lands outside the single county in which they were taken, and its practice, where a man held lands in several counties, of holding an inquisition in one and securing details of his lands elsewhere from special surveys made by the feodaries'. Furthermore, where 'an escheator was "affectioned"', which perhaps meant unwilling to urge findings favourable to the crown, a commission with *supersedeas* arranged for the inquisition to be taken before others'.<sup>134</sup>

As far as forgery was concerned, 'When the findings had been agreed by the jury, to remove the possibility of subsequent forgery they were engrossed in a pair of indentures, one of which was taken by the foreman of the jury and one by the escheator; the latter was to see to it that the foreman received his counterpart upon a statutory pain of 100 *l.*'.<sup>135</sup> Also, unavoidably, within the huge amount of IPMs carried out, the exactness and veracity of IPMs fluctuated', and 'there were some inquisitions so incomplete that the Court adjudged them void outright...[and]...In circumstances of this kind it was established by the Court that a *mandamus* should issue for the taking of a new office'. IPMs that were 'intermediate between those void outright and those that the Court adjudged good...The Court dealt with uncertain offices of this kind...not declaring them void but merely insufficient and to be completed by a *melius inquirendum*, ordering a second inquisition'. However 'despite all the Court could do, the inquisition post mortem remained in some ways an inadequate basis for the calculation of the real value of a tenant in chief's property'.<sup>136</sup> The above information clearly has importance for any historian who wishes to use IPMs as a source for understanding the value of early seventeenth century estates because they are likely to provide inaccurate figures for the true value of estates, thereby hindering a full understanding of the practices of the Court of Wards within a fiscal context.

Yet despite the above, as far as the feodary surveys were concerned 'by the early seventeenth century the surveys were as standardized and unrealistic as the I.P.M.s they were intended to supplement' and even 'the certificates themselves were

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<sup>134</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 72-74. This reference includes reference to 'Bod. MS. Carte 124, f. 520'.

<sup>135</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 74.

<sup>136</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 54-106.

becoming stabilized at a conventional level' during 1635-41.<sup>137</sup> Therefore, clearly all three forms of assessment possessed flaws. As a result the survival rate of these records, and the precedent set by M. J. Hawkins who utilised the IPM values in his own published research into the Court of Wards in Somerset, are key determining factors in deciding which source to use.<sup>138</sup> The IPMs in the 'Abstracts of Inquisitions' as well as the full IPMs contained in Ward Class 7, Chancery 142 and Exchequer 150, have fared far better in continuing to exist than the feodary certificates/surveys.<sup>139</sup> Therefore when analysing the practice of fiscal feudalism by the Court the financial estimate of the value of an estate provided by the IPMs will be used and the sale price will be divided by the IPM's financial estimate to arrive at a sale to IPM ratio. This will partly reflect not only the wardship/livery fine imposed, but will also benefit from the 'I.P.M. values [which] remained stable to the end [thereby] providing a static base against which to measure the demands of the Court'.<sup>140</sup>

The issues explained above represent the most important methodological decisions taken in this thesis, and it is important to note how this research will be presented. This thesis comprises five chapters which considers the Court of Wards in a variety of contexts, some of which the historiography of early seventeenth century England has identified as constituting areas of significance. Chapter one will examine the parliamentary bills, speeches, petitions and decisions directly relating to

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<sup>137</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xviii-xxiii. A comparison between some of the available feodary certificates and IPMs for Yorkshire Catholics shows the following: the estate of the Dalton family of Swine was valued by certificate as worth £442 a year but the IPM gave just £11 17s 4d. The estate of the Pudsay family of Bolton Hall, Bolton by Bowland, was valued in the certificate at £800 but only £21 16s 8d in the IPM. The estate of the Vavasour family of Willitoft was valued in the certificate as being worth £66 13s 4d a year but the IPM gave just £4 10s. Finally the estate of the Yorke family of Gouthwaite Hall was valued at £350 a year but the IPM gave the value at £4. This comes from Cliffe's Data and Hawkins' Wardship Data.

<sup>138</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*. This is also based on the advice of Professor R. Cust and Dr. M. Jenner. The sale to IPM ratio methodology has been obtained from Hawkins, *Sales of Wards in Somerset, 1603-41*.

<sup>139</sup> TNA; Based on Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxii. There were 343 families who came from landed social orders in Yorkshire and experienced wardship in the period 1625-41, but only 57 feodary certificates have actually survived. This is based on Hawkins' Wardship Data and Cliffe's Data.

<sup>140</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxii. The higher the sale to IPM ratio, then the greater the size of the fine. When discussing sale to IPM ratios in this thesis it needs to be pointed out that this thesis is not suggesting that the Court of Wards consciously used sale to IPM ratios to set fines. Instead sale to IPM ratios are utilised as a mechanism for identifying and understanding trends in the Court's administration of wardship and livery. Therefore it is in this context that this thesis' discussion of sale to IPM ratios should be seen in. This comes from a point made by Dr. M. Jenner.

parliament's view of the Court as well as the master's level of involvement within parliamentary proceedings. This is in order to understand how parliament viewed fiscal feudalism. Analysing the level of continuity and change in the bills, speeches, petitions and decisions directly relating to the Court of Wards will aid understanding about whether Cottington's appointment to the mastership of the Court was a watershed, as well as confirming or denying the credibility of Sharpe's model of the Personal Rule.

Chapter two focuses on how the Court of Wards administered wardship and livery towards the nobility, both with and without office, in order to provide a useful insight into the world of Caroline patronage. This is done by utilising the framework of general exchange (described in detail in chapter two) within the context of the treatment provided by the Court towards nobles with and without office, as well as the varying noble titles and the type of office held, through sale to IPM ratios to examine the extent to which the Court of Wards continued the policy of James I which 'aimed at a policy on patronage that resembled gift giving or general exchange, the free dispensation of favo[u]r so as to create bonds of obligation'. Also the framework of general exchange can help historians to understand the issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.<sup>141</sup>

Chapter three considers the relationship between the Court of Wards and Catholicism within the English and Welsh nobility. More specifically it examines the relationship between the Court and the different social ranks within the Catholic nobility, as well as the custodial consequences of wardship for heir/s of a Catholic family within age with specific reference to whose 'use' the wardship was granted, the number of relatives and Catholics within the committees, and whether religious conversions were attempted.<sup>142</sup> It also analyses the wardship and livery fines the Court of Wards set for these heirs and examines the potential impact that these

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<sup>141</sup> L. L. Peck, "'For a King Not to be Bountiful Were a Fault': Perspectives on Court Patronage in Early Stuart England", *Journal of British Studies*, 25, 1 (1986), pp. 31-61; pp. 33-38. Throughout this thesis references are made to either 'heir/s' or 'family/families' in regards to the administration of wardship and livery. This thesis determines which term to use depending upon the specific context. The conclusion in this thesis utilises both terms in order to be more inclusive when summarising the results of this thesis.

<sup>142</sup> To whose 'use' the wardship was granted indicates whether the custody of the ward and his/her estate was to be managed in the interests of the heir or the committee. See Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xviii.



feudal incidents had on the religious trajectory of Catholic heirs. This in turn demonstrates that these areas have consequences for the historiography surrounding fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington as well as the Personal Rule.

The fourth chapter examines the relationship between the Court of Wards and the specific laws, orders and customs governing particular feudal areas by concentrating on the management of neglected wardships, the administration of idiots and lunatics and the processes involved in heirs suing livery. This is achieved by utilising the laws the crown established at the statutory creation of the Court of Wards and Liveries, the orders contained within the Instructions of December 1618 and 1622 and the customs of the Court which governed specific areas of responsibility, while considering these areas within the broader contexts of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

The final chapter looks at the relationship between the Court of Wards and the Catholic gentry. The chapter examines the connection between the Court and the social ranks within the Catholic gentry. It also considers how the Court of Wards managed the custodial element of wardship when dealing with Catholic heirs, as well as the level of fines set for Catholic families and the payment terms for the committees of Catholic heirs. Again in each section the subjects of fiscal feudalism as well as the degree of continuity and change during the masterships of Naunton, Cottington and the Personal Rule provide broader contexts in which these issues are considered, thereby demonstrating how research into the Court has important repercussions for broader early seventeenth century historiography.

# Chapter One: Parliament and the Court of Wards and Liveries

## Introduction

On 16 February 1641, after multiple complaints about official charges and large fines occurring in the Court of Wards and Liveries, a committee was created with a comprehensive remit to investigate all issues concerning the Court. Particular causes of concern were the alleged inappropriate administration of this institution, the level of its authority, and the behaviour of its central and local officials. The petition of a William Madox was also to be examined as well as any other relevant petition presented to the committee. All who attended could speak, and the committee was given the ability to order the appearance of all persons, information and other things deemed necessary.<sup>143</sup>

The establishment of this committee in the opening session of the Long Parliament to look into the Court of Wards was possibly a culmination of the criticisms made against aspects relating to the administration of the Court in all of the Caroline parliaments. This negative view that parliament held about the Court of Wards is important because parliament plays a significant part in the historiography of early seventeenth century England and it was also one of the ‘two greatest expressions of... [public]...opinion in seventeenth-century England’.<sup>144</sup> Furthermore an examination of the opinions expressed within parliament about the Caroline Court of Wards can help to shed fresh light on the issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

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<sup>143</sup> This is a combination of two accounts from ‘Journal of the House of Commons’; ‘Journal of Sir Simonds D’Ewes’, British Library, Harl. 162. both in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 2, pp. 456-64. The petition of Madox has not been found. Unfortunately due to time constraints, apart from substituting the now defunct H.L.R.O. for The Parliamentary Archives, the original locations of the parliamentary sources that were used to form the published editions of the Caroline parliaments from 1625-41 have been left intact. Also because of the methodology employed in this chapter for dealing with parliamentary sources, only whole sentences which this chapter is uncertain about will be highlighted and placed in the relevant footnotes. See pages 52-53 for information on the methodology employed for dealing with parliamentary sources. In subsequent chapters, when there is uncertainty in the meaning of words/numbers, a ‘?’ is inserted within square brackets into the text to signify the uncertainty.

<sup>144</sup> Hutton, *Debates in Stuart History*, p. 83.

Parliament has played a significant part in the historical debates surrounding the Jacobean and Caroline periods, not least by being the subject of argument itself. The traditional interpretation of parliaments was 'a grand progression towards modern liberty and democracy in which Parliaments played a crucial role in defending the subjects' rights and freedoms against royal encroachment'. However, this clearly undermines the degree of change and ignores the 'conciliar, financial and legislative' purposes of parliament, while the 'House of Lords... is commonly relegated to the sidelines' and there is also the utilisation of 'a teleological framework' as well.<sup>145</sup>

A very different view comes from 'revisionism' in which C. Russell was a leading figure. Here 'Elizabethan Parliaments [were] very much...a continuation of medieval and early Tudor assemblies rather than as a prelude to the conflicts of the seventeenth-century'. The importance of co-operation over conflict between parliament and crown is stressed, as well as the role of the Upper House within parliament. Indeed 'prominent members of the House of Commons...were in fact the agents, clients and spokesmen of peers'. Meanwhile parliament is seen as being 'what it had always been: primarily a legislative rather than political body'. However as D. Smith says it 'is important, however, not to throw the baby out with the bath water. No more than the traditional version can the revised interpretation stand alone as a self-sufficient account of parliamentary history'.<sup>146</sup> Therefore a better way of understanding early seventeenth century parliaments is by 'synthesising, and indeed transcending, these different interpretations'. This allows historians to view 'Parliament as *both* a political arena *and* a legislative body, and it thus avoids a false polarity between the Whiggish and revisionist interpretations'.<sup>147</sup>

This chapter will examine the parliamentary bills, speeches, petitions and decisions directly relating to parliament's view of the Court of Wards as well as the

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<sup>145</sup> D. L. Smith, *The Stuart Parliaments, 1603-1689* (London, 1998), pp. 1-2.

<sup>146</sup> Smith, *The Stuart Parliaments, 1603-1689*, pp. 2-8; Hughes, *The Causes of the English Civil War*, p. 61; C. Russell, *Parliaments and English Politics, 1621-1629* (Oxford, 1979).

<sup>147</sup> Smith, *The Stuart Parliaments, 1603-1689*, p. 8; Smith's argument is based on the research of D. Dean, 'Pressure Groups and Lobbies in the Elizabethan and Early Jacobean Parliaments', *Parliaments, Estates and Representation*, 11 (1991), pp. 139-52; Dean, 'London Lobbies and Parliament: The Case of the Brewers and Coopers in the Parliament of 1593', *Parliamentary History*, 8 (1989), pp. 341-65; Dean, 'Public or Private? London, Leather and Legislation in Elizabethan England', *Historical Journal*, 31 (1988), pp. 525-48; I. Archer, 'The London Lobbies in the Later Sixteenth-century', *Historical Journal*, 31 (1988), pp. 17-44.

master's level of involvement within parliamentary proceedings. This is in order to understand how parliament viewed fiscal feudalism while analysing the level of continuity and change in the bills, speeches, petitions and decisions directly relating to the Court which will aid understanding of whether Cottington's appointment to the mastership of the Court of Wards was a watershed, as well as confirming or denying the credibility of Sharpe's model of the Personal Rule.<sup>148</sup> The degree to which the master was involved in parliamentary business is important because the master was the most powerful official within the Court and as a result could become a lightning rod for criticism of this institution.<sup>149</sup> Therefore the degree to which the master was involved in parliamentary matters can act as an additional indicator of how parliament viewed the Court of Wards.<sup>150</sup>

Since parliamentary business connected to the Court of Wards is to be considered in order to contribute to the issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule, this chapter will be structured around these three key themes. This will provide a useful doorway to these core issues running throughout the thesis while it will also demonstrate how parliament viewed the administration of the Court.

Historians who are familiar with parliamentary sources will be aware of the difficulties this material can create when attempting to carry out an effective analysis especially when there can be multiple accounts of speeches, petitions, reports and decisions recorded as taking place in the Commons or the Lords. Such accounts of a single event can vary widely and it is possible to find different accounts of a specific event contradicting one another which can create a methodological/interpretative

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<sup>148</sup> This material is collected by searching the General Index of each of the relevant published Caroline parliament volumes through the application of the following search terms: Court of Wards, wardship, livery, surname of the master, feodaries, escheators, inquisition post mortems, surveys, certificates, concealments, offices, secret offices and homage. Also when new words are encountered, such as the name of a petitioner, these are added to the General Index search terms. Furthermore, apart from legal citations, anything which the editors' note is not specifically covered in the General Index is searched for in separate parts of the published appendices.

<sup>149</sup> This latter point comes from M. J. Hawkins.

<sup>150</sup> This chapter only classifies parliamentary complaints about the Court of Wards as parliamentary issues related to the Court because parliament was, in part, an institution for airing and addressing the subject's complaints and any matter that was not a complaint is unlikely to directly relate to the view parliament had of the Court of Wards. An example of an issue raised in parliament which did not constitute a complaint but nonetheless involved the Court of Wards is the matter of the Court being used in the impeachment of George, Duke of Buckingham in the parliament of 1626.

thicket that can be difficult to hack through. Consequently this chapter will 'not...prefer one account to another unless there are very good reasons for doing so, and, when faced with several different versions...[will]...collate and paraphrase rather than quote directly from a single source which can be misleading'.<sup>151</sup> When encountering multiple accounts of a single event the arguments of the chapter will be based on the methodology set out above and all variations will be recorded in the footnotes.

It is also important to take into account the Great Contract of 1610.<sup>152</sup> This is because the 'agitation against the Court of Wards, and in a wider sense against all the incidents of tenure in chief, came to a head in the fourth session of the first Parliament, in the spring of 1609-10' and it was 'the one sustained effort ever made to abolish wardship by mutual agreement'.<sup>153</sup> On 14 and 15 February 1610 Salisbury, the Lord Treasurer and master of the Court of Wards, explained the main purpose for assembling parliament and laid out the crown's financial position, the remedies, and made the 'implication...James was prepared to strike a bargain with his subjects, making concessions to them in return for their money'. On 19 February 'the Commons committee for grievances...set down ten points of "retribution" including the abolition of wardship and purveyance'. Later Sir Edwin Sandys, who had been critical of wardship for a long time, gave an account of the discussions of the above committee to the whole Commons, and proposed 'another conference with the Lords at which particulars could be obtained about the government's proposed concessions', while he emphasised the importance of abolishing wardship. Indeed, the 'committee he stressed "could find nothing to pitch upon but tenures and wardships, nothing else valuable"'.<sup>154</sup>

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<sup>151</sup> Smith, *The Stuart Parliaments 1603-1689*, p. 14 which is based on: J. S. Morrill, 'Reconstructing the History of Early Stuart Parliaments', *Archives*, 21 (1994), pp. 67-72; Morrill, 'Paying One's D'Ewes' *Parliamentary History*, 14 (1995), pp. 179-86; Morrill, 'Getting Over D'Ewes', *Parliamentary History*, 15 (1996), pp. 221-30. Sometimes when collating and/or paraphrasing parliamentary source/s the implicit meaning contained within the source/s is stated explicitly. This is in order to help the reader to understand the meaning of the collated, paraphrased and referenced source/s. Alternative interpretations of parliamentary accounts are not noted in the text or footnotes in order to avoid complicating footnotes which are already detailed.

<sup>152</sup> Based on advice provided by Professor R. Cust and Dr. M. Jenner.

<sup>153</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 139-43.

<sup>154</sup> A. G. R. Smith, 'Crown, Parliament and Finance: The Great Contract of 1610', in P. Clark, A. G. R. Smith, and N. Tyacke, eds. *The English Commonwealth 1547-1640: Essays in Politics and Society*

The result was that MPs immediately ‘agreed to seek another conference and resolved “if the Lords did not propound tenures and wardships...then to propound them from this House”’. On 25 February Salisbury ‘told the Commons’ representatives that the government wanted £600,000 in supply and £200,000 a year in support’. Salisbury ‘in return’ also ‘offered ten points by way or retribution’. These contained, amongst other things, ‘some reforms in the wardship system, but no suggestion that wardship might be completely extinguished’. When the MPs’ mentioned this, ‘Salisbury replied that the Lords committee “would acquaint the House [of Lords] with our desire, and thereupon make choice of a committee to attend his majesty and know his pleasure”’. Then on 12 March Henry, Earl of Northampton, ‘told representatives of the Lower House that James was “pleased that you have good allowance to treat of tenures”’. This led to ‘serious negotiations...between Crown and Commons for a bargain which would involve a substantial annual support for the Crown in return for the abolition of wardship and purveyance and other less important concessions’.<sup>155</sup> ‘Once leave to treat was given, the centre of discussion in the resultant negotiations was the amount to be granted as annual composition and the extent of the concessions expected from the crown in return’. But ‘the *mesne* lords seem [not] to have been considered in the debates on the contract’ yet ‘Rather more attention was paid to the officers’ of the Court of Wards.<sup>156</sup> Nonetheless the ‘debates in the Commons revealed the widespread unpopularity of wardship’.<sup>157</sup>

This represents a brief and general outline of the Great Contract during the period of its development where, possibly, parliament expressed its views most fully on the Court of Wards, and it is possible by taking a *brief* and *general* look at earlier

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*Presented to Joel Hurstfield* (Leicester, 1979), pp. 111-127; 237-39; p. 111. The reference includes reference to E. R. Foster ed. *Proceedings in Parliament, 1610*, 2 vols. (New Haven, 1966), 2, p. 32.

<sup>155</sup> Smith, ‘Crown, Parliament and Finance: The Great Contract of 1610’, pp. 111-112. This reference includes reference to Foster ed. *Proceedings in Parliament, 1610*, 2, p. 32 and S. R. Gardiner, ed. *Parliamentary Debates in 1610* (Camden Society, 1st Series, 81), 1862, pp. 13-16; Foster ed. *Proceedings in Parliament, 1610*, 1, pp. 13-178 and 2, pp. 34-54.

<sup>156</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 140-45.

<sup>157</sup> Smith, ‘Crown, Parliament and Finance: The Great Contract of 1610’, p. 117.

and later Jacobean parliaments to see what the type of issues that parliamentarians raised about the Court actually were during the debates over the Great Contract.<sup>158</sup>

The first session of the first Jacobean parliament in 1604, in the 1604-10 parliament, 'showed...the desire to be rid of wardship' and it 'was included amongst the grievances brought forward by Sir Robert Wroth on 23 March 1603-4'. Wroth stated "the wardship of men's children as a burden and servitude to the subjects of this kingdom" and for parliament to buy out wardship for the liberation of the subjects from tenures. Later Sandys, at a conference, 'put to the Upper House proposals for the abolition of wardship and its replacement by "a perpetual and certain revenue out of our lands"...As far as the officers of the Court of Wards were concerned, they were to be compensated by "an honourable yearly pension"'. However wardship was not brought to an end, but the 'negotiations of 1604 leave no doubt of the bitterness that was felt against wardship' and they were also 'the main outlines of the scheme and many of the points raised in discussion prefigure in some detail...[the] "Great Contract"'. There were the 'old complaints of children being seized from their kinsfolk and sold to strangers...together with the accusation that wards' lands were spoiled and wasted'. Yet the 'legality of wardship was admitted...it was the Commons' intention to put forward again the proposal of 1598, the substitution of an annual composition for wardship and kindred royal rights' and there was 'a clear understanding of practical difficulties-the vested interests of officers of the Court, of *mesne* lords, and the problem of how the annual composition was to be levied'. Also P. Croft claims that the Commons Apology was 'As Sir Thomas Ridgeway tellingly pointed out, they [House of Commons] wished particularly that the matter of wardship, "so advisedly and gravely undertaken and proceeded in, might not die, or be buried in the hands of those that first bred it"'.<sup>159</sup>

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<sup>158</sup> Based on Smith, 'Crown, Parliament and Finance: The Great Contract of 1610', p. 112. The secondary sources which have been utilised by this thesis, and which are listed in the bibliography, surprisingly, do not go into much detail about what was actually said about the Court of Wards during these parliamentary debates over the Great Contract. To look at available printed parliamentary primary sources relating to the Great Contract see: Gardiner, ed. *Parliamentary Debates in 1610*; Foster, ed. *Proceedings in Parliament, 1610*.

<sup>159</sup> Smith, 'Crown, Parliament and Finance: The Great Contract of 1610', p. 117; P. Croft, 'Wardship in the Parliament of 1604', *Parliamentary History*, 2 (1983), pp. 39-48; pp. 39-46; Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 138-39. Reference includes reference to 'C J, I, 150-1'; 'N. R. N. Tyacke, "Wroth, Cecil and the Parliamentary Session of 1604", *B. I. H. R.*, L (1977)'; 'C. J., I, 151'; 'Sir Edward Montague, "Journal": H. M. C., *Buckleuch (Montagu) MSS.*, III, 80'; 'C J, I, 226-8'; 'C. J., I, 230-1'; 'H. M. C., *Portland MSS.*, IX, 12'.

The third parliamentary session of the first parliament of James I met on 18 November 1606 and sat until 4 July 1607, and during a discussion on the matter of scutage ‘a member said that its removal tended to the taking away of wards’.<sup>160</sup> Nicholas Fuller ‘flatly described wardship as “against the laws of God and nature”’, and the Commons ‘clamoured for its complete removal’.<sup>161</sup> Furthermore during the 1614 parliament a ‘bill against continuance of liveries, which was a government measure...met with opposition on various grounds, among them the suggestion that its end was to remove certain fees from the Petty Bag to the Court itself, “as one like to drown, that will catch his Fellow, and drown him with him”’. The ‘denial of the subject’s right of traverse’ was also raised as a complaint in this discussion by Fuller, which indicates how disliked the Court of Wards was. Also ‘James [I] seems to have raised the question of abolition in 1614, and again in 1621’ and during the parliament of 1621, ‘Parliament was prepared to give him a yearly rent in exchange, provided that thirteen conditions, listed by them, were observed’, but there was no agreement. However ‘grievances-against prosecutors for wardships, secret inquisitions, and high fees’ were still raised in parliament, and Lionel Cranfield, Earl of Middlesex, who at the time was master of the Court ‘propounded eight matters concerning the Court that he considered in need of redress’.<sup>162</sup>

During the 1621 parliament the Lower House also established ‘a committee for complaints against the [prerogative] courts, and some of the surviving indications of its business give an idea of the abuses in the Court of Wards’. Examples are ‘confusion of jurisdictions’, while ‘it was asserted at this time that an order in the Court cost 3*s.* as opposed to 4*d.* in the King’s Bench or Commons Pleas’. People who petitioned the Upper House could ‘sometimes’ desire ‘that...[a]...case should be removed from the Court for trial at the common law’, or that ‘a specific injunction or decree of the Court should be reversed’, or ‘simply complained of...treatment

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<sup>160</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 138-39; ‘Scutage’ was ‘money paid by a vassal to his lord in lieu of military service’. See C. Soanes, A. Stevenson, eds. *Oxford Dictionary of English* (2<sup>nd</sup> edn., Oxford, 2005).

<sup>161</sup> Croft, ‘Wardship in the Parliament of 1604’, p. 46. It is uncertain if Fuller’s quotation comes from the second or third parliamentary session. This reference includes reference to ‘P. R. O., S. P. 14/24/13; *A Short-Title Catalogue of Books Printed in England, Scotland, and Ireland... 1475-1640*, comp. A. W. Pollard and G. R. Redgrave (1926), Nos. 22340, 25636’.

<sup>162</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 145-46. This reference includes reference to ‘*H. C. J.*, 14 May 1614’. See W. Notestein, F. H. Relf, and H. Simpson, eds. *Commons Debates, 1621*, 7 vols. (New Haven, 1935), 4. p. 117.



there, and in general terms sought redress'. Indeed Bell has also argued that 'there is...a hint of a more specific grievance against favouritism and near-corruption, which might turn the Court into an instrument of private vengeance'.<sup>163</sup>

Cranfield's impeachment in the parliament of 1624 'provides interesting evidence regarding the Court of which he was master'. 'One of the principal charges in the Common's indictment against him was, in general terms, "for procuring the good orders of the court of wards to be altered; for that this was done by his principal procurement, to the deceit of the king, oppression of the subject, and the enriching of his own servants"'. Specifically, 'Cranfield was accused on four grounds-of doubling certain fees for liveries; of creating a new officer, a secretary, and allowing him to take undue fees for forwarding petitions; of proceeding unjustly for concealments of wards; and of leaving in the secretary's control a signature-stamp, which was placed on even the most important instruments instead of Cranfield's autograph'. The first and last charges were upheld 'but...even after his impeachment, in May 1624, [Sir Edward] Coke found it necessary to ask that *of grace* the new *Instructions* might be revoked, and the former amended'. For Bell this represented 'a growing impatience with the extortionate fees taken by the officers of the Court, and a strong opposition to the new measures to increase its public revenues. The agitation was not merely against individual officials, but against the considered policy which it was their duty to administer'.<sup>164</sup>

On the basis of the information provided above, there clearly was continuity in some issues that were raised by parliamentarians about the Court of Wards during the Jacobean period. For example continuity can be seen in parliament's willingness to give money to the crown for the loss of the Court, which can be seen in the first parliamentary session in 1604, the fourth and fifth parliamentary sessions in 1610, and the parliament of 1621. Continuity in some issues can also be seen when comparing the above Jacobean parliaments to the Caroline parliaments of 1625-41, which suggests that particular matters such as, again, 'a scheme of composition to buy out wardship' and 'secret inquisitions' were of genuine concern to parliamentarians, as will be seen below.<sup>165</sup>

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<sup>163</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 135-36.

<sup>164</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 147-48. This reference includes reference to 'State Trials, vol. II, col. 1190'.

## Fiscal Feudalism

Fiscal feudalism has already been discussed in the introduction but it is worthwhile to restate its meaning. As defined by Hurstfield, it was ‘feudalism kept alive for no other reason than to bring in revenue to the government’.<sup>166</sup> This can lead to the question: to what extent did parliamentary affairs directly connected to the Court of Wards relate directly or indirectly to the exploitation of the crown’s feudal rights for financial gain? This section will address this question by examining parliamentary business directly related to the Court. This will be achieved by analysing the above not only in the chronological order in which each parliament occurred, but also the sequence in which parliamentary business directly relating to the Court of Wards took place during parliaments and parliamentary sessions.

### 1625 parliament

The first parliament of Charles I’s reign began on 18 June and was dissolved on 12 August the same year. There were five issues raised within parliamentary business which related directly or indirectly to fiscal feudalism and the most interesting issues will be analysed below. The only issue which can be viewed as being directly connected to fiscal feudalism was a suggestion of compounding for the crown’s feudal rights in return for the abolition of the Court of Wards. This was raised on 11 August by John Whistler who was an MP for Oxford. He was speaking in a Committee of the Whole House discussing a message sent by the king regarding parliamentary supply the previous day. In his speech he suggested compounding with the crown for the abolition of the Court if an acceptable price was offered, which he claimed would give the king more revenue than he currently received from the Court of Wards. He also argued that as feudal tenures related to England’s relationship with Scotland and Wales, and presumably as all now shared the same monarch, feudal tenures were no longer needed and that this obstacle between England and Scotland be removed.<sup>167</sup>

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<sup>165</sup> Croft, ‘Wardship in the Parliament of 1604’, p. 39.

<sup>166</sup> Hurstfield, ‘The Profits of Fiscal Feudalism, 1541-1602’, p. 53.

<sup>167</sup> This is a combination of two accounts from ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Historical Collection 143; ‘Diary of Richard Dyott’, esq. Staffordshire Record Office, D661/11/1/2, both in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 455-70. The interpretation of part of Whistler’s speech is possibly based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 139.

Whistler's speech possibly implies a level of unhappiness with the fines that were being imposed by the Court of Wards, and this may have been an attempt to gain support for its abolition. If agreement had been reached on how the crown was to be reimbursed for the loss of its revenue resulting from the abolition of the Court then this may have left families, who were in possession of lands which carried the more onerous feudal tenures, better off financially.<sup>168</sup>

However, the majority of the issues related to the crown's exploitation of its feudal rights for financial gain in a more indirect way. The first of these concerned 'the holding of Inquisitions *Post Mortem*, to discover what land belonged to those who came into wardship. Sometimes, those in search of wardships held these Inquisitions secretly, without giving notice to other interested parties, and put their rivals to considerable legal expense if they wished to challenge the findings'.<sup>169</sup> A bill for secret offices was raised in parliament on 23 June and it was still at the committee stage on 2 August.<sup>170</sup> Two speeches were made on the bill on 24 June by Thomas Sherwill who was an MP for Plymouth and Sir Edward Coke, 'lawyer, legal writer, and politician', in his capacity as one of Norfolk's MPs. A. D. Boyer has argued that 'In these assemblies [Coke] figured as one of the Commons' most prominent leaders'. Sherwill argued that the bill would not work, that it introduced nothing new, and a fee would be introduced which would make the matter worse. Instead the traditional twenty days' warning on the estate in a small bill would be better and the notice recorded as being provided in the IPM. However Coke stated that the Court of Wards, after an IPM had taken place, forbade a traverse unless it was by a bill which denied common law rights and that both Empson and Dudley were guilty of this as well as other wrongs. Therefore Coke said that if a superior bill was wanted a choice could be made but the current bill should still proceed.<sup>171</sup> The names of Empson and Dudley are significant because after Henry VII's death

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<sup>168</sup> P. Croft, *King James* (Basingstoke, 2003), p. 80.

<sup>169</sup> Russell, *Parliaments and English Politics, 1621-1629*, p. 43.

<sup>170</sup> 'Draft Journal', The Parliamentary Archives, MS. 3409 in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 224-29. 'Journal of the House of Commons'; 'Bedford Estates', London, MS. 197, both in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 377-81.

<sup>171</sup> A. D. Boyer, 'Coke, Sir Edward (1552-1634)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2009 [<http://www.oxforddnb.com/view/article/5826>, accessed 13 Sept 2011]; 'Bedford Estates', London, MS. 197, in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 236-41.

‘Edmund Dudley and Sir Richard Empson were arrested next morning and rapidly cast as scapegoats for Henry's more unpalatable policies as the battle over the king's reputation commenced’.<sup>172</sup>

This bill was related to fiscal feudalism because the Court of Wards could utilise wardship hunters in order to discover concealed wardships. This is because if they were left unnoticed the crown could lose money. Therefore when wardship hunters discovered these wardships it increased the crown's revenue, not only by finding these concealments but also by discouraging others from defrauding the crown of its rights. However it is worth pointing out that wardship hunters ‘could be something of a mixed blessing to royal finances. Since they were entitled to some kind of consideration for their efforts, the court charged them lower prices than anyone else’. Therefore the crown could lose money as a result.<sup>173</sup>

Two other issues which indirectly related to fiscal feudalism was a bill to better regulate the seeking of hidden royal lands and a patent given to a Sir John Townshend allowing ‘the right to search for concealed Crown lands, and then to “compound” with their occupiers’. As Russell noted, ‘The hunt for concealed Crown lands was a subject of bitter Parliamentary complaint’.<sup>174</sup> It is therefore unsurprising that the bill for concealments was first read on 24 June and reached the committee stage the following day. However it then disappeared.<sup>175</sup> It is unlikely that this was due to opposition from the Lords, despite its ability ‘to restrict the royal power of patronage, from which many of them were beneficiaries’, as it does not appear that the bill ever reached this stage.<sup>176</sup> Meanwhile the patent for seeking out hidden lands and then setting fines, which was given to Townshend and others on 5 July 1623, was raised on 4 July when Charles I, through his Solicitor General Sir Robert Heath who was an MP for East Grinstead in Sussex, responded to grievances

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<sup>172</sup> S. J. Gunn, ‘Henry VII (1457–1509)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/12954>, accessed 13 Sept 2011].

<sup>173</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 97-105.

<sup>174</sup> Russell, *Parliaments and English Politics, 1621-1629*, pp. 66-67; Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, p. 34, n. 9.

<sup>175</sup> ‘Draft Journal’, The Parliamentary Archives, MS. 3409, in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 236-46.

<sup>176</sup> Russell, *Parliaments and English Politics, 1621-1629*, p. 42; Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, p. 635.

which had been made to James I in 1624 but remained unaddressed. Townshend's patent was the third grievance and Charles I stated that it had been brought into parliament, it stayed there and would not be used, that a bill would be allowed to pass if parliament considered it necessary, and would be withdrawn.<sup>177</sup>

Both the bill and the patent regarding concealments can be connected to the way the Court of Wards generated revenue from the crown's feudal rights. This is because of 'the universal desire to escape the clutches of the court' which denied the crown income from its leased land or possibly money from feudal incidents. Meanwhile the holder of the patent, who was allowed to search for concealments, normally received, possibly amongst other things, 'at least half of the annual value of such lands as might be discovered'.<sup>178</sup> Therefore it is possible to see a similarity not only between concealed wardships and lands but also between wardship hunters and individuals who held patents for seeking out hidden tenures.

#### 1626 parliament

The second parliament in the reign of Charles I opened on 6 February and was dissolved on 15 June 1626. Six issues relating to the Court of Wards were raised during this parliament. However only three were actually connected to fiscal feudalism: one directly and two indirectly. The only issue that may have been specifically connected to the financial exploitation of the crown's feudal rights during this parliament was the suggestion of compounding for these feudal rights in return for the abolition of the Court of Wards, which had been raised by John Whistler in 1625. This was first mentioned on 25 April by Sir Nicholas Saunders who was an MP for Winchelsea, one of the Cinque Ports. He spoke in a Committee of the Whole House debating the issue of supply and suggested that a good course for Charles I and for his subjects would be to request the Upper House to help the Commons in asking Charles I to renew the Great Contract, in order to abolish the Court and compound for the lost income.<sup>179</sup> Further debates took place the following

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<sup>177</sup> This is a combination of two accounts from 'Bedford Estates', London, MS. 197; Inner Temple Library, 'Petyt 538/8', both in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 293-307, n. 49.

<sup>178</sup> W. T. MacCaffrey, 'Place and Patronage in Elizabethan Politics', in S. T. Bindoff, J. Hurstfield, and C. H. Williams, eds. *Elizabethan Government and Society: Essays Presented to Sir John Neale*, (London, 1961), pp. 95-126; pp. 121-22.

<sup>179</sup> 'Diary of Bulstrode Whitelocke', Esq. Cambridge University Library, DD. 12.21, in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 60-62.

day when once again the Commons formed a Committee of the Whole House to discuss supply and subsidies. John Wilde who was an MP for Droitwich in Worcestershire, began by suggesting, amongst other things, to revive the Great Contract for the Court of Wards.<sup>180</sup> Sir John Savile, who was an MP for Yorkshire, renewed this soon afterwards. Savile argued that had the Great Contract been given attention or approved the crown could have obtained £2-3 million and the subjects were prepared to compound for the abolition of the Court.<sup>181</sup> This suggests the possibility that some MPs were attempting to push an agenda for the reform of the crown.<sup>182</sup>

This matter was dropped until it was re-introduced on 4 May in the Commons. Sir James Perrot, who was ‘almost certainly [the parliamentary] member for Camelford’, and ‘was...interested in defending true religion and in reiterating his concern at the writings of Richard Mountague, now a royal chaplain’, called for a motion made earlier on in the day for a committee to look at the finances of the crown. Sir Edward Bysshe who was an MP for Bletchingley in Surrey and possibly ‘a successful lawyer in the court of wards’, followed by asking that the Court be included in considering how to improve the crown’s income which was an important part of the crown’s rights, while also saying that this issue, along with others, should be carefully handled and with Charles I’s permission, and he commented that the Court of Wards, at that moment, provided £47,000 only in total, which was relatively small, but the subjects suffered greatly and that Charles I lost a lot of the income from wardships because when a wardship was paid for it was given to others and the crown lost out as a result. But compounding for the Court would generate a lot more money for the crown and that Charles I should be asked for his permission so that parliament could debate the issue because it could not be considered otherwise.<sup>183</sup> Sir

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<sup>180</sup> ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collect. 143, in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 70-77.

<sup>181</sup> This is a combination of three accounts from ‘Diary of Bulstrode Whitelocke’, Esq. Cambridge University Library, DD. 12.21; ‘Diary of John Lowther’, esq. Cumberland and Westmoreland Record Office, D/LONS/L; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collect. 143, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 70-78.

<sup>182</sup> This idea comes from Dr. J. P. D. Cooper.

<sup>183</sup> A. Thrush, ‘Perrot, Sir James (1571/2–1637)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/21985>, accessed 13 Sept 2011]; P. Sherlock, ‘Bysshe, Sir Edward (c. 1610–1679)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com/view/article/4285>,

Peter Heyman who was an MP for Hythe, another of the Cinque Ports, shortly followed on from this. He suggested creating a petition which included the Court of Wards, although the intended content of the petition is unclear.<sup>184</sup> However after his speech it appears that there was no further mention of the matter in this parliament.

It is worthwhile noting that Savile had originally disagreed with the Great Contract when it was introduced in 1610.<sup>185</sup> This suggests that he had a change of heart about compounding for the feudal rights of the crown, perhaps a result of the increasing financial burden the Court of Wards was placing upon subjects. The net income of the Court in 1613 was £23,208 but by 1626 it had increased to £46,655.<sup>186</sup> However it is important to realise that there may have been other factors which led MPs to openly consider compounding for the crown's feudal rights such as the custodial element of wardship. Nonetheless this parliamentary activity relating to the suggestion of compounding for the Court of Wards is significant because it demonstrates that Bysshe, and possibly others MPs, wanted the Court to be abolished.

The other two issues which indirectly related to fiscal feudalism were the acts against concealments and secret offices. As far as the former is concerned, this was a bill that was considered in the previous parliament which was designed to address flaws in the concealments statute that had become law in 1624.<sup>187</sup> Its first reading took place on 13 February while on 14 February after its second reading Sir George More, who was an MP for Surrey, spoke on the bill against concealments before it

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accessed 12 Jan 2011]; This is a combination of three accounts from 'Journal of the House of Commons'; 'Diary of Bulstrode Whitelocke', Esq. Cambridge University Library, DD. 12.21; 'Diary of Sir Richard Grosvenor', Trinity College, Dublin, MS 611, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 153-59. The £47,000 mentioned by Bysshe was probably the income of the Court of Wards for 1626 because Bell notes that 1626 produced net income of £46,655 in Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93.

<sup>184</sup> 'The Diary of Sir Richard Grosvenor', Trinity College, Dublin, MS 611, in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 153-59.

<sup>185</sup> Russell, *Parliaments and English Politics, 1621-1629*, p. 284.

<sup>186</sup> Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93.

<sup>187</sup> Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, p. 34; Russell, *Parliaments and English Politics, 1621-1629*, p. 67, n. 1 and n. 9.

was committed.<sup>188</sup> More had ‘sought the mastership of the court of wards but was unsuccessful’ in 1612.<sup>189</sup> He argued that should an individual be prosecuted when there is no sufficient basis, then the prosecutor should incur the costs of the individual he had accused. More also stated that the bill was sound and was necessary now more than ever, given that the subjects incurred numerous costs and that despite the 1624 act the hunters for concealments still caused problems for subjects. Sir Nathaniel Rich, who was an MP for Harwich in Essex, then spoke on this issue although it is unclear what he actually said.<sup>190</sup> Then from 21 February to 2 June committee meetings were arranged but the bill never reached its third reading.<sup>191</sup> Again it is unlikely that this was due to opposition from the Lords as it does not appear that the bill ever reached this stage.

Turning to the bill against secret offices, the first reading took place on 13 February. The bill was intended to ensure that when order for an IPM was given, the order in parchment was to be placed at the court where the IPM would be held and recorded in the county clerk’s book and who was to announce its date, time and location two weeks in advance. Also no charges were to be levied for this apart from the county clerk, and a punishment would be set for removing the order at the court. The bill’s second reading occurred the following day.<sup>192</sup> After this three MPs spoke on the bill. Sir Thomas Fanshawe who was an MP for Lancaster, Thomas Malet who was an MP for Newtown on the Isle of Wight, Hampshire, and Sir Edward Bysshe, Fanshawe suggested that the relevant individuals should be informed in person or be

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<sup>188</sup> ‘Journal of the House of Commons’; ‘Diary of Bulstrode Whitelocke’, Esq. Cambridge University Library, DD. 12.20; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collection. 143, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 24-38.

<sup>189</sup> L. A. Knafla, ‘More, Sir George (1553–1632)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/19177>, accessed 12 Jan 2011].

<sup>190</sup> This is a combination of two accounts from ‘Diary of Bulstrode Whitelocke’, Esq. Cambridge University Library, DD. 12.20; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collect. 143, both in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 30-38. The account of the speech by More in Rich’s diary finished with an incomplete sentence concerning officers.

<sup>191</sup> ‘Journal of the House of Commons’ in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 80-307. ‘Journal of the House of Commons’; ‘Diary of Sir Richard Grosvenor’, Trinity College, Dublin, MS 611, both in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 12-345.

<sup>192</sup> ‘Journal of the House of Commons’; ‘Diary of Bulstrode Whitelocke’, Esq. Cambridge University Library, DD. 12.20; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collection. 143, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 24-39.



notified at their homes by a written message.<sup>193</sup> Malet suggested that notice should be left at the front door of the parish church, two weeks in advance, in the area where the lands or goods were to be investigated by IPM, as well as where the relevant persons lived.<sup>194</sup> The final speech was by Bysshe. He argued that the bill did not solve the problem because the fine of £40 was disproportionate to the much larger cost of £200 to overturn the IPM and suggested a larger fine when no notification was provided. Bysshe also suggested that IPMs agreed by relevant persons in advance should be open to challenge through writing between the individuals concerned rather than the subject pursuing legal action which cost money.<sup>195</sup> It was at this point that the bill was then committed by the Commons.<sup>196</sup> As ‘those in search of wardships held these Inquisitions secretly, without giving notice to other interested parties, and put their rivals to considerable legal expense if they wished to challenge the findings’ it is possible that this matter related to the larger issue of fiscal feudalism and the crown’s feudal rights.<sup>197</sup>

The next development after the arrangement of committee meetings was a report by the committee which was made by Malet on 21 February. The contents of the report is unknown. There was a vote to recommit the bill which passed with another MP joining the committee.<sup>198</sup> After further planned committee meetings the bill against secret offices was again reported to the Commons on 1 May and the

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<sup>193</sup> This is a combination of two accounts from ‘Journal of the House of Commons’; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collect. 143, both in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 30-39.

<sup>194</sup> This is a combination of three accounts from ‘Journal of the House of Commons’; ‘Diary of Bulstrode Whitelocke’, Esq. Cambridge University Library, DD. 12.20; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collect. 143, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 30-39.

<sup>195</sup> This is a combination of two accounts from ‘Journal of the House of Commons’; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collect. 143, both in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 30-39. Part of Bysshe’s speech in the Diary of Sir Nathaniel Rich is unclear.

<sup>196</sup> ‘Journal of the House of Commons’; ‘Diary of Bulstrode Whitelocke’, Esq. Cambridge University Library, DD. 12.20; ‘Diary of Sir Nathaniel Rich’, The Parliamentary Archives, Hist. Collect. 143, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 30-39.

<sup>197</sup> Based on advice from Dr. J. P. D. Cooper.

<sup>198</sup> ‘Journal of the House of Commons’; ‘Diary of Bulstrode Whitelocke’, Esq. Cambridge University Library, DD. 12.20, both in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 58-82.

decision was made for the act to be engrossed.<sup>199</sup> However there is no indication that the bill was passed by MPs or that it was transferred to the Lords.<sup>200</sup> Therefore it is likely that this ‘bill must be presumed to have failed from simple lack of time, since it had originally been sponsored by the crown, and is unlikely to have been seriously opposed’. It was parliament’s focus on the person of George, Duke of Buckingham that ultimately led to this bill failing to pass into law.<sup>201</sup>

### 1628 parliament

The parliament of 1628 consisted of two sessions. The first session began on 17 March and ended on 26 June 1628. The second session started on 20 January 1629 but parliament was later dissolved on 10 March 1629.<sup>202</sup> Three matters were raised about the Court of Wards which related to fiscal feudalism. Two were directly related to fiscal feudalism but the connection of the third was more indirect.<sup>203</sup> These issues concerned the subject possibly compounding for the Court of Wards in return for its abolition, while another bill related to concealments and there was the matter of homage as well. These first two matters will be focused on here as they represent continuity from the previous parliaments.

The first issue which directly related to the exploitation of the crown’s feudal rights for monetary gain, significantly, concerned the possible suggestion from MPs of entering into a composition with the crown to remove the Court of Wards. This was put forward by two MPs on 21 June during a debate about ‘the sitting of the House...the heads of the pardon’ and sending ‘a message to the king’. William Coryton, who was an MP for Cornwall and ‘a leading member of the [Earl of] Pembroke interest’ was the first to raise this issue. ‘In the elections of 1628 Coryton traded on local factionalism and his fame as a loan refuser. Released from prison, in the Commons he again attacked Buckingham and supported due process legislation

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<sup>199</sup> ‘Journal of the House of Commons’ in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 270-436. ‘Journal of the House of Commons’; ‘Diary of Sir Richard Grosvenor’, Trinity College, Dublin, MS 611, both in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 105-110.

<sup>200</sup> Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 4, p. 103.

<sup>201</sup> Russell, *Parliaments and English Politics, 1621-1629*, pp. 43-44.

<sup>202</sup> The second session of the 1628-29 parliament has not been examined as a search of the General Index resulted in none of the keywords producing information on issues relating to the Court of Wards. This suggests that no matters relating to the Court were raised during this parliamentary session.

<sup>203</sup> There were seven issues in total but only three related to fiscal feudalism.

(eventually the petition of right), [while] becoming distrustful and confrontational towards the king'.<sup>204</sup> He possibly suggested that the Court of Wards should be considered in addition to the crown's revenue.<sup>205</sup> Shortly afterwards Sir Edward Coke, now an MP for Buckinghamshire, spoke and included the Court in his speech as well. Coke may have supported Coryton's earlier suggestion by proposing that the Court of Wards should be examined within the broader context of the revenues of the crown.<sup>206</sup> However the most interesting and detailed speech came from Sir Miles Fleetwood. Fleetwood was receiver-general of the Court and an MP for Woodstock in Oxfordshire. He argued that as far as the Court of Wards was concerned, should parliament reconvene and Charles I give permission to discuss the Court, recusant lands as well as forests/chases, then these which did not provide above £3000-£150,000 a year, the king would receive a stable income of £200,000-£300,000 a year minimum. Fleetwood also stated that royal pensions did not cause a problem because of the current policy of not paying them and that he would provide the particulars when parliament considered it necessary although he thought it would be better to consider it during the winter.<sup>207</sup>

These speeches possibly show how prominent the financial charges the Court of Wards imposed were in the minds of some MPs when the Commons turned to royal finance. Admittedly the speeches by Coryton and Coke are ambiguous but did possibly relate to the idea of reviving the Great Contract of 1610. This may have

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<sup>204</sup> L. J. Reeve, 'Coryton, William (1580–1651)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/6365>, accessed 13 Sept 2011]; Johnson, and others, eds. *Commons Debates, 1628*, 4, p. 401.

<sup>205</sup> 'The Diary of Sir Richard Grosvenor', Trinity College, Dublin, E.5.36, in Johnson, and others, eds. *Commons Debates, 1628*, 4, pp. 401–413.

<sup>206</sup> 'The Diary of Sir John Lowther', Cumberland and Westmoreland Record Office, in Johnson, and others, eds. *Commons Debates, 1628*, 4, pp. 401–420.

<sup>207</sup> This is a combination of six accounts from 'Anonymous Notes of Proceedings in the House of Commons', 21 June 1628, Bristol Record Office, Bristol, 36074 (117)a in Johnson, and others, eds. *Commons Debates, 1628*, 4, p. 102. 'Proceedings and Debates'; British Library, 'Stowe MS. 366'; 'Diary of Sir Richard Grosvenor', Trinity College, Dublin, E.5.36; 'Diary of John Newdegate', Esq. Warwick County Record Office, CR 136/A.1; 'Diary of Sir John Lowther', Cumberland and Westmoreland Record Office, all in Johnson, and others, eds. *Commons Debates, 1628*, 4, pp. 401–420. 'Proceedings and Debates' records Fleetwood mentioning pensions which may have been in response to Coke's speech which included references to pensions. 'Diary of John Newdegate' and 'Anonymous Notes of Proceedings in the House of Commons' possibly suggest that Fleetwood was talking of compounding for the Court of Wards, the lands of recusants and forests/chases. 'Anonymous Notes of Proceedings in the House of Commons' also mentions the Exchequer as well which may be related to the Exchequer's responsibility for the lands of recusants as well as forests/chases.

seemed preferable to those who held lands with feudal tenures and consequently experienced fines set by the Court because it could have led to a reduction in their financial burden. However the motivation behind Fleetwood's speech is possibly very different. As Fleetwood was an officer in the Court of Wards and held a financially valuable position, it is unlikely that he would have been advocating the abolition of the Court in return for parliamentary composition.<sup>208</sup> It is more likely that Fleetwood was trying to prevent suggestions for the renewal of the Great Contract gaining ground in the Commons. Therefore Fleetwood's behaviour should probably be seen as a parliamentary manoeuvre designed to dissuade parliament and the crown from re-opening negotiations over the Great Contract.

The second issue in this parliamentary session which was indirectly connected to fiscal feudalism was the recurring bill relating to concealments. This bill which was raised in the parliaments of 1625 and 1626, was once more mentioned on 7 April 1628.<sup>209</sup> The Commons moved that Richard Taylor, who was an MP for Bedford, should bring in the act against concealments which was in his possession.<sup>210</sup> Taylor was part of the committee which examined the bill in the previous parliament.<sup>211</sup> However there is no evidence that this bill ever received a first reading, never mind reach the committee stage.<sup>212</sup> This therefore suggests that it may 'have failed from simple lack of time'.

### Short Parliament

The Short Parliament of 1640 opened on 13 April and was dissolved soon after on 5 May. Only one issue was raised about the Court of Wards during this brief parliament and this was directly related to fiscal feudalism.<sup>213</sup> This issue concerned the conduct of the feodaries and escheators. It was raised by Sir William Lytton on 18 April who was an MP for Hertfordshire. Lytton was also a relative of

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<sup>208</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 38.

<sup>209</sup> Russell, *Parliaments and English Politics, 1621-1629*, p. 67, n. 1.

<sup>210</sup> 'Journal of the House of Commons', in Johnson, and others, eds. *Commons Debates, 1628*, 2, pp. 321-24.

<sup>211</sup> Johnson, and others, eds. *Commons Debates, 1628*, 2, p. 324, n. 6.

<sup>212</sup> Johnson, and others, eds. *Commons Debates, 1628*, 6, pp. 4-9.

<sup>213</sup> There were two issues in total but only one related to fiscal feudalism.

Fleetwood.<sup>214</sup> He presented a petition from Hertfordshire which complained of the behaviour of feodaries and escheators, amongst other things. It claimed that these officials were engaging in corrupt practices by dishonestly claiming feudal tenures for the king when no such tenures existed and which was done to obtain large amounts of money from the social orders below the gentry, while the officials kept the money for themselves.<sup>215</sup> There are no further records relating to this petition which suggests that either parliament never dealt with the petition because of its short existence, or that the records fail to mention what subsequently took place.

Regardless of the reasons why there is no further record of this petition, it still possibly represents a good example of the concern that the fiscal feudalism of the Court of Wards could create in the minds of subjects. It is likely that because ‘the Court was committed to a policy of maximum productivity’ which was achieved by heavily monetising the feudal rights of the crown, it created a culture where officials felt comfortable engaging in financial corruption.<sup>216</sup> Admittedly the abuses claimed within the petition may not have stemmed from the way the Court of Wards sought profit from the crown’s feudal tenures. Nonetheless the culture this may have created means that it is plausible to consider fiscal feudalism as being behind the kind of corruption which the feodaries and escheators of Hertfordshire were accused of committing.

### Long Parliament

The Long Parliament began on 3 November 1640, and after an adjournment from 9 September to 20 October 1641, continued to sit until 6 December 1648 when the Rump Parliament began. ‘The most remarkable feature of the opening months of the Parliament was the almost unanimous hostility evinced towards the policies and personnel identified with Charles I’s Personal Rule’ while ‘Parliament’s first few days saw a sequence of speeches denouncing recent royal policies and presenting manifold grievances ranging from non-parliamentary taxation to innovations in the

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<sup>214</sup> M. F. Keeler, *The Long Parliament, 1640-41: A Biographical Study of its Members* (Philadelphia, PA, 1954), p. 263.

<sup>215</sup> This is a combination of two accounts: from ‘To Ye *Right* Honourable Ye House Of Commons Now Shortly To Be Assembled In Parliament. The Humble Petition Of Ye Freeholders And Freemen Of Ye County And Burrough Townes Of Hartfordshire’, British Library, Harl. MS. 4931, in Cope, Coates, eds. *Proceedings of the Short Parliament of 1640*, pp. 277-78; Maltby, ed. *The Short Parliament (1640) Diary of Sir Thomas Aston*, pp. 11-12.

<sup>216</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50 and based on Table A: ‘Nett Income In Selected Years’, pp. 192-93.

Church'.<sup>217</sup> Two issues were raised by parliamentarians in the opening session of the Long Parliament relating to the Court of Wards, and one was directly, and the other indirectly, connected to the crown's exploitation of its feudal rights for financial gain. The first issue began on 16 February 1641 where, as already mentioned, after multiple complaints about official charges and large fines occurring in the Court a committee was created with a comprehensive remit to investigate all issues concerning the Court of Wards, particularly the alleged inappropriate administration of this institution, its authority, and the behaviour of its central and local officials. The petition of Madox was also to be examined as well as any other relevant petition presented to the committee. All who attended could speak and the committee was given the ability to order the appearance of all persons, information and other things it deemed necessary.

The second issue focused on the relationship between the Court of Wards and Catholicism. This was raised on 15 May when Sir Henry Mildmay, who was an MP for Maldon in Essex and Master of the Jewel House, possibly spoke in the Lower House. Mildmay may have suggested that a recusant should not be allowed to care for a minor in wardship, with a particular reference to William Lord Petre who was cared for by Edward Lord Herbert, while adding that the off-spring of recusants should be brought up as Protestants and that these issues may be examined by parliament. The Commons then decided these matters should act as the focus for a conference. These issues were then sent to the Committee for Convicted Recusants of which both Mildmay and Sir Simonds D'Ewes were members. The Committee was intended to question specific recusants and then prepare the focus for the conference.<sup>218</sup>

This issue was next aired on 22 June. Lawrence Whitaker, who was an MP for Okehampton, reported from the Committee for Convicted Recusants. Whitaker worked 'with Sir Richard Wynn and others in 1635 in a report on the functioning of the Court of Wards'.<sup>219</sup> His report was on recusants who were minors. It was stated

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<sup>217</sup> Smith, *The Stuart Parliaments, 1603-1689*, p. 123.

<sup>218</sup> This is a combination of two accounts from 'Journal of the House of Commons'; 'Journal of Sir Simonds D'Ewes', British Library, Harl. 163. both in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 4, pp. 386-97.

<sup>219</sup> Keeler, *The Long Parliament, 1640-41: A Biographical Study of its Members*, p. 389. The report has not been found.

that the wardship of Petre, the heir of Robert Lord Petre, had been allowed to go to Spencer Earl of Northampton with a price of £10,000 but an order was made for Petre to be sent to Herbert, a recusant, which was illegal. Consequently it was requested that Robert Earl of Warwick be the guardian of Petre. Furthermore the heir of a John Reresby had been allowed to go to a recusant for 1000 marks, while a Sir William Beaumont also had a recusant ward. Indeed there were also approximately twenty other wardships which had been granted to recusants and which had taken place both before and during Cottington's mastership. It was also requested that William Viscount Saye and Sele, the new master of the Court, place these heirs in the hands of Protestants. Then the Committee judged that a meeting with the Upper House be arranged.<sup>220</sup>

There was a parliamentary discussion about the issue of whether or not minors in wardship, whose parents were recusants, should be placed with Protestants. This was voted on and it was decided all recusant children who were cared for by recusants should be removed and placed with Protestants and which should be continued in the future. Furthermore a meeting with the Upper House was to be arranged to ask the Upper House to combine with the Commons to go to the king and ask him to withdraw all children in the hands of recusants and place them with Protestants instead as the law required, alternatively, to state that minors in wardship must not be brought up by recusants.<sup>221</sup> Mildmay then stated that in the eighteenth year of the reign of James I a similar policy was pursued in relation to the wardship of Sir William Widdrington, who was removed from Roger Widdrington because of the latter's recusancy and was placed with a Protestant instead.<sup>222</sup> Mildmay probably intended to cement the resolve of the Commons by citing this

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<sup>220</sup> This is a combination of four accounts from 'Journal of the House of Commons'; 'Diary of Sir John Holland', Bodleian Library, Rawl. D.1099; 'Diary of John Moore', British Library, Harl. 478; 'Anonymous Diary', British Library, Harl. 5047, all in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 5, pp. 267-86.

<sup>221</sup> This is a combination of four accounts from 'Journal of the House of Commons'; 'Diary of Sir John Holland', Bodleian Library, Rawl. D.1099; 'Diary of John Moore', British Library, Harl. 478; 'Anonymous Diary', British Library, Harl. 5047, all in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 5, pp. 267-86.

<sup>222</sup> 'Anonymous Diary', British Library, Harl. 5047 in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 5, pp. 267-86.

precedent in order to encourage them to act.<sup>223</sup> Possibly as a result of this it was decided that at the meeting, or an/the additional meeting, with the Upper House, the members of the Upper House would be asked to combine with the Commons to ask the king that Petre, who was a ward of the crown, be placed in the guardianship of Warwick.<sup>224</sup>

This matter was left until 6 August. First Mary Lady Petre, the widow of Robert Lord Petre, petitioned parliament asking that her son be sent to the custody of Warwick.<sup>225</sup> This was soon followed by Whitaker, who again reported from the Committee for Convicted Recusants, which included D'Ewes as a member, stating that the Commons had previously decided that Warwick should become the guardian of Petre and there was now a petition from Mary Lady Petre, requesting the same thing by asking that the custody of her son be given to Warwick.<sup>226</sup> After an interruption Whitaker continued his report regarding Petre, requesting the Commons to instruct the Committee for Convicted Recusants to create a framework for a meeting with the Upper House so as to ask the Upper House to combine with the Commons to request the king that Petre's wardship be handed over to Warwick.<sup>227</sup>

However Oliver St. John who was the Solicitor General argued, along with other MPs, that the custody of Petre's estate was given to Herbert, whose father was Henry Earl of Worcester, but the custody of Petre himself was in the hands of Northampton which was where Petre currently resided and that Northampton was also a Protestant. But other MPs replied to this by arguing that Northampton was not

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<sup>223</sup> Based on J. T. Peacey, 'Mildmay, Henry (c.1594–1664/5?)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com/view/article/18695>, accessed 21 Jan 2011].

<sup>224</sup> This is a combination of four accounts from 'Journal of the House of Commons'; 'Diary of Sir John Holland', Bodleian Library, Rawl. D.1099; 'Diary of John Moore', British Library, Harl. 478; 'Anonymous Diary', British Library, Harl. 5047, all in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 5, pp. 267-86.

<sup>225</sup> This is a combination of three accounts from 'Journal of the House of Commons'; 'Journal of Sir Simonds D'Ewes', British Library, Harl. 163; 'Anonymous Diary', British Library, Harl. 5047, all in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 6, pp. 222-50.

<sup>226</sup> 'Journal of Sir Simonds D'Ewes', British Library, Harl. 163, in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 6, pp. 222-38.

<sup>227</sup> 'Journal of Sir Simonds D'Ewes', British Library, Harl. 163, in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 6, pp. 222-39.



the real guardian.<sup>228</sup> The Commons then decided that the Committee for Convicted Recusants draw up a framework for a meeting to be requested with the Upper House regarding changing the committee for the wardship of Petre to Warwick. It was also suggested that the Committee would have the ability to request individuals and documents in order to completely examine the matter, especially if Petre had been raised a Catholic and who had done this, while the Committee could extend this remit to other similar wardships.<sup>229</sup> It was then decided that a Mr Pelham, who was possibly an MP for Grantham and who may also have ‘supported the Long Parliament's attack upon the ecclesiastical policies of Archbishop William Laud’, and who may also have been on the committee investigating the Court of Wards, would be included in the Committee for Convicted Recusants, which was presumably to provide a committee link between the issues of recusancy and wardship.<sup>230</sup> However after this date there is no record of the matter being taken any further before the adjournment of parliament on 9 September 1641.

The creation of a committee to investigate the Court of Wards and the connection between Catholicism and the Court, to a degree, shows how the increasing emphasis being placed on fiscal feudalism by the Caroline Court of Wards created discontent amongst members of parliament. It also illustrated how the monetised nature of the crown's feudal rights could be associated with the perceived dangers of Catholicism.<sup>231</sup> It is possible to argue that the Committee for Convicted Recusants had established a connection between the fines that had been set for the wardships of Petre and Reresby, which were £10,000 and 1000 marks respectively, and the grants of the custody of these heirs. If this is correct then it suggests that the Committee may have been heading towards the conclusion that the Court was prepared to allow Catholic committees to purchase wardships as long as they were

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<sup>228</sup> ‘Journal of Sir Simonds D’Ewes’, British Library, Harl. 163, in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 6, pp. 222-40.

<sup>229</sup> This is a combination of two accounts from ‘Journal of the House of Commons’; ‘Journal of Sir Simonds D’Ewes’, British Library, Harl. 163, both in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 6, pp. 222-40.

<sup>230</sup> D. Scott, ‘Pelham, Henry (*bap.* 1597, *d.* in or after 1660)’, *Oxford Dictionary of National Biography*, Oxford University Press, May 2006; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/92986>, accessed 13 Sept 2011]; ‘Journal of the House of Commons’, in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 6, pp. 222-31.

<sup>231</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50 and based on Table A: ‘Nett Income In Selected Years’, pp. 192-93.

willing and able to pay large fines for them. This could then call into question the legitimacy of the Court of Wards utilising the crown's feudal rights for financial gain if it was prepared to possibly subvert a law which was designed to protect Protestantism in order to generate revenue for the crown.<sup>232</sup> Therefore for possibly the first time in the Caroline parliaments, parliament may have connected the unpopular policy of fiscal feudalism with its fear of Catholicism, which, in turn, may have increased the potency of both these issues.

This section has examined parliamentary business directly relating to the Court of Wards which were connected to fiscal feudalism. Fourteen issues were raised about the way the Court exploited the crown's feudal rights for financial gain. It is possible to argue that a large minority of these issues directly related to fiscal feudalism but the majority were of a more indirect nature because almost all of these latter issues were linked to the way the Court of Wards pursued fiscal feudalism. This can be seen in the concerns that were expressed about secret offices and concealments.

These issues were rooted within the traditional view of fiscal feudalism as defined at the beginning of this section and almost all can be tied either explicitly or implicitly to concerns over the expenses the subjects incurred as a result of fiscal feudalism. Indeed the majority of issues were recurring matters relating to fiscal feudalism. For example the issue of concealments was brought up by parliamentarians in the parliaments of 1625-28 while the matter of secret offices was also given attention in the first two parliaments of Charles I's reign. This suggests that these recurring issues relating to fiscal feudalism were of genuine concern to parliament. However three parliaments in four years could also have 'allowed a continuity of opposition to develop without there being sufficient time for anxieties to calm down between sessions'.<sup>233</sup> This would also help to explain why issues such as concealments and secret offices were raised in the first three Caroline parliaments.

This argument about the 'continuity of opposition' can be enhanced by comparing the issues raised in these three Caroline parliaments to those articulated in the Short Parliament and the first session of the Long Parliament. Possibly

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<sup>232</sup> 'Under a statute of 1606 no ward of the Crown could be granted to a convicted recusant; in the case of Catholic families, the nearest Protestant relative was to have the custody and be responsible for the education of the ward'. Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, pp. 184-85.

<sup>233</sup> Smith, *The Stuart Parliaments, 1603-1689*, p. 119.

compounding for the crown's feudal rights in return for the abolition of the Court of Wards, as well as concealments, secret offices, the Instructions of 1622 and homage were all issues connected to fiscal feudalism which were raised in the Caroline parliaments during the 1620s. However in the Short Parliament, and the first session of the Long Parliament, the issues that were raised about the way the Court exploited the crown's feudal rights for financial gain changed. Now these issues concerned the conduct of the feodaries and escheators, the official charges and large fines occurring in the Court of Wards, as well as the link that was potentially made between fiscal feudalism and the possible subversion of a law which was designed to protect Protestantism. It is possible to see these changes as partly resulting from the break in the meeting of parliaments which allowed the 'continuity of opposition' to break down as well as the vastly greater profits the Court was generating for the crown in the later 1630s.

### **Continuity and Change during the Masterships of Sir Robert**

#### **Naunton and Francis Baron Cottington**

The historiography relating to the masterships of Naunton and Cottington has already been discussed in the introduction. Naunton's mastership began on 2 October 1624 and ended on 8 March 1635. Cottington then took over the mastership on 25 March 1635 until 13 May 1641. This section will consider the extent to which the master was involved in parliamentary business. This is important because, as we have noted, the master was the most powerful official within the Court of Wards and as a result could become a lightning rod for criticism of this institution. Therefore the degree to which the master was involved in parliamentary matters can act as an additional indicator of how parliament viewed the Court. Naunton's mastership encompassed the parliaments of 1625, 1626 and 1628 while the mastership of Cottington covered the Short Parliament of 1640 and the majority of the first session of the Long Parliament. Therefore this section will maintain the chronological structure observed earlier on in this chapter by first considering Naunton's level of involvement in the first three Caroline parliaments before comparing this with Cottington's participation in the latter two parliaments of the early 1640s.

## Sir Robert Naunton

Naunton's involvement in the parliament of 1625 was at best low key. He was only appointed to two committees and made just one speech.<sup>234</sup> Schreiber argues that part 'of the reason for his failure was undoubtedly the surrounding circumstances, but part was also his apparent reluctance to speak...the plague was raging in London, and many of the MPs were nervous about contagion. To complicate matters further they became diverted onto the question of Arminianism. An issue of this sort held no attractions for Naunton, perhaps because he knew Charles's feelings on the subject better than most MPs'. However this does not satisfactorily explain Naunton's reticence because debates about Arminianism did not dominate the first sitting.<sup>235</sup> Also 'the issue of supply was raised in a thin House still fearful of the plague' by Sir John Coke who was Master of Requests and 'a firm anti-Catholic protestant'.<sup>236</sup> Therefore a further explanation is needed and it is not difficult to locate it in Naunton's position as master of the Court of Wards. It is important to remember the impeachment of Cranfield, who was amongst other things, master of the Court, and he was accused 'of corruption in misusing the stamp of the court of wards and in accepting bribes'.<sup>237</sup> This event which was probably still fresh in Naunton's mind, along with a number of issues being raised about the management of the crown's feudal rights during the parliament, can provide additional explanations for Naunton's unwillingness to participate more in parliamentary proceedings.<sup>238</sup> It can be suggested that Naunton's level of involvement in this parliament was governed, in part, by the unpopularity of his administration of the Court.

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<sup>234</sup> 'Draft Journal', The Parliamentary Archives, MS. 3409, in Jansson, Bidwell, ed. *Proceedings in Parliament, 1625*, pp. 244-45. 'Draft Journal', The Parliamentary Archives, MS. 3409, in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 267-68. 'Journal of the House of Commons' in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 440-43. 'Bedford Estates', London, MS. 197, in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 440-48. 'Negotium Posterorum', in Jansson, Bidwell, eds. *Proceedings in Parliament, 1625*, pp. 555-56.

<sup>235</sup> Based on Smith, *The Stuart Parliaments, 1603-1689*, p. 114.

<sup>236</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 116; M. B. Young, 'Coke, Sir John (1563-1644)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/5828>, accessed 8 Aug 2011].

<sup>237</sup> Sharp, *The Coming of the Civil War, 1603-49*, p. 43; M. J. Braddick, 'Cranfield, Lionel, first earl of Middlesex (1575-1645)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Oct 2006 [<http://www.oxforddnb.com/view/article/6609>, accessed 19 Aug 2011].

<sup>238</sup> Based on Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 99-100.

However Naunton's parliamentary profile was overall significantly greater in the parliament of 1626. Naunton sat on seven committees and was used as a communicator in one form or another on four separate days.<sup>239</sup> Superficially this may appear unusual because of both Cadiz and the impeachment of his patron, Buckingham. Naunton was 'in a completely untenable position' and he 'was left with nowhere to turn. His loyalty to his patron and royal master in the Commons would have meant betrayal of the interests of those who elected him. The opposite course would have cut him off from all hope of royal favour'. Furthermore Naunton would also have been aware of the issues being raised about the Court of Wards, which would have only further complicated the situation for him. However it was Naunton's 'position as county member and the connection with the country party' that may have led him to play a relatively active role in both committees and communication.<sup>240</sup> Consequently it is in this context that Naunton's parliamentary activity should possibly be viewed.

However by the time the parliament of 1628-29 began Naunton was not present. As Schreiber has said he 'may have been afraid he could not hold his county seat and did not want the humiliation either of being turned out or of reappearing for a borough'. Furthermore the king may have lacked confidence in Naunton's abilities within parliament and he 'was probably not unaware of how his Master of the Court of Wards gained election to the previous parliament, and this action raised questions about where his ultimate loyalties lay'.<sup>241</sup> Indeed the issues that were raised which related to the Court in the previous two parliaments of 1625 and 1626 may have played a part as well.

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<sup>239</sup> 'Journal of the House of Commons', in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 67-280. 'Journal of the House of Commons', in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 3, pp. 375-92. 'Journal of the House of Lords'; British Library, 'ADD. MS 40,089', both in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 1, pp. 117-124. 'Journal of the House of Commons'; 'Diary of Bulstrode Whitelocke', Esq. Cambridge University Library, DD. 12.20; 'Diary of Sir Nathaniel Rich', The Parliamentary Archives, Hist. Collect. 143, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 212-219. 'Journal of the House of Commons'; 'Diary of Bulstrode Whitelocke', Esq. Cambridge University Library, DD. 12.20; 'Diary of Sir Nathaniel Rich', The Parliamentary Archives, Hist. Collect. 143, all in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 253-63. 'Journal of the House of Commons', in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, pp. 276-81. 'Journal of the House of Commons', in Bidwell, Jansson, eds. *Proceedings in Parliament 1626*, 2, p. 429.

<sup>240</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 118-119. Schreiber may mean 'puritan-leaning gentry' when referring to the 'country party'. See Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 117.

<sup>241</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 119.

### Francis Baron Cottington

Cottington's first parliament as master of the Court of Wards was the Short Parliament of 1640. Despite the limited interest this Short Parliament showed in matters relating to the Court, the parliamentary profile of Cottington is still revealing. Cottington was quite active in this parliament as he delivered one message, answered one question, was appointed to three committees, made five speeches, was involved in two conferences and also made a report on a conference.<sup>242</sup> This activity is particularly marked given that the parliament lasted less than four weeks. Furthermore Cottington was also appointed to two crucial committees: the Committee for Privileges and the Committee for Petitions.<sup>243</sup> Consequently it may at first appear that the Court of Wards was not as unpopular as it was under Naunton because Cottington does not appear to have held back when engaging in parliamentary activities.

Clearly there were differences between Naunton, Cottington and their respective parliaments. First Cottington was sitting in the Lords and since 'the Court of Wards normally took care that a nobleman's estate was kept in the custody of the family or family friends and trustees, peers had far less cause for the fears which beset lesser men lest rapacious guardians during a minority should run down the stocks and cut all the woods'.<sup>244</sup> Also the Upper House was smaller than the Commons which could mean that Cottington's involvement in the business of the Lords was more likely to have been recorded and therefore stand out. Finally there were new issues such as ship money and the Scottish Covenanters which may have focused attention away from the more traditional grievances expressed in former parliaments.<sup>245</sup>

However there is a striking contrast in the scale of Cottington's involvement in parliamentary business during the Short Parliament and the opening session of the Long Parliament. As far as the latter is concerned Cottington continued as master of the Court of Wards throughout the majority of the first session and only resigned his

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<sup>242</sup> The Parliamentary Archives, 'Braye MS. 16'; 'Lee Warner' 1/2(441x1), both in Cope, Willson, eds. *Proceedings of the Short Parliament of 1640*, pp. 58-112.

<sup>243</sup> Smith, *The Stuart Parliaments, 1603-1689*, p. 73.

<sup>244</sup> Stone, *The Crisis of the Aristocracy 1558-1641*, p. 296.

<sup>245</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 146-47.

office as master on 13 May 1641. As already alluded to above, Cottington's profile during the first session was very low key. His only involvement in parliamentary business relates to his position as a witness in the trial of Strafford on 31 March and 7 April 1641.<sup>246</sup> Havran notes that to 'have said more would have been dangerous'. Indeed Cooper states that according to Clarendon, 'the leading reformers hated Cottington because he would make no use of their designs, and also for his two offices of the Exchequer and the Wards. His work in the last-named Court had apparently incensed several rich noblemen and gentry' as well.<sup>247</sup> Therefore it appears that Cottington did not have the security and confidence that he may have possessed in the Short Parliament because of the overall unpopularity of the crown's policies.

This section has examined the level of parliamentary participation of the two masters of the Court of Wards in the parliaments during the period of 1625-41. To begin with it is worthwhile analysing how unpopular the Court was in parliament during Naunton's and Cottington's masterships. The average number of issues raised in each parliament relating to the Court of Wards during Naunton's mastership was six but during Cottington's tenure as master this figure was between two to three.<sup>248</sup> This suggests that Naunton's administration of the Court was more unpopular than Cottington's and challenges the historiography noted in the introduction to this thesis regarding the masterships of Naunton and Cottington. However it is quite possible that the 'continuity of opposition' in the early Caroline parliaments played a part in these apparent differences. This is because the Caroline parliaments during the first half of Naunton's mastership met four times in five years. However the two parliaments that met towards the end of Cottington's tenure as master occurred after an eleven year period without any parliament being summoned. This could have

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<sup>246</sup> 'Diary of John Moore', British Library, Harl. 476; 'Notes by Denzil Holles', British Library, Harl. 6865; 'Journal of the House of Lords'; 'Diary of John Lord Robartes, Baron of Truro', British Library, Harl. 2233, all in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 3, pp. 243-66. 'Journal of Sir Simonds D'Ewes', British Library, Harl. 163; 'Notes of Denzil Holles', British Library, Harl. 6865; 'Anonymous Diary', British Library, ADD. 41,688, all in Jansson, ed. *Proceedings in the Opening Session of the Long Parliament*, 3, pp. 419-441.

<sup>247</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 151; E. Hyde, Earl of Clarendon noted in Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 183. It is unclear to whom Clarendon was referring to when he wrote 'the leading reformers hated Cottington because he would make no use of their designs'.

<sup>248</sup> See footnote 148 for how these parliamentary issues relating to the Court of Wards were obtained.

undermined the ‘continuity of opposition’ on more traditional subjects while the existence of many matters could lead to issues relating to the Court of Wards being pushed to one side. Indeed this is especially true for the Short Parliament because it only met for a handful of weeks. Also the creation of a committee to investigate the Court, after multiple complaints about official charges and large fines occurring in the Court of Wards reinforces this latter argument.

Finally there is the matter of what the parliamentary profiles of Naunton and Cottington can tell historians about the view parliament had of the Court of Wards. The picture is a mixed one. Both Naunton and Cottington sat in two parliaments as master but it was Cottington who was the most active in a single parliament as he delivered one message, answered one question, was appointed to three committees, made five speeches, was involved in two conferences and also made a report on a conference during the Short Parliament. However despite this Naunton was more active overall in the two parliaments in which he sat in comparison to Cottington. This is because the parliaments of 1625 and 1626 did not contain the same level of unhappiness about crown policies that was experienced in the opening session of the Long Parliament. Therefore this may explain why Cottington’s profile during the first session was very low key.

### **Continuity and Change during the Personal Rule**

It is fruitful at this point to remember the chronology of Sharpe’s model of the Personal Rule. Sharpe considered the first period of the Personal Rule to begin on 2 March 1629 and come to an end on 22 July 1637. The second period then started a day later on the 23 July and the second period, as well as the Personal Rule, came to a close on 13 April 1640 with the meeting of the Short Parliament. This section will examine the issues that were raised about the Court of Wards during the first and second periods of the Personal Rule. This is a valuable approach to take, not only in order to understand how parliament viewed the Court, but also to use the views of parliamentarians to assess the popularity of the Court of Wards during the first and second periods of the Personal Rule so that the credibility of Sharpe’s model can be tested. This will be achieved by examining the issues raised about the Court in both the Short Parliament and the opening session of the Long Parliament. However it is not always easy to assess whether an issue relates to the Court of Wards during the first and/or second period of the Personal Rule especially as it is more likely that the



management of the Court during the second period would be better remembered by parliamentarians.<sup>249</sup> Therefore each issue noted will be accompanied with a justification, where necessary, for the chronological designation that each matter has received in this section.

It is unsurprising that as both parliaments met at the end of the Personal Rule it was matters relating to the second period that received more attention from parliamentarians when issues relating to the Court of Wards were raised. No specific issue regarding the Court was mentioned solely in relation to the first period, but one rather unclear matter that may have applied throughout the Personal Rule was the possible instruction that members of the nobility swear upon oath in the Court of Wards and elsewhere. This was raised on 27 April and 4 May during the Short Parliament within the Committee for Privileges in the Lords. It was claimed that the 1628 roll of parliament stated that the nobility were not to swear other than on their honour. But at the Privy Council, when the king was there, an instruction was made that the nobility were to swear on their oaths in the Court of Wards, the Chancery and the Exchequer.<sup>250</sup> This issue is ambiguous, partly because it is unclear who raised it as well as what further action was taken. It is possible that this matter was raised by Robert Lord Brooke who was a member of the Committee for Privileges but this is far from clear.<sup>251</sup> It is also important to note that because this was probably not a financial issue, it was unlikely to change as a result of the Scottish Covenanter rebellion and therefore was probably consistent throughout the Personal Rule.

There were also two issues that may have applied to both the first and second periods of the Personal Rule, but in contrast to the above, it appears that with these issues a greater emphasis was placed on the latter of these two periods. Furthermore both issues were placed, at least partially, within a fiscal context. As mentioned earlier, on 16 February 1641, after multiple complaints about official charges and

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<sup>249</sup> Based on Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxiv.

<sup>250</sup> This is a combination of two accounts from 'Lord Montagu's Journal', Duke of Buccleuch and Queensberry MSS. Boughton House, Northamptonshire, 13/2, North Colonnade; 'Lee Warner' 1/2(441x1), both in Cope, Willson, eds. *Proceedings of the Short Parliament of 1640*, pp. 104-112. Parts of this record have been left out of the paraphrase due to a high level of uncertainty about what is being said. This is the following: 'but in his own cause rather than loose it to swear *super Sacramentum* and after to Complain'; 'At that time the Lord Brooke say'd openly in the time of *Interregnum*, now in parliament it may be etc'.

<sup>251</sup> The Parliamentary Archives, 'Braye MS. 16', in Cope, Willson, eds. *Proceedings of the Short Parliament of 1640*, p. 59.

large fines occurring in the Court of Wards, a committee was created with a comprehensive remit to investigate all issues concerning the Court, particularly the alleged inappropriate administration of this institution, its authority, and the behaviour of its central and local officials. The petition of Madox was also to be examined as well as any other relevant petition presented to the committee. All who attended could speak and the committee was given the ability to order the appearance of all persons, information and other things deemed necessary. This issue can be more clearly linked with the second period because of the reference to the large fines being imposed. This is because of the large increase in profit the Court of Wards produced for the crown which may have resulted from the possible attention given to crown finances as a result of the Scottish crisis.<sup>252</sup>

The second of these particular issues focused on the relationship between the Court of Wards and Catholicism. This was raised in the Long Parliament. This specific matter created quite a convoluted debate which is covered above and therefore it is not necessary to repeat it again here. Instead we should consider why this issue had particular significance for the second period of the Personal Rule. The reason for the emphasis on this period is because of the references to the case of Petre whose wardship was sold in 1639.<sup>253</sup> The culmination of this convoluted debate was, as noted above, that the Commons decided that the Committee for Convicted Recusants draw up a framework for a meeting to be requested with the Upper House regarding changing the committee for the wardship of Petre to Warwick, that this Committee would have the ability to request individuals and documents in order to completely examine the matter, especially if Petre had been raised a Catholic and who had done this, while the Committee could extend this remit to other similar wardships as well. It was then decided that a Mr Pelham, who may have been on the committee investigating the Court, would also be included in the Committee for Convicted Recusants which was presumably to provide a committee link between the issues of recusancy and wardship. However after this date there is no record of the matter being taken any further before the adjournment of parliament on 9 September 1641.

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<sup>252</sup> Based on Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93. It is important to note that the attention possibly being given to the finances of the crown at this time may simply have been a renewed emphasis rather than a new development in itself.

<sup>253</sup> Hawkins' Wardship Data.

The final issue that can be located with reasonable probability within the first or second period of the Personal Rule is the petition from Hertfordshire which complained of the behaviour of feodaries and escheators, amongst other things. As mentioned before it claimed that these officials were engaging in corrupt practices by dishonestly claiming feudal tenures for the king when no such tenures existed and which was done to obtain large amounts of money from the social orders below the gentry, while the officials kept the money for themselves. This issue can be located within the second period of the Personal Rule because the petition started by mentioning experiences in recent years. Admittedly this is a subjective interpretation and the petition could have encompassed events that had occurred before 1637. Nonetheless it is more likely that it was based on experiences *in recent* years before the Short Parliament.

This section has considered the issues that were raised by parliamentarians about the Court of Wards during the first and second periods of the Personal Rule. This is intended to help understand how parliament viewed the Court and use the views of parliamentarians to assess the popularity of the Court of Wards during the first and second periods of the Personal Rule so that the credibility of Sharpe's model can be tested. It is therefore clear from the analysis above that there were elements of both continuity and change in the way the Court was managed during the Personal Rule. One of the ways continuity is represented was the possible instruction that members of the nobility swear upon oath in the Court of Wards and elsewhere and because this was probably not a financial issue, it was unlikely to change as a result of the Scottish Covenanter rebellion and therefore was probably consistent throughout the Personal Rule. Moreover the creation of a committee to investigate the Court may also have been based on matters that were present throughout the Personal Rule. Indeed this argument can even be applied to parliament's focus on the relationship between the Court of Wards and Catholicism.

However there was also change as well which could occur in subtle ways. For example the creation of a committee to investigate the Court of Wards can be especially linked to the second period because of the reference to the large fines being imposed and this fits with the large increase in profit which the Court produced for the crown at that time, possibly resulting from a focus on the finances of the crown which may have been brought about by the Scottish crisis. Also

parliament's focus on the relationship between the Court of Wards and Catholicism can additionally be linked to the second period because of the references to the case of Petre whose wardship was sold in 1639. Indeed the Court may have been attempting to appease the Catholic minority with the benevolent treatment of a noble Catholic heir because there may have been a possible fear of domestic unrest from what was seen as a potentially subversive religious minority as the crown attempted to deal with the Scottish crisis. Also, the petition from Hertfordshire which complained of the behaviour of feodaries and escheators, amongst other things, can be solely located within the second period of the Personal Rule. This is because the petition started by mentioning the experiences of recent years. Therefore the Court of Wards was a sufficiently consistent issue in the relationship between crown and parliament that it can serve as an indicator for the level of continuity and change during the Personal Rule.

### **Conclusion**

This chapter has examined the parliamentary bills, speeches, petitions and decisions directly relating to parliament's view of the Court of Wards as well as the master's level of involvement in parliamentary proceedings. This has provided important information which helps to enhance understanding of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule. To begin with it is clear that the Court's practice of exploiting the crown's feudal rights for financial gain led to issues, which were connected to this practice, being raised by parliamentarians in every single one of the Caroline parliaments. Unsurprisingly almost all of these issues can be tied to concerns over the expenses the subjects incurred as a result of fiscal feudalism while the recurring matters relating to fiscal feudalism suggests they were of genuine concern to parliament. Furthermore the number of parliaments 'allowed a continuity of opposition to develop without there being sufficient time for anxieties to calm down between sessions', which would help to explain why issues such as concealments and secret offices were raised in the first three Caroline parliaments.

These results directly relate to the historiography surrounding the issue of fiscal feudalism. First they reflect Hurstfield's definition of fiscal feudalism because almost all of the issues raised in parliament can be tied to concerns over the expenses the subjects incurred as a result of fiscal feudalism. Second this also supports

Hurstfield's argument that the '*direct* gain to the sovereign was indeed small, the indirect return was far from negligible'. The 'significance of the feudal revenues in the Tudor period lies not in their direct yield to the state but as a method of payment, albeit indirectly and capriciously, to ministers and civil servants'.<sup>254</sup> But subsequent 'masters were obliged to extract the maximum income from the institution they directed; and it was left, therefore, to Robert Cecil and his successors in the seventeenth century to kill the goose which was laying the golden eggs'.<sup>255</sup> This is because of the very large increase in the profits generated by the Court of Wards in the early seventeenth century which in turn may have led to a rise in the number of issues relating to fiscal feudalism being raised in early seventeenth century parliaments.<sup>256</sup>

This chapter also considers the level of continuity and change during the masterships of Naunton and Cottington. Change may appear to be more dominant in the way the Court of Wards was managed during the masterships of both men. This is because the Court appears to have been less unpopular with parliamentarians when Cottington was master but this may have been a consequence of the long break in the meeting of parliaments which allowed the 'continuity of opposition' to break down. Furthermore the sheer volume of issues that were raised in the opening session of the Long Parliament could lead to issues relating to the Court of Wards being pushed to one side. Therefore this apparent change needs to be contextualised in order to be properly understood.

Change also occurred in relation to the degree that both men participated in parliamentary business. Although Cottington was the more active in a single parliament (the Short Parliament) it was Naunton who was overall more involved in parliamentary affairs. This apparent contradiction may stem from Cottington's position as a member of the Lords while the lower levels of unhappiness about crown policies in the first two Caroline parliaments, in contrast to the opening session of the Long Parliament, may explain why Cottington's profile during the first session of the Long Parliament was very low key and therefore why Naunton was more prominent in parliamentary business overall.

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<sup>254</sup> Hurstfield, 'The Profits of Fiscal Feudalism, 1541-1602', p. 59.

<sup>255</sup> Hurstfield, 'Lord Burghley as Master of the Court of Wards, 1561-98', p. 114.

<sup>256</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 133-49.

The potentially greater unpopularity of the Court of Wards in parliament when Cottington was master has consequences for the historiography relating to both masters. This is because the above analysis appears to confirm the verdicts that historians have provided for the masterships of both men. Schreiber has argued that when Naunton was master of the Court of Wards ‘the officers contrived to stay within the letter and sometimes even the spirit of the law’ and that there was ‘some effort to keep the more blatant misdemeanours in check’.<sup>257</sup> As far as Cottington’s time as master is concerned, Bell noted, amongst other things, how large the profits from the Court were towards the end of the 1630s and Havran argued that Cottington pursued an ‘aggressive administration of the Court of Wards’ while his opponents considered him to be pitiless.<sup>258</sup> Also Aylmer took a poor view of Cottington as he believed that Cottington engaged in the ‘candid exploitation of high office for private gain’.<sup>259</sup> Therefore although the results of the above analysis may appear superficially ambiguous, once they are placed within an appropriate context, they can then be supported by the research of other historians into the Court.

The examination of parliamentary sources to seek the existence of continuity and change during the Personal Rule in order to test Sharpe’s model of this period shows that there was a mixture of both continuity and change. The former is represented by the issue raised in the Short Parliament regarding the possible instruction that members of the nobility swear upon oath in the Court of Wards and elsewhere. Similarly it is possible that most of the reasons for the creation of a committee to investigate the Court, as well as the general connection between Catholicism and the Court of Wards, may have been present throughout the Personal Rule.

However change occurred as well. For example the creation of a committee to investigate the Court of Wards can be especially linked to the second period because of the reference to the large fines being imposed which fits with the large increase in profit which the Court produced for the crown at that time, possibly resulting from a potential focusing of attention on the finances of the crown because of the Scottish crisis. Also parliament’s focus on the relationship between the Court

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<sup>257</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 106.

<sup>258</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50; Havran, *Caroline Courtier: The Life of Lord Cottington*, pp. 135-37.

<sup>259</sup> Aylmer, *The King’s Servants, The Civil Service of Charles I, 1625-42*, p. 349.

of Wards and Catholicism can additionally be linked to the second period because of the references to the case of Petre whose wardship was sold in 1639. Indeed the Court may have been attempting to appease the Catholic minority with the benevolent treatment of a noble Catholic heir because there may have been a possible fear of domestic unrest from what was seen as a potentially subversive religious minority as the crown attempted to deal with the Scottish crisis. Finally the petition from Hertfordshire which complained of the behaviour of feodaries and escheators, amongst other things, can be solely located within the second period of the Personal Rule because the petition started by mentioning experiences of recent years.

These mixed results regarding the issue of continuity and change during the Personal Rule feeds into the historiography of this period. To begin with it shows that the legitimacy of Sharpe's model as a means of understanding the Personal Rule can receive a very qualified vindication even though it is difficult to accurately place issues raised in the Short Parliament and the opening session of the Long Parliament within the first or second period of the Personal Rule. Some of the issues that were raised in parliament about the Court of Wards may have been based on matters that were of particular concern during the second period, possibly as a result of the problems the crown was trying to address in Scotland. Yet the continuity of other issues regarding the possible instruction that members of the nobility swear upon oath in the Court and elsewhere, as well as most of the reasons for the creation of a committee to investigate the Court of Wards and the general connection between Catholicism and the Court, may have been present throughout the Personal Rule. This suggests that the traditional interpretation of the Personal Rule as being 'a time of unpopular...government, never viable in the long term and brought to an end by public opposition', can also be given credit as well. This is because of the unpopularity of the Court of Wards within parliament before the outbreak of the 1637 Scottish Covenanter rebellion, which therefore possibly indicates that it was not necessarily the case the 'rebellion ruined royal policies in England that had been enjoying a reasonable amount of success'.<sup>260</sup> Certainly D. Hirst and E. Cope have argued 'Charles's policies continued to breed considerable anger and distrust, and that just below the calm surface of the personal rule there remained deep currents of

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<sup>260</sup> Hutton, *Debates in Stuart History*, pp. 82-83. The latter quotation is a reflection of Sharpe's argument by Hutton.

tension and fear which were bound sooner or later to re-emerge and disturb the tranquillity of the political scene'.<sup>261</sup> Indeed it may be, as Hughes has argued, that the 'troubles in Scotland wrecked the personal rule in England because of the depth of alienation that existed anyway amongst much of the political elite and elements of the broader populace'.<sup>262</sup>

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<sup>261</sup> C. Durston, *Charles I* (London; New York, 1998), p. 25.

<sup>262</sup> Hughes, *The Causes of the English Civil War*, p. 158.



# Chapter Two: Crown Patronage and the Court of Wards

## Introduction

There are many different ways in which to define patronage: one possible definition however can be that ‘patronage is “a distinct mode of...structuring...the flow of resources, exchange and power relations and their legitimation in society.”’<sup>263</sup> Patronage has a chequered past within the historiography of early seventeenth century England. Whig historians gave attention to politics while patronage was relatively neglected. However revisionism gave greater recognition to patronage while the ‘post-revisionist’ L. L. Peck has appreciated patronage as an issue but has also attempted to consider it within a more contextualised framework.<sup>264</sup>

There is also disagreement about the way crown patronage was managed in late sixteenth and early seventeenth century England.<sup>265</sup> Sharpe has argued that the ‘traditional historical verdict’ of patronage saw the Tudors as wise managers of crown patronage but this discerning administration was discontinued in the early seventeenth century by the early Stuarts who ‘wrecked the patronage system by their waste of royal revenues, their incapacity to choose able men and their dependence upon favourites’. However Sharpe challenged this by suggesting that Elizabeth I was not as wise as was once believed in her administration of patronage, whereas James I actually handled this issue better than previously thought and it was only Buckingham, possibly from 1621 onwards, who upset this management of patronage because he ‘defied the central purposes of patronage: the attachment to the court of

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<sup>263</sup> W. T. MacCaffrey, ‘Patronage and Politics under the Tudors’, in L. L. Peck, ed. *The Mental World of the Jacobean Court* (Cambridge, 1991), 21-35; 277-78; p. 21; S. N. Eisentadt and L. Roniger ‘Patron-Client Relations as a Model of Structuring Social Exchange’, *Comparative Studies in Society and History*, 22, 1 (January, 1980), p. 71 quoted by Peck, “‘For a King Not to be Bountiful Were a Fault’’: Perspectives on Court Patronage in Early Stuart England”, p. 34.

<sup>264</sup> Peck, “‘For a King Not to be Bountiful Were a Fault’’: Perspectives on Court Patronage in Early Stuart England”, p. 32; Peck, *Court Patronage and Corruption in Early Stuart England* (Cambridge, MA, 1990), pp. 2-3; N. Cuddy, ‘Reinventing a Monarchy: The Changing Structure and Political Function of the Stuart Court, 1603-88’, in E. Cruickshanks, ed. *The Stuart Courts* (Stroud, 2000), pp. 59-85; p. 60. This last reference includes references to C. Russell, ‘Parliamentary History in Perspective, 1604-1629’, *History*, 61 (1976); Russell, *Parliaments and English Politics, 1621-1629*; Peck, ed. *The Mental World of the Jacobean Court*, p. 3.

<sup>265</sup> Although it is difficult to separate patronage from other issues such as the royal court and faction, unfortunately consideration of space dictates that a discussion of this broad historiographical field be narrowed considerably.

those of substance in the country and the representation at court of attitudes and policies voiced in the country'. This problem increased under Charles I and the situation only changed with the death of Buckingham in 1628. Thereafter there were no more all-powerful favourites and the royal court became a more diverse environment. This only really changed when Henrietta Maria fell out with France and the Scottish rebellion began in 1637. This led to puritans being pushed away from the royal court and once more crown patronage was possibly again poorly administered.<sup>266</sup>

However this interpretation does not hold sway as the traditional argument still has some support from historians such as Asch and Peck. Asch argued that the 'way in which monopolies were granted is also an example-another would be the sale of peerages-of how the personal relationship between patron and client was transformed into a purely financial one'. Peck believes that in 'the late sixteenth and early seventeenth centuries an important change was occurring...While it is usual for wealth and resources to move downward to the client while prestige moves upwards to the patron, in the late Elizabethan and early Stuart period just the opposite happened', leading to the 'loosening of the bonds between monarch and subjects'.<sup>267</sup> There are other models/interpretations of patronage such as those provided by Asch and R. Cust.<sup>268</sup> Indeed the latter has more recently argued that Charles I 'expected to be fully involved' in the administration of crown favour during the 1630s and that although the 'patronage system remained outdated and in urgent need of reform...it was being operated with reasonable efficiency and without much evidence of the grosser forms of "corruption" apparent in James's reign'.<sup>269</sup>

A good way to view the administration of Caroline crown patronage is through the experiences of nobles both with and without office. Peck recognised the

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<sup>266</sup> K. Sharpe, 'Faction at the Early Stuart Court', *History Today*, 33, 10 (1983), pp. 39-46; pp. 40-46. This reference includes references to M. Smuts, 'The Puritan Followers of Henrietta Maria in the 1630s', *English Historical Review*, 93 (1978), pp. 26-45 and Hyde, Macray, ed. *The History of the Rebellion and Civil Wars in England*, 1.

<sup>267</sup> Asch, 'The Revival of Monopolies: Court and Patronage during the Personal Rule of Charles I, 1629-1640', p. 359; Peck, "'For a King Not to be Bountiful Were a Fault'": Perspectives on Court Patronage in Early Stuart England', p. 35.

<sup>268</sup> Asch, 'The Revival of Monopolies: Court and Patronage during the Personal Rule of Charles I, 1629-1640', pp. 357-92; R. Cust, *The Forced Loan and English Politics 1626-1628* (Oxford, 1987).

<sup>269</sup> R. Cust, *Charles I: A Political Life* (Harlow; New York, 2005), pp. 175-76. This reference includes reference to Peck, *Court Patronage and Corruption in Early Stuart England*, pp. 44-46.

importance of the nobility when she stated that ‘the king’s rewarding of the political elite, especially the nobility, was essential because he thereby reinforced the reciprocal bonds established between the crown and its most important subjects.’ Indeed Cust argued that Charles I believed in the importance of social structure and viewed ‘senior nobles as his natural partners in government’. Peck also noted the importance of office holders whereby ‘court patronage...also rewarded royal officials so as to provide for continuing policy-making and royal administration’.<sup>270</sup> Therefore focusing on how the Court of Wards administered wardship and livery towards the nobility, both with and without office, can provide a useful insight into the world of Caroline patronage.

However it is important to clarify how patronage will be analysed within this chapter. The role of money within the early Stuart patronage system has already been briefly touched upon above and Peck has suggested that its rising prominence was not only because of the financial needs of the crown but also due to the crown’s difficulty in managing patronage when there were large numbers of credible individuals seeking favour. This is not to deny the presence of money in crown favour during earlier times but its part in crown patronage during the reign of the early Stuarts was more prominent. To understand the rising position of money in patronage it is possible to utilise exchange theory as a device for examining and explaining the Caroline patronage system.<sup>271</sup>

There is a belief in exchange theory that there are two parts to patronage: specific and general. The patron-client relationship is based on the patron’s ability and position as well as the client’s desire for ‘access to political and economic resources and therefore establish connections with patrons in exchange for pledges of long-range obligation’. The two parties would commonly determine between themselves what the specific exchange would be while the general exchange would involve the provision of presents to ‘establish conditions of trust, solidarity, and the obligation to uphold one’s commitments’. Therefore by utilising the framework of general exchange within the context of the treatment provided by the Court of Wards towards nobles with and without office, as well as the varying noble titles and the

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<sup>270</sup> Peck, ‘“For a King Not to be Bountiful Were a Fault”’: Perspectives on Court Patronage in Early Stuart England’, pp. 36-37; Cust, *Charles I: A Political Life*, p. 188. This reference includes reference to J. Rushworth, *Historical Collections*, 1 (1659-1701), pp. 1162-65.

<sup>271</sup> Peck, ‘“For a King Not to be Bountiful Were a Fault”’: Perspectives on Court Patronage in Early Stuart England’, pp. 35-41.

type of office held, it is possible through sale to IPM ratios to examine the extent to which the Court continued the policy of James I which ‘aimed at a policy on patronage that resembled gift giving or general exchange, the free dispensation of favo[u]r so as to create bonds of obligation’. Also the framework of general exchange can help historians to understand the issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and in the Personal Rule.<sup>272</sup>

This chapter examines the treatment of the English and Welsh nobility by the Court of Wards through the Court’s management of wardship and livery. However there are a significant number of noble families who have been deliberately excluded from this chapter. Noble families who held Irish or Scottish titles have been left out as this chapter is solely interested in the nobles who were allowed to sit in the House of Lords.<sup>273</sup> Similarly nobles who were named in documents of the Court of Wards as an ancestor or an heir have been left out if the heir of a noble ancestor or an ancestor of a noble heir were either not in possession of a noble title or were not of noble lineage.<sup>274</sup> This is to ensure that only cases of ‘pure’ noble inheritance are examined in this chapter in order to obtain an accurate examination of how the nobility were treated by the Court. Finally noble heirs who received their writ of livery in a previous reign have also been excluded. This is because unlike sales of wardship there appear to be no records noting the dates when Caroline fines for livery were set. Therefore the only way of dating the livery process is through the dates given when the writs of livery were issued by the Court of Wards. This would

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<sup>272</sup> Peck, “‘For a King Not to be Bountiful Were a Fault’: Perspectives on Court Patronage in Early Stuart England”, pp. 33-38. This reference includes reference to M. Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies*, trans. Ian Cunnison (Glencoe, Ill., 1954).

<sup>273</sup> This refers to the following noble titles: Viscount Cholmondeley of Kells and Wiche-Malbank, Viscount Castleton of Sandbeck, Viscount Carlingford, the Earl of Carberry, Viscount Kilmorey, Lord Baltimore, Lord Brereton of Laghlin, Viscount Grandison of Limerick, Viscount Drogheda, Viscount Beaumont of Swords, Lord Sherard of Leitrim and Stapleford, the Earl of Downe, Lord Digby of Geashill, Viscount Molyneux of Maryborough, Viscount Falkland, Viscount Fairfax of Emley, Viscount Strangford and the Earl of Armandale.

<sup>274</sup> This refers to the following noble titles: Lord Dacre of Gilsland and the South, Lord Berkeley, Lord Grey of Warke, Lord Stanhope of Shelford, the Earl of Arundel and Surrey, Lord Cromwell, Lord Deincourt of Sutton, the Countess of Warwick, Lord Hastings, Lord Vere of Tilbury, Lord Roos of Helmsley, the Earl of Holderness and the Countess of Sussex.

normally be after the livery fines were set but could be before or after part/full payment of the livery fine was made.<sup>275</sup>

### **Office Holding**

The crown possibly viewed appointments to office as something which ‘represented the staffing of the public services...But...patronage and public service were inextricably mixed together’, while the nobility viewed certain appointments as ‘an assurance and an outward sign of that regional pre-eminence which was perhaps dearest of all to the English nobleman’s heart’.<sup>276</sup> This means that analysing what effect office holding had on the distribution of crown favour is an important element of any study of crown patronage and this can be achieved through a comparison between nobles with and without office.<sup>277</sup> Out of the thirty-seven noble families who experienced wardship and livery during this period fifteen possessed office while twenty-two were without any official position.<sup>278</sup> This section will first examine the relationship between the Court of Wards and nobles both with and without office before considering the level of continuity and change in this relationship during the masterships of Naunton and Cottington as well as through the Personal Rule.

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<sup>275</sup> This was after consultation with M. J. Hawkins. There are also possible noble families who have been excluded either as a result of document damage (Manchester[?], Jones[?]) or because the manuscript entries make no sense as it has not been possible to match a noble family with the information contained within the Court of Wards entry books (Willoughby, Capell).

<sup>276</sup> MacCaffrey ‘Place and Patronage in Elizabethan Politics’, pp. 100-104.

<sup>277</sup> Based on Peck, ‘“For a King Not to be Bountiful Were a Fault”: Perspectives on Court Patronage in Early Stuart England’, p 37. This reference includes reference to James I, *Basilikon Doron*, in *The Political Works of James I*, with an introduction by C. H. McIlwain (New York, 1965), pp. 25-26, 42, 52.

<sup>278</sup> Ceremonial positions are excluded as they were unique to a specific event. Similarly membership of parliament through the House of Lords and House of Commons are also excluded because nobles could achieve a seat in parliament without crown favour.

**Table 2: Sale to IPM ratios for office holding and non-office holding families.**<sup>279</sup>

Office holding/non-office holding	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio	Overall sale to IPM ratio
O. H.	12667	2	8.31	3453	13	3.45	4.10
N.O.H.	11267	6	25.96	2639	16	1.94	8.49

First of all it is important to note the small sample for office holders who experienced wardship. Such a sample will be taken to 'reflect the development of the Court's policies, but [it is accepted that it] might also be the result of ad hoc negotiations in these particular cases'.<sup>280</sup> It is also important to note the greater revenue that was derived from both wardship and livery when office holders personally experienced these feudal rights, despite there being a smaller number of office holders, while higher overall ratios can also be seen for non-office holding families.<sup>281</sup> This can be explained through the much higher valuations provided for the estates of families who were in possession of office in the IPMs, in comparison to those families who were without office. The average valuation for the former was £380 but for the latter the figure was a much lower £167.<sup>282</sup> Two potential explanations can be offered for this. First, that office holding families were being targeted by the Court because of their official position in order to generate additional

<sup>279</sup> Office holders are identified by 'O.H.' and non-office holders are identified by 'N.O.H.'. Ancestors are classified as holding office if they were in possession of office at their death. Heirs who experienced wardship are classified as holding office if they held an official position at the date their ancestor died. Committees of wards are classified as possessing office if they held office at the date of the wardship sale. Heirs who experienced livery are classified as holding office if they held an official position at the date of their writ of livery. This table is based on the following sources: Hawkins' Wardship Data; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI); Ward Class 9, 'Entry Books of Liveries', Ward 9/75, Ward 9/77, Ward 9/78, Ward 9/79, Ward 9/80, Ward 9/81, Ward 9/82, Ward 9/83 (17 JI-21 CI); Ward Class 9, 'Abstracts of Inquisitions', Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI); Ward Class 9, 'Receiver-General's Accounts', Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431, Series C (22 JI-17 CI); G. E. Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant* (12 vols, London, 1910-59); Sainty, 'Lieutenants of Counties, 1585-1642'. Where data consists of three persons or less then it is considered to represent a small data sample which requires a qualification before arguments are made on the basis of this small sample.

<sup>280</sup> This comes from Professor R. Cust and Dr. M. Jenner.

<sup>281</sup> The one Catholic family which did not possess office (the Petre family) although the committee did has been excluded from this part of the analysis as it is uncertain whether the committee was known at the time the IPM was taken.

<sup>282</sup> This includes both wardship and livery. TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI).

revenue. Second, that due to the greater public profile office holders could possess as a result of holding office, it was easier for the Court of Wards to locate their family's estates. However, as will be demonstrated below, it would appear that the second explanation possesses greater validity.

Overall office holders were treated more favourably than those who did not possess office. However when looking at the figures more carefully it can be seen that there were significant differences in the way that wardship and livery was managed in relation to these two groups. To begin with there was a large difference in the way nobles with office were treated when experiencing wardship because wardship prices were much lower for this group than for nobles without office. This is illustrated by the wardships of Petre and Henry Lord Spencer. The wardship of Petre, son and heir of Robert Lord Petre, was technically granted on 28 February 1639 to Northampton who was Lord Lieutenant of Gloucestershire and Warwickshire as well as Master of the Great Wardrobe. The price was set at £10,000, a ratio of 11.79.<sup>283</sup> The wardship of Spencer, son and heir of William Lord Spencer, was sold for £5000 to Penelope Lady Spencer, a ratio of 34.01.<sup>284</sup> The variation in the wardship ratios for these two groups was possibly a result of the decision of the Court of Wards to bestow favour upon those who were in possession of office in order to 'provide for continuing policy-making and royal administration'.

However the picture for livery is very different. Here the ratio for nobles with office was actually higher than for those who were without office. Examples are the liveries of Charles Lord Stanhope and Theophilus Earl of Lincoln. The livery fine for Stanhope, son and heir of John Lord Stanhope, was set at £63 2s 5d, a ratio of 2.1. Both father and son held positions including Master of the Posts, while the livery fine for Lincoln who was the son and heir of Thomas Earl of Lincoln, neither of whom held any office, cost £362 10s, a ratio of 1.08.<sup>285</sup> This indicates that those

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<sup>283</sup> Hawkins' Wardship Data; Sainty, 'Lieutenants of Counties, 1585-1642', pp. 22-36; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 9, p. 680.

<sup>284</sup> Hawkins' Wardship Data; For the scheme behind the grant of the Petre heir to Northampton see C. Clay 'The Misfortunes of William, Fourth Lord Petre (1638-55)', *Recusant History*, 11 (1971), pp. 87-116 and the following chapter.

<sup>285</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Michaelmas and Hillary Term, 3 Charles I, No. 139; Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 21 James I, No. 6; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273

without office were actually receiving more generous treatment when suing livery. This apparent contradiction in the practice of the Court of Wards may be explained through the internal dynamics of the Court. This concerns the ‘internal rivalry in the Court between the Master of the Wards and the Surveyor of the Liveries’, the latter in this case being Sir Benjamin Rudyer.<sup>286</sup> This could have led the surveyor-general to adopt a different policy from the master when dealing with nobles both with and without office. Also of note is the much smaller difference in the ratios for both groups when suing livery in comparison to the ratios for office holders and non-office holders involved in wardship. This probably reflects the greater elasticity of wardship fines which allowed the Court of Wards to make a far greater differentiation between these groups than was possible when administering livery. Indeed it was the greater flexibility of wardship fines that had a decisive influence on the overall ratios for these two groups.<sup>287</sup>

**Table 3: Sale to IPM ratios for office holding and non-office holding families during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>288</sup>

Office holding/non-office holding and master	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio	Overall sale to IPM ratio
R.N. O.H.	2667	1	4.84	2662	9	2.82	3.02
R.N. N.O.H.	4067	3	6.43	2121	12	2.37	3.18
F.C. O.H.	10000	1	11.79	791	4	4.89	6.27
F.C. N.O.H.	7200	3	45.49	471	3	0.49	22.99

(21 JI-16 CI), ff. 97-165; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/417 (22 JI-5 CI), ff. 154-293; Ward 9, ‘Entry Books of Liveries’, Ward 9/80 (3-9 CI), Index and ff. 153-54; Ward Class 9, ‘Entry Books of Liveries’, Ward 9/77 (18 JI-4 CI), Index and ff. 398-99; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, pp. 240-42

<sup>286</sup> Hawkins, *Sales of Wards in Somerset, 1603-41*, p. xix.

<sup>287</sup> Based on Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 129.

<sup>288</sup> See footnote 279 for the sources used to compile this table. The mastership of Sir Robert Naunton is signified by ‘R.N.’. The mastership of Francis Baron Cottington is signified by ‘F.C.’. It is also worth noting the difference between the above sale to IPM ratios with the ratios for Naunton’s mastership in the county of Somerset. Hawkins argues that the overall ratio in Somerset during Naunton’s mastership was 8.78. Furthermore, if one ‘omits...concealments’, where ‘it is distorted by the small prices...[which were]...exacted from informers who purchased concealed wards’ then the ratio becomes 9.39. However, ‘unfortunately the structure of Hawkins’s work does not allow...[this thesis]...to include the material for Cottington’. See Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xxii-xxiii. The latter quotation comes from Dr. M. Jenner.



First of all it is important to note the small samples for all nobles who experienced wardship as well as for non-office holders who went through livery when Cottington was master. Such samples will be taken to 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. To begin with it is apparent that although both men showed favour to nobles who were in possession of office, nonetheless the Court during Cottington's tenure as master still set higher overall fines on members of the nobility who held office than was seen when Naunton was master. Indeed this occurred with both wardship and livery although the difference between Naunton and Cottington is particularly noticeable in regards to the management of wardship.

This is demonstrated by the wardships of both George Duke of Buckingham and the Petre heir as well as the liveries of Thomas Earl of Southampton and the coheirs of Gilbert Earl of Shrewsbury. During Naunton's time as master the wardship of the son and heir of the former royal favourite, Buckingham, was sold for £2666 13s 4d, a ratio of 4.84. The father held a plethora of offices at his death including Lord Lieutenancies and the position of Lord Warden of the Cinque Ports.<sup>289</sup> The livery of Southampton, son and heir of Henry[?] Earl of Southampton, cost £333 18s, a ratio of 0.58. The father held the post of Captain of the Isle of Wight and the son possibly possessed the position of Warden of the New Forest.<sup>290</sup> However, when Cottington was master the wardship of Petre, as mentioned earlier, was technically brought by Northampton for £10,000, a ratio of 11.79. Northampton held three offices at this time. The livery fine for the coheirs of Shrewsbury was set at £400, a ratio of 6.66. Shrewsbury held the position of Constable and Steward of Newark as well as being Forester of Sherwood. He may also have been Lord Lieutenant of Derby.<sup>291</sup> This information shows that Cottington was attempting to

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<sup>289</sup> Hawkins' Wardship Data; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 2, p. 393; Sainty, 'Lieutenants of Counties, 1585-1642', pp. 12-27.

<sup>290</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Easter and Trinity Term, 1 Charles I, No. 120; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 J1-16 CI), f. 161; Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 137; Ward Class 9, 'Entry Books of Liveries', Ward 9/78 (3-8 CI), Index and ff. 181-82; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, pp. 129-31.

<sup>291</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Michaelmas and Hillary Term, 4 Charles I, No. 180; Ward Class 9, 'Entries of sums paid for Fines and Rates of

generate additional revenue from office holders for the financial gain of the crown. This may have resulted from the belief that this group should pay more because of the prestige that office holding conferred upon individuals. The higher fines that were being set for wardship, as well as the greater difference in the wardship charges compared to livery fines under both masters represents the greater elasticity of wardship income.

However the picture is somewhat different when comparing the treatment of nobles without office by the Court of Wards during the masterships of Naunton and Cottington. Again the overall fines for this group were much higher when Cottington was master but the difference in the overall ratios during Naunton and Cottington's masterships is far greater than previously seen in the management of office holders, while livery fines actually fell during Cottington's tenure. To begin with the difference in the way the two masters administered wardship can be demonstrated by the wardships of Charles Lord De La Warr and Philip Lord Stanhope. When Naunton was master, De La Warr's wardship was sold on 23 October 1629 to his mother Lady Isabell De La Warr and Sir Thomas Edmondes who was grandfather and Treasurer of the king's household. The fine was £200, a ratio of 1.69. But during Cottington's mastership the wardship of Stanhope, son and heir of Henry Lord Stanhope, was sold for £2000, a very high ratio of 100, to his mother Katherine Lady Stanhope.<sup>292</sup> This highlights the greater level of financial exploitation of wardship by the Court when Cottington was in charge compared to the way the Court of Wards was managed under Naunton. It also shows just how vigorous Cottington's mastership was during the second half of the 1630s.<sup>293</sup>

The decline in the size of the livery fines being set by the Court of Wards during Cottington's mastership is surprising, considering the large increase in the fines that were being imposed for wardship. For example during Naunton's tenure as master the livery fine of Henry Earl of Stamford, who was the heir of Henry Lord

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Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 161; Ward Class 9, 'Receiver-General's Accounts', Ward 9/273 (21 JI-16 CI), f. 311[?]; Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), ff. 137-227; Ward Class 9, 'Entry Books of Liveries', Ward 9/81 (8-16 CI), Index and ff. 287-88; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 11, p. 715; Sainty, 'Lieutenants of Counties, 1585-1642', p. 17.

<sup>292</sup> Hawkins' Wardship Data.

<sup>293</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 135.

Grey, was set at £111 10s 6d, a ratio of 1.73, but when Cottington was head of the Court the livery fine of John Lord Lovelace, son and heir of Richard Lord Lovelace, was £103 6s 8d, a ratio of just 0.67.<sup>294</sup> This suggests that the possible Catholicism of Cottington may have offended the ‘godly Protestantism’ of Rudyerd who was ‘vehemently anti-Catholic’, and in contrast to Smith’s argument, this may have led Rudyerd to neglect his duties within the Court of Wards thereby leading to a significant decline in the size of the livery fines being set.<sup>295</sup> This in turn helps to understand the even greater disparity in the overall ratios under Cottington compared to when Naunton was master when dealing with those without office. This was again primarily brought about by the far larger wardship fines that were being imposed during Cottington’s mastership.

**Table 4: Sale to IPM ratios for office holding and non-office holding families during the Personal Rule.**<sup>296</sup>

Office holding/non-office holding and Personal Rule period	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio	Overall sale to IPM ratio
1 O.H.	-	0	-	3052	11	2.70	2.70
1 N.O.H.	11067	5	30.66	1412	8	2.81	13.52
2 O.H.	10000	1	11.79	41	1	1.86	6.82
2 N.O.H.	200	1	2.46	357	1	0.49	1.47

To begin with it is necessary to draw attention to the small samples for office holders and non-office holders who went through wardship and/or livery throughout the second period. These samples will be taken to ‘reflect the development of the Court’s policies, but [it is accepted that they] might also be the result of ad hoc

<sup>294</sup> TNA, London, Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 13 James I, No. 40; Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/329A (10-15 CI), f. 18, No. 239; Ward Class 9, ‘Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates’, Ward 9/273 (21 JI-16 CI), ff. 109-335; Ward Class 9, ‘Entry Books of Liveries’, Ward 9/ 80 (3-9 CI), Index and ff. 52-53; Ward Class 9, ‘Entry Books of Liveries’, Ward 9/ 82 (11-20 CI), Index and ff. 120-22; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/417 (22 JI-5 CI), f. 221; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/430 (12-15 CI), f. 78.

<sup>295</sup> D. L. Smith, ‘Rudyerd, Sir Benjamin (1572–1658)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, May 2009 [http://www.oxforddnb.com/view/article/24256, accessed 22 March 2011]. The issue of religious differences and rivalries within the Court of Wards comes from M. J. Hawkins.

<sup>296</sup> The first period of Personal Rule is signified by ‘1’. The second period of Personal Rule is signified by ‘2’. See footnote 279 for the sources used to compile this table.

negotiations in these particular cases'. The table shows that there is an unfortunate lack of data for nobles who were office holders and involved in wardship during the first period of the Personal Rule. This therefore makes a comparison of the way this group was treated during the Personal Rule impossible. However despite this it is still possible to examine the way the Court of Wards handled nobles who held office through the administration of livery as long as it is remembered that livery may not necessarily be representative of wardship.

To begin with it is apparent that while nobles with office experienced increases in the overall fines they were receiving from the Court of Wards during the second period of the Personal Rule a reverse policy was being pursued towards those who were not in possession of office. Instead there was a large overall decline in the fines that were being set for this group during the second period. Within the first of these two broad trends there is a contradiction during the first and second periods for office holders. This is because while livery fines fell the overall fines that were being set still increased which stems from the lack of wardship data in the first period. For example during the first period the livery fine of Thomas Earl of Arundel and Surrey, who was the heir of Henry Earl of Northampton, was set at £262 8s 7d, a ratio of 2.62. Arundel held a number of offices including being one of the six commissioners of the office of Earl Marshall, while Northampton also held numerous offices including that of Lord Privy Seal.<sup>297</sup> In the second period the coheirs of Edward Viscount Wimbledon were fined £41 8s 4d, a ratio of 1.86. Wimbledon was Keeper and Captain of Portsmouth, shared the Lord Lieutenancy of Surrey and was possibly a Councillor within the Council of War.<sup>298</sup> Therefore although it is not possible to analyse wardship trends for nobles who held office it is clear that livery fines declined during the second period which possibly points to a

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<sup>297</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 18 James I, No. 224; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 201[?]; Ward Class 9, 'Entry Books of Liveries', Ward 9/ 79 (8-17 CI), Index and ff. 31-32; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 1, p. 256 and 9, p. 676.

<sup>298</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, Charles I, No. 244 (due to document damage the year of the IPM is uncertain); Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 399[?]; Ward Class 9, 'Receiver-General's Accounts', Ward 9/431 (15-17 CI), f. 89; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 2, pp. 741-42; Sainty, 'Lieutenants of Counties, 1585-1642', p. 33.

policy of favour being pursued by the Court towards office holders. This may have been in order to generate support and loyalty from this group as the crown faced the growing problem of the Scottish Covenanters.

Despite the confusing picture regarding the treatment of nobles in possession of office the way the Court of Wards managed wardship and livery when dealing with those who were without office is considerably clearer. Both wardship and livery fines that were set for this group fell during the second period of the Personal Rule. The wardships of Francis Lord Dacre and James Earl of Marlborough demonstrate this trend. During the first period Dacre's wardship was sold to Sir Francis Barnham on 2 December 1630 for £2666 13s 4d, a ratio of 11.74, while in the second period the wardship of Marlborough cost Sir John Davers[?] £200, a ratio of 2.46.<sup>299</sup> As far as livery is concerned this trend is illustrated by the liveries of John Earl of Peterborough and Robert Lord Petre representing the first and second periods respectively. Peterborough was the son and heir of Henry Lord Mordaunt and his livery cost £175 11s 8d[?], a ratio of 0.98, but the livery of Petre, son and heir of William Lord Petre, cost £357 2s[?], a ratio of 0.49.<sup>300</sup> This may indicate that the Court was attempting to provide advantageous terms to those who were without office. This may have been out of concern that this group would not be as well disposed to the crown because they did not possess the same benefits that those who held office were able to enjoy.<sup>301</sup> It is also of note that there was a far larger drop in the fines that were being set for wardship compared to those being used for livery. Again this in all likelihood resulted from the greater flexibility of wardship fines which would have allowed the Court of Wards greater room for discretion when setting these fines and the much higher wardship fines in the first period as well.

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<sup>299</sup> Hawkins' Wardship Data.

<sup>300</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/321 (5-10 JI), f. 40, No. 159; Ward Class 9, 'Abstracts of Inquisitions', Ward 9/329A (10-15 CI), f. 144, No. 396; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), ff. 141-352; Ward Class 9, 'Entry Books of Liveries', WARD 9/80 (3-9 CI), Index and ff. 155-56; Ward Class 9, 'Entry Books of Liveries', WARD 9/83 (12-21 CI), Index and ff. 143-45; Ward Class 9, 'Receiver-General's Accounts', Ward 9/417 (22 JI-5 CI), f. 154; Ward Class 9, 'Receiver-General's Accounts', Ward 9/430 (12-15 CI), f. 195; Ward Class 9, 'Receiver-General's Accounts', Ward 9/431 (15-17 CI), ff. 262-362.

<sup>301</sup> MacCaffrey, 'Place and Patronage in Elizabethan Politics', p. 97.

This section has potentially provided different perspectives with which to view fiscal feudalism. To begin with wardship and livery always contained monetary elements and this could potentially be used as a vehicle for both favour, and financial exploitation of/discrimination against, certain groups within English society.<sup>302</sup> As far as patronage is concerned nobles in possession of office overall received lower feudal fines from the Court of Wards, while it is possible that when IPMs were carried out this same group was financially exploited by/discriminated against by the Court because of the prestige holding office could give office holders. This could provide a political justification for targeting the office holding nobility. However fiscal patronage policy could be undermined by the internal dynamics of the Court of Wards as was highlighted earlier regarding Rudyerd and his administration of liveries for both office holders and those without office. Therefore this section suggests that in the context of patronage fiscal feudalism could operate not only as a form of favour but also as a possible form of financial exploitation/discrimination as well.

A mixture of some continuity coupled with predominant change was apparent in regards to the administration of wardship and livery by the Court of Wards during the masterships of Naunton and Cottington. Both masters bestowed financial favour on the nobility who held office, although the way it was implemented differed. As far as office holders were concerned, the Court under Cottington charged higher overall fines than it did when Naunton was in charge. To a certain extent this continued with the management of nobles who were without office as again the Court of Wards during Cottington's mastership imposed heavier fines on this group than was seen during Naunton's tenure as master. However although there was a huge leap in the prices set for wardship, livery fines actually fell during Cottington's mastership. This may well have been a result of Rudyerd's hostility towards the religious opinions that Cottington possibly held, leading the former to neglect his duties after the latter's appointment as master.

Change was also the dominant theme during the first and second periods of the Personal Rule. The Court of Wards appeared to treat nobles with office less favourably during the second period which may have resulted from the crown possibly focusing attention on its finances as the Scottish Covenanter rebellion

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<sup>302</sup> J. E. Neale, 'The Elizabethan Political Scene', in Neale, *Essays in Elizabethan History* (Oxford, 1958), pp. 59-84; p. 81.

developed. Office holders derived benefit from their office and at a time of financial difficulty they could become an easy target for financial exploitation/discrimination. Yet despite overall increases in fines during the second period, livery fines actually fell, which may have been a result of a policy of favour being pursued by the Court towards office holders or simply a lack of data for wardship during the first period. The overall fines for those who were without office, for both wardship and livery, decreased in the second period, which may have represented the concern of the crown in regards to the loyalty of noble families who were without office as they did not enjoy the benefits that office holders received.

### Social Status

Early modern English society had a social hierarchy based on title, ancestry and wealth.<sup>303</sup> Therefore the impact that social status had on the way the Court of Wards treated nobles with and without office who were involved in wardship or livery is both important and worthy of consideration. However in order to prevent distinctions that are too fine being drawn between the different ranks within the nobility this section will compare the treatment of Dukes/Earls with Viscounts/Barons. This section will first consider the relationship between the Court and the different social ranks within the office holding and non-office holding nobility before using this relationship to examine the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

**Table 5: Sale to IPM ratios for office holding and non-office holding families who possessed the titles of Duke/Earl or Viscount/Baron.**<sup>304</sup>

Office holding/non-office holding families	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
O.H. Duke/Earl	8.31	3.88	4.62
O.H. Viscount/Baron	-	2.04	2.04
N.O.H. Duke/Earl	2.46	1.21	1.39
N.O.H. Viscount/Baron	30.66	2.18	10.09

First it is necessary to point out that there are only small samples for Dukes/Earls who held office and experienced wardship as well as for Viscounts/Barons who held office and went through livery, while this is also the case for Dukes/Earls without

<sup>303</sup> Based on Sharp, *The Coming of the Civil War, 1603-49*, p. 6.

<sup>304</sup> See footnote 279 for the sources used to compile this table.

office who experienced wardship. It is taken that these samples 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. It is clear from the table that there is no data for Viscounts/Barons who were office holders and involved in wardship which is probably down to a matter of simple chance. However it appears that those who possessed the titles of Duke/Earl and held office overall received heavier fines than their office holding counterparts with the titles of Viscount/Baron. Three cases illustrate this quite well. The wardship of Buckingham was sold to Katherine Duchess of Buckingham, Francis Earl of Westmoreland and Sir George Manners for £2666 13s 4d, a ratio of 4.84. The livery fine for the coheirs of Shrewsbury was £400, a ratio of 6.66.<sup>305</sup> But the livery fine for the coheirs of Wimbledon was £41 8s 4d, a smaller ratio of 1.86. However, as already noted, there are no wardships for Viscounts/Barons who were office holders and as wardship was more flexible as a fine it is possible that this distorts the results. Therefore on the basis of the available data it is safest to say that the Court of Wards appears to have imposed larger fines on higher ranked nobles suing livery which may have resulted from their possession of greater social status.<sup>306</sup>

This was certainly not the case for the nobility who possessed the titles of Duke/Earl and Viscount/Baron and who were without office. The higher ranked members of the nobility were treated with greater deference than their lower ranked counterparts. For example the wardship of Marlborough was sold for £200, a ratio of 2.46, but the wardship of Spencer was sold for £5000, a much larger ratio of 34.01. Similarly the livery fine for Stamford was £111 10s 6d, a ratio of 1.73, but for William Lord Spencer, son and heir of Robert Lord Spencer, the livery fine was set at £252 5s 11d, a ratio of 3.03.<sup>307</sup> Consequently this suggests that the Court of Wards was possibly showing deference towards the higher ranked members of the nobility which may suggest that the Court wished to favour this higher social group who

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<sup>305</sup> Hawkins' Wardship Data.

<sup>306</sup> This point comes from M. J. Hawkins who argues that higher fines accompany higher ranked titles.

<sup>307</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Easter and Trinity Term, 4 Charles I, No. 36; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 116; Ward Class 9, 'Entry Books of Liveries', WARD 9/78 (3-8 CI), Index and ff. 67-68; Ward Class 9, 'Receiver-General's Accounts', Ward 9/417 (22 JI-5 CI), ff. 222-93.



were without office because they were socially important and did not enjoy the benefit of holding office. Whereas the lower social ranks within the nobility who were without office may have been viewed as less socially important and therefore it could have been easier to financially exploit or discriminate against them for the benefit of the crown. Therefore it appears that there was little common ground in the way the Court of Wards treated those with and without office and who held different noble titles.

**Table 6: Sale to IPM ratios for office holding and non-office holding families who possessed the titles of Duke/Earl or Viscount/Baron during the masterships of Sir Robert Naunton and Francis Baron Cottington.<sup>308</sup>**

Office holding/non-office holding families and master	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
R.N. O.H. Duke/Earl	4.84	3.01	3.24
R.N. O.H. Viscount/Baron	-	2.13	2.13
R.N. N.O.H. Duke/Earl	-	1.25	1.25
R.N. N.O.H. Viscount/Baron	6.43	2.69	3.55
F.C. O.H. Duke/Earl	11.79	5.90	7.37
F.C. O.H. Viscount/Baron	-	1.86	1.86
F.C. N.O.H. Duke/Earl	2.46	-	2.46
F.C. N.O.H. Viscount/Baron	67	0.49	27.1

First of all it is important to point out that there are only small samples available for the majority of groups with the exception of the ‘Overall sale to IPM ratio’ groups.<sup>309</sup> It is taken that these samples ‘reflect the development of the Court’s policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases’. Once again there is a lack of data for particular groups. In this case there is no wardship data for office holding Viscounts/Barons during the masterships of Naunton and Cottington nor is there data for Dukes/Earls who were without office and experienced wardship under Naunton and livery during Cottington’s mastership. Despite these limitations the above data can still give a

<sup>308</sup> See footnote 279 for the sources used to compile this table.

<sup>309</sup> Small samples concern ‘R.N. O.H. Duke/Earl’ (wardship); ‘R.N. O.H. Viscount/Baron’ (livery); ‘R.N. N.O.H. Viscount/Baron’ (wardship); ‘F.C. O.H. Duke/Earl’ (wardship); ‘F.C. O.H. Duke/Earl’ (livery); ‘F.C. O.H. Viscount/Baron’ (livery); ‘F.C. N.O.H. Duke/Earl’ (wardship); ‘F.C. N.O.H. Viscount/Baron’ (wardship); ‘F.C. N.O.H. Viscount/Baron’ (livery).

potential indication of the overall policy being pursued by the Court of Wards as long as it is remembered that the management of wardship and livery could differ.

To begin with it is clear office holding nobles who were in possession of the titles Duke/Earl were fined more heavily during Cottington's time as master of the Court of Wards. Indeed this is reflected in the administration of both wardship and livery. The wardship of Buckingham was sold for £2666 13s 4d, a ratio of 4.84, under Naunton, yet the wardship of Petre was technically sold to Northampton for a much larger fine of £10,000, a ratio of 11.79, when Cottington was master. As far as livery is concerned, the fine for Northampton, son and heir of William Earl of Northampton, was set at £275 19s 10d, a ratio of 2.62, but the livery of the coheirs of Shrewsbury cost £400, a ratio of 6.66, during Naunton's and Cottington's masterships respectively.<sup>310</sup> This indicates that the higher fines being imposed by the Court under Cottington resulted from Cottington's more energetic mastership leading to Cottington deliberately targeting office holders and/or the higher ranked nobility in order to 'milk' them for extra revenue.

Nobles who were office holders and also possessed the titles of Viscount/Baron received a small amount of preferential treatment from the Court of Wards when it was being led by Cottington. This is neatly encapsulated in the following two examples. The livery fine for Henry Lord Morley and Mouteagle, son[?] and heir of William Lord Morley, was set at £216 17s 3d, a ratio of 2.17, when Naunton was master, but under Cottington the coheirs of Wimbledon experienced a livery fine of £41 8s 4d, a ratio of 1.86.<sup>311</sup> It appears that the Court during Cottington's mastership was intent upon bestowing a small amount of favour on lower ranked office holders. However, the policy being followed may have been unique to the administration of livery, in the absence of any wardship data for these two groups, as it has already been noted how the relationship between the master and

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<sup>310</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 7 Charles I, No. 177; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 242; Ward Class 9, 'Entry Books of Liveries', WARD 9/81 (8-16 CI), Index and ff. 30-31; Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 317; Ward Class 9, 'Receiver-General's Accounts', Ward 9/426 (9-12 CI), f. 68.

<sup>311</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Michaelmas and Hillary Term, 4 Charles I, No. 173; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 206; Ward Class 9, 'Entry Books of Liveries', Ward 9/ 80 (3-9 CI), Index and ff. 214-215; Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 58; Ward Class 9, 'Receiver-General's Accounts', Ward 9/430 (12-15 CI), f. 196.

surveyor-general could lead to different policies. However, this remains speculation. The management of liveries shows that slightly smaller fines were being set for lower ranked office holders under Cottington which may have been the result of a policy being pursued by Rudyerd resulting from the relationship between the master and surveyor-general.

However, for the nobility who were without office and held the titles of Duke/Earl the opposite occurred. During Naunton's mastership the Court of Wards treated this group more favourably than it did during Cottington's tenure as master. When Naunton was master the livery of John, Earl of Thanet, son and heir of Nicholas, Earl of Thanet, cost £101 8s 8d, a ratio of 0.48. Under Cottington the wardship of Marlborough was brought for £200, a ratio of 2.46.<sup>312</sup> This can also be seen as a product of Cottington pursuing a muscular approach to the management of the crown's feudal rights leading to him deliberately targeting the higher ranks within the nobility. Indeed this explanation has already been noted as a possibility for the higher fines imposed on those who possessed office and the titles of Duke/Earl. However, it is also important to note that Naunton's tenure as master is based on livery data while Cottington's mastership rests solely on wardship data. Consequently it needs to be pointed out that these two sets of data are not strictly comparable because of the greater flexibility of wardship fines as well as the troubled relationship between the master and surveyor-general which could possibly result in different policies being pursued for wardship and livery.

Finally there is the group of nobles who were without office and possessed the titles of Viscount/Baron. This group overall experienced the same trend outlined above for Dukes/Earls. Again Viscounts/Barons without office were charged more during Cottington's mastership but the difference between the masterships of the two men was far greater. This is because of the much higher wardship ratios during Cottington's mastership, while in contrast livery fines were actually in decline. For example under Naunton the wardship of Dacre was sold for £2666 13s 4d, a ratio of 11.74, but when Cottington was master the wardship of Spencer was sold for the far greater sum of £5000, a ratio of 34.01. However, the Court of Wards only allowed

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<sup>312</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 9 Charles I, No. 120; Ward 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 262[?]; Ward Class 9, 'Entry Books of Liveries', Ward 9/ 80 (3-9 CI), Index and ff. 407-408; Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 318.

the livery of Spencer to pass for the fine of £252 5s 11d, a ratio of 3.03, yet the livery of the coheirs of Horace Lord Vere cost £11 4s 1d, a ratio of 0.33, during Naunton's and Cottington's masterships respectively.<sup>313</sup> Therefore it can be seen that the Court under Cottington may have been attempting to financially exploit or discriminate against Viscounts/Barons without office and this can be viewed as once more a result of the muscular nature of Cottington's mastership while the administration of livery may have stemmed from the troubled relationship between the master and the surveyor-general.

**Table 7: Sale to IPM ratios for office holding and non-office holding families who possessed the titles of Duke/Earl or Viscount/Baron during the Personal Rule.**<sup>314</sup>

Office holding/non-office holding families and period of Personal Rule	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
1 O.H. Duke/Earl	-	2.83	2.83
1 O.H. Viscount/Baron	-	2.13	2.13
1 N.O.H. Duke/Earl	-	1.06	1.06
1 N.O.H. Viscount/Baron	30.66	3.14	14.61
2 O.H. Duke/Earl	11.79	-	11.79
2 O.H. Viscount/Baron	-	1.86	1.86
2 N.O.H. Duke/Earl	2.46	-	2.46
2 N.O.H. Viscount/Baron	-	0.49	0.49

First of all it is important to point out that there are only small samples available for the majority of groups with the exception of the 'Overall sale to IPM ratio' groups.<sup>315</sup> It is taken that these samples 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. Once more there is a considerable lack of wardship, and, to a lesser extent, livery data for various groups during the first and second periods of

<sup>313</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/329A (10-15 CI), Michaelmas and Hillary Term, f. 156, No. 185; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 397[?]; Ward Class 9, 'Entry Books of Liveries', WARD 9/82 (11-20 CI), Index and ff. 398-400; Ward Class 9, 'Receiver-General's Accounts', Ward 9/430 (12-15 CI), f. 312.

<sup>314</sup> See footnote 279 for the sources used to compile this table.

<sup>315</sup> Small samples concern '1 O.H. Viscount/Baron' (livery); '1 N.O.H. Duke/Earl' (livery); '2 O.H. Duke/Earl' (wardship); '2 O.H. Viscount/Baron' (livery); '2 N.O.H. Duke/Earl' (wardship); '2 N.O.H. Viscount/Baron' (livery).

the Personal Rule. To a certain degree this is again attributable to chance but it can also be linked to the chronological perimeters of the Personal Rule as well. However, despite these limitations an analysis of this data can still yield useful and interesting results by showing the policies that could have been pursued through the administration of either wardship or livery when some data is unavailable even though it prohibits a more contextualised examination.

First of all office holders who held the titles of Duke/Earl received significantly better treatment from the Court of Wards during the first period of the Personal Rule. During this period Phillip Earl of Pembroke and Montgomery, brother and heir of William Earl of Pembroke, sued his livery which cost £915 5s 4d[?], a ratio of 0.86. In the second period the wardship of Petre was technically sold to Northampton for £10,000, a ratio of 11.79.<sup>316</sup> Both Earls of Pembroke held a number of offices. William possessed multiple Lord Lieutenancies with positions in Cornwall, Somerset, and Wiltshire as well as being Chief Justice in Eyre South of Trent. His brother Phillip was Lord Chamberlain of the Household, Chancellor and Chamberlain of Anglesey, Carnarvon and Merioneth as well as holding other positions.<sup>317</sup> This indicates that the Court was imposing higher fines during the second period which would certainly make sense because of the Scottish crisis developing throughout this period which may have led to attention being placed upon the finances of the crown. Also those with greater titles were vulnerable to the potential reasoning that a higher title deserved a larger fine, especially as this socially important group enjoyed the benefit of holding office. However, caution is needed because the figures for the first period are based on livery data and the figures for the second period are based on wardship data and these two types of data can be difficult to compare. This is because of the differences in the flexibility of wardship and livery fines as well as the problem between the officials within the Court of Wards who managed these two feudal incidents. Therefore these issues need to be taken into consideration when looking at the similarities or otherwise

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<sup>316</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 7 Charles I, No. 203; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 273[?]; Ward Class 9, 'Entry Books of Liveries', Ward 9/82 (11-20 CI), Index and ff. 48-50; Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), ff. 228-318.

<sup>317</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 10, pp. 414-416; Sainty, 'Lieutenants of Counties, 1585-1642', pp. 15-37.

regarding the treatment of office holding Dukes/Earls by the Court during the first and second periods.

Despite the above problems, as well as the lack of data for wardship for this analysis, it is much easier to make a direct comparison in the way the Court of Wards treated office holders who possessed the titles of Viscount/Baron. This is because this analysis is based solely on livery data for both periods and this data appears to indicate that livery fines actually fell slightly during the second period of the Personal Rule. For example during the first period the livery fine for the coheirs of Shrewsbury was set at £400, a ratio of 6.66, but in the second period the livery for the coheirs of Wimbledon cost £41 8s 4d, a ratio of 1.86. This suggests that the Court was administering livery in order to slightly favour this group of nobles which was possibly in order to 'provide for continuing policy-making and royal administration' as the Scottish crisis unfolded. However, it should be noted that given the dysfunctional relationship between the master and the surveyor-general this may have been the opposite of the policy that was being pursued in regards to the management of wardship.

Similar problems occur when considering the treatment of nobles who were without office and who possessed the titles of Duke/Earl as described above for those with these titles and who held office. First, non-office holders who held the titles of Duke/Earl experienced heavier fines during the second period of the Personal Rule. During the first period the livery of Thanet cost £101 8s 8d, a ratio of 0.48, but in the second period Marlborough's wardship was sold for £200, a higher ratio of 2.46. Again it would appear possible that the Court of Wards was setting higher fines for this group during the second period because the Scottish Covenanter rebellion may have led the crown to focus upon its finances. Targeting higher social ranks within the nobility could have been politically justified given their greater social status. However, once more, given the difference in the elasticity of wardship and livery charges, as well as the problem between the master and the surveyor-general means caution must be used when making direct comparisons between wardship and livery fines.

However a slightly different problem presents itself when examining the treatment of nobles who were without office and in possession of the titles Viscount/Baron. This is because the first period of the Personal Rule has data for both wardship and livery but only livery data exists for the second period. To begin

with this group enjoyed significantly lower fines in the latter period and this is demonstrated by the following cases. During the first period the wardship of Spencer was sold for £5000, a ratio of 34.01, while the livery of the coheirs of Baptist Viscount Camden cost £75, a ratio of 15. Yet in the second period the livery fine for the Petre heir was set at £357 2s[?], a ratio of 0.49.<sup>318</sup> Therefore the Court of Wards may have been attempting to gather support for the crown from this numerically larger group within the nobility who were without office as events in Scotland unfolded. However because there is no wardship data for this group during the second period the above analysis can only firmly represent the administration of livery. This is because the differences between wardship and livery fines suggests that it is a possibility that a different policy may have been pursued in the management of wardship.

Fiscal feudalism has been portrayed in this section as containing two elements: exploitation/discrimination and favour. Exploitation/discrimination occurred with office holders who held the titles of Duke/Earl as well as those nobles without office who were Viscounts/Barons. The experiences of the former may well have resulted from the Court of Wards utilising the possible reasoning that a higher rank deserved a larger fine. The Court may also have imposed heavier fines on Viscounts/Barons who were without office because, socially, they were less important. However, as far as the deployment of favour is concerned, Viscounts/Barons with office received smaller fines than their higher ranked counterparts, which may have been a result of their lower rank within the nobility. The advantageous treatment afforded to Dukes/Earls without office potentially stemmed from the need of the Court of Wards to favour this group who were socially more important yet did not enjoy the benefit of holding office.

Meanwhile the management of the Court of Wards during the masterships of Naunton and Cottington witnessed comprehensive change. Office holders with the title of Duke/Earl were fined more heavily by the Court during Cottington's mastership. In the context of Viscounts/Barons who were in possession of office the

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<sup>318</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 6 Charles I, No. 24; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 212[?]; Ward Class 9, 'Entry Books of Liveries', Ward 9/78 (3-8 CI), Index and ff. 353-54; Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 139.

reverse occurred, with the Court of Wards under Naunton actually setting higher charges for this group. However, this rests purely on the administration of livery. But for Dukes/Earls who were without office the Court led by Cottington imposed heavier fines. However, the data for this group under both masters is not strictly comparable because of the differences in wardship and livery fines. Those who were without office and held the titles of Viscount/Baron also encountered slightly higher overall fines when Cottington was master even though livery charges for this group actually fell during this period. Therefore it would appear that it was the muscular mastership of Cottington combined with the difficulty between the master and the surveyor-general that were primarily responsible for this level of change.

Change was also very apparent in the management of the Court of Wards during the Personal Rule. To begin with, Dukes/Earls with office experienced higher feudal charges in the second period of the Personal Rule. However caution is required as this is based on livery data for the first period and wardship data for the second period. This policy altered towards Viscounts/Barons in possession of office. In the first period the Court imposed slightly heavier fines although this is based on Rudyerd's administration of livery which may deviate from the way that wardship was handled due to the differences in wardship and livery fines. However, as with higher ranked office holders, Dukes/Earls without office also experienced larger feudal charges during the second period but care needs to be taken because of the complexities involved in comparing wardship to livery fines. Finally for those who did not hold office and possessed the titles of Viscount/Baron the first period witnessed higher fines. But this particular trend can only apply with reasonable certainty towards the management of livery as there is no wardship data for the second period. Consequently it is possible to locate these changes in the development of the Scottish Covenanter rebellion where the Court of Wards may have attempted to raise additional revenue for the crown from Dukes/Earls in the second period as a result of attention possibly being given to the finances of the crown. This may have been excused on the basis that a higher rank deserved a larger fine. Not to mention the Dukes/Earls who benefitted from holding office. As far as Viscounts/Barons are concerned the Court may also have tried to 'provide for continuing policy-making and royal administration' from Viscounts/Barons with office as well as increase support from the numerically larger group of



Viscounts/Barons who were without office at the same time as a result of the Scottish crisis.

### **Central and Local Office Holding**

Office holding can be very approximately split into two separate categories: central and local. Central office holding can include positions in departments such as the Exchequer, the Chancery and the Court of Wards. Central office can also involve appointments to royal commissions and councils such as the Privy Council, to positions within the royal court such as appointments to the chambers' and the household can also be included.<sup>319</sup> Ambassadorial and military positions are more difficult to identify and have therefore been placed within the category of central office holding for convenience. Local office holding is less complex and can involve any position that principally involved duties outside of London and the royal court. This can include the Lord Lieutenancies, membership of the Council of the North, the Council of the Marches of Wales, the Cinque Ports and the Stannaries.

These categories are based on a rather arbitrary distinction and consequently do not do justice to the complexity of office holding in early seventeenth century England and Wales. This is because office holders could employ others to carry out their duties and individuals could also hold both central and local office at the same time. However, these categories have been chosen for reasons of both methodological simplicity and convenience. How prominent an office was could influence the level of crown patronage an office holder received because individuals in possession of central office would have a higher public profile and consequently could be in a better position to receive crown patronage. Therefore this section will begin by examining the relationship between the Court of Wards, central/local office holders and crown patronage before moving on to consider the level of continuity and change this relationship enjoyed during the masterships of Naunton, Cottington and the Personal Rule.

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<sup>319</sup> Cuddy, 'Reinventing Monarchy: The Changing Structure and Political Function of the Stuart Court, 1603-88', p. 59.

**Table 8: Sale to IPM ratios for central and local office holding families.**<sup>320</sup>

Central/local office holding families	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
Central	8.31	1.93	4.06
Local	8.31	3.56	4.24

As before, it is necessary to point to the small samples that are available, in this case for central and local office holding families experiencing wardship. It is taken that these samples 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. Possibly the most striking aspect of these figures is that exactly the same ratios for wardship fines can be seen for both central and local office holders. This is because Buckingham, whose son's wardship was sold in 1628, and Northampton, who was technically the committee for the Petre heir, both possessed central and local offices. It has already been mentioned that these two men held a variety of official positions. For example Buckingham was Lord High Admiral of England and Constable of Dover as well as holding other offices while Northampton was Master of the Great Wardrobe as well as being Lord Lieutenant of Gloucestershire and Warwickshire.<sup>321</sup> This consequently makes it very difficult to understand the way in which wardship fines were administered when the Court of Wards was dealing with nobles who held central or local office.

However, despite the problems with wardship fines, it does not prevent a meaningful analysis of these two types of office. The overall ratios show that office holders with central office were treated with slightly greater favour than those who were in possession of local office and this is based on the administration of livery. Here central office holders such as the Lords Morley, father and son[?] respectively, possibly held what may have been an honorary office of Earl Marshall. The livery for the son cost £216 17s 3d, a ratio of 2.17.<sup>322</sup> Similarly Pembroke also held central office when suing livery. He was Lord Chamberlain of the Household and his fine was the sum of £915 5s 4d[?], a ratio of 0.86. William Earl of Devonshire, son and heir of William[?] Earl of Devonshire (the father held the local office of Lord

<sup>320</sup> See footnote 279 for the sources used to compile this table.

<sup>321</sup> Hawkins' Wardship Data; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 2, p. 393.

<sup>322</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 9, pp. 227-29.

Lieutenant of Derbyshire), experienced a livery fine of £359 16s, a ratio of 13.33. Finally, the charge imposed for the livery of the coheirs of Richard Earl of Dorset (Dorset held the local position of joint Lord Lieutenant of Sussex) was £90 6d, a ratio of 0.29.<sup>323</sup>

This therefore shows that in the management of livery, central office holders were treated more favourably than those with local office. This is unsurprising as for example, someone who was Lord Chamberlain of the Household would have engaged in duties that were more visible at the royal court, thereby increasing the chance of receiving patronage. This is because, broadly speaking, the responsibilities for this position related to the management of ‘ceremonial and entertainment’. Throughout almost all of the Personal Rule this office ‘seems to have been recognized as the acting head of the whole household’.<sup>324</sup> Therefore although this argument can only be used with any level of certainty for the administration of livery it would possibly make sense if this explanation can also be applied to the way the Court of Wards handled wardship fines as well.

**Table 9: Sale to IPM ratios for central and local office holding families during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>325</sup>

Central/local office holding families and master	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
R.N. central	4.84	1.93	2.51
R.N. local	4.84	2.90	3.11
F.C. central	11.79	-	11.79
F.C. local	11.79	4.89	6.27

To begin with it is important to note that the figures for the majority of the groups in the above table are based on small samples with the exception of the ‘Overall sale to

<sup>323</sup> TNA, London, Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/324 (1-5 CI), Easter and Trinity[?] Term, ? Charles I, No. 103 (parts of the entry book are badly damaged); Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 22 James I, No. 96; Ward Class 9, ‘Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates’, Ward 9/273 (21 JI-16 CI), ff. 107-236; Ward Class 9, ‘Entry Books of Liveries’, Ward 9/ 78 (3-8 CI), Index and ff. 37-38; Ward Class 9, ‘Entry Books of Liveries’, Ward 9/ 80 (3-9 CI), Index and ff. 352-53; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/417 (22 JI-5 CI), f. 221[?]; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/422 (5-9 CI), f. 228; Sainty, ‘Lieutenants of Counties, 1585-1642’, pp. 17-35.

<sup>324</sup> Aylmer, *The King’s Servants, The Civil Service of Charles I, 1625-42*, pp. 29-30.

<sup>325</sup> See footnote 279 for the sources used to compile this table.

IPM ratio' groups.<sup>326</sup> These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. It is also necessary to point to not only the absence of data for the liveries of central office holders during Cottington's mastership but also the same wardship ratios for central and local office holders during the masterships of both men. The lack of livery data is likely to be a result of chance while the exact replication of the wardship ratios reflects the central and local offices held by Buckingham and Northampton. This in turn again raises the issue of the minimal amount of data for wardship during both masterships. However, these problems do not prevent an interesting and useful analysis of central office holding because it is the similarities and differences in the way both masters treated central and local office holders that are important. Also the minimal data sample for wardship and the lack of livery data for central office holders under Cottington does not prevent wardship acting as a possible indicator of the policy being pursued by the Court of Wards under both men.

Clearly the Court of Wards during the mastership of Cottington imposed heavier overall fines on both central and local office holders than it did when Naunton was master of the Court. As far as central office holders are concerned, when Naunton was master the Court of Wards sold Buckingham's son and heir for £2666 13s 4d, a ratio of 4.84, but when Cottington led the Court, Northampton had to technically pay £10,000 for the wardship of the Petre heir, a ratio of 11.79. This may indicate that the Court of Wards under Cottington was pursuing an energetic policy towards nobles who were in possession of central office and this explanation is reinforced with the following analysis of the way both masters treated local office holders.

Fortunately there is a complete set of data for the administration of wardship and livery relating to those who held local office. Again the Court of Wards under Cottington set higher fines for both wardship and livery than was seen when Naunton was master. The wardships of Buckingham and Petre have already been noted above and it is not necessary to repeat them again. Instead note should be taken of the way the Court handled liveries under both masters. During Naunton's tenure as master the livery fine for Stanhope who along with his father occupied the

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<sup>326</sup> Small samples concern 'R.N. central' (wardship); 'R.N. local' (wardship); 'F.C. central' (wardship); 'F.C. local' (wardship).

position of Keeper of Colchester Castle, was £63 2s 5d, a ratio of 2.1.<sup>327</sup> When Cottington was master the livery fine for the coheirs of Shrewsbury was set at £400, a ratio of 6.66. Shrewsbury was Constable and Steward of Newark and Forester of Sherwood as well as possibly Lord Lieutenant of Derbyshire at his death. This suggests that Cottington's vigorous mastership was responsible for the increase in the fines that were set by the Court of Wards for nobles who held local office. It is of note that the difference between the overall ratios under both masters for this group is smaller than was seen with the overall ratios for central office holders. However, as far as the latter group is concerned, this is likely to partly have been a result of the lack of livery data during Cottington's mastership because these fines were traditionally more inflexible.

**Table 10: Sale to IPM ratios for central and local office holding families during the Personal Rule.**<sup>328</sup>

Central/local office holding families and period of Personal Rule	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
1 central	-	1.93	1.93
1 local	-	2.76	2.76
2 central	11.79	-	11.79
2 local	11.79	1.86	6.82

Again, the majority of the groups in the above table (excepting the 'Overall sale to IPM ratio' statistics) have figures which are based on small samples.<sup>329</sup> As before these samples are taken to 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. Also, unfortunately due to the misfortune of chance and the chronological perimeters of the Personal Rule there is a lack of wardship data for the first period of the Personal Rule as well as there being no livery data for central office holders during the second period. Consequently comparisons of the way the Court of Wards treated those with central and local office during the first and second period is challenging because analysis for central office holding is limited to a comparison between livery and wardship data, which are not strictly comparable, while only

<sup>327</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, pp. 240-42.

<sup>328</sup> See footnote 279 for the sources used to compile this table.

<sup>329</sup> Small samples concern '2 central' (wardship); '2 local' (wardship); '2 local' (livery).

livery fines can be accurately considered for local office holding. Nonetheless, as long as caution is taken in the way these figures are handled by taking into account the differences between wardship and livery fines and the size of the available data, it is still possible to gain meaningful information from an analysis of this data.

First of all, there appears to have been a large increase in the fines that were levied on individuals who were in possession of central office during the second period of the Personal Rule. This can be illustrated with the livery fines set for Arundel and Pembroke as well as the wardship fine levied for the Petre heir. During the first period the livery fine that the Court of Wards imposed on Arundel was £262 8s 7d, a ratio of 2.62, while later the livery of Pembroke cost £915 5s 4d[?], a ratio of 0.86. Arundel held multiple Lord Lieutenancies which were based in the counties of Cumberland, Norfolk, Northumberland, Sussex and Westmoreland, while Pembroke held Lord Lieutenancies in Cornwall, Kent, Somerset and Wiltshire.<sup>330</sup> However, both fines appear small in contrast to the wardship fine that Northampton technically had to pay, which was £10,000, a ratio of 11.79. This may point to the Scottish Crisis being the cause of this increase which affected the treatment of central office holders because there may have been a focusing of attention upon the crown's finances. It is also important to remember that these figures are difficult to compare because of the elasticity of wardship fines in contrast to the rigidity of livery charges as well as the problem between the master and surveyor-general. But it does very tentatively point to a heavier fiscal burden being placed upon central office holders by the Court during the second period.

A superficially similar trend appears to have occurred with the management of wardship and livery fines by the Court of Wards in regards to those who were in possession of local office. However, this is ultimately based on wardship data which only exists in the second period. Consequently due to the greater flexibility of wardship fines this can distort the overall ratios. Therefore if wardship is removed from this analysis it can be seen that livery fines actually fell during the second period. This may have resulted from a possible policy of Rudyard which was intended to increase loyalty towards, and support for, the crown from this particular local office holding section of the political nation as the Scottish rebellion developed.

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<sup>330</sup> Sainty, 'Lieutenants of Counties, 1585-1642', pp. 15-37.

This section has highlighted the role of favour within fiscal feudalism in the administration of livery towards nobles who were in possession of certain types of office. Favour manifested itself in the advantageous fines the Court of Wards set for central office holders in comparison to those who were in possession of local office. Although this is based on livery data it nonetheless potentially indicates that it was the higher public profile that central office holders may have had at the royal court which created greater opportunities for receiving favour. Therefore it is possible to link, within the context of fiscal feudalism, both central office holding and patronage.

As far as the Court of Wards under the masterships of Naunton and Cottington is concerned, change was the dominant feature of this period. This is because the Court under Cottington exacted higher fines on both central and local office holders. Admittedly the former rests solely on wardship data while the latter has firmer foundations with both wardship and livery figures available. However despite this it seems that it was the muscular mastership of Cottington that may have made the difference. Also the apparent difference between Naunton and Cottington in their management of central office holders in comparison to their administration of local office holders may stem from the lack of livery data for central office holders during Cottington's tenure because of the inflexibility of livery fines.

Change also featured strongly during the Personal Rule in the way the Court of Wards administered wardship and livery to the two different types of office holders. There were two different forms of change. The first concerned central office holders who witnessed change through an increase in the fines that were being set by the Court during the second period of the Personal Rule. The reason for this change can be potentially located in the Scottish Covenanter rebellion which may have directed attention to the crown's finances. However this does rest on a difficult comparison between livery fines in the first period and wardship prices in the second period. The second change occurred in relation to the treatment of local office holders, where in the latter period, this group actually experienced a fall in ratios in relation to the fines set by the Court of Wards. This is grounded in the administration of livery and may reflect Rudyerd's possible response to the developing Scottish problems where livery fines were lowered in order to possibly generate loyalty towards, and support for, the crown from local office holders.

## Conclusion

This chapter has concentrated on the relationship between the Court of Wards, crown patronage and the nobility both with and without office. Through an examination of this relationship it has been possible to shed light on the broader issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule. As far as fiscal feudalism is concerned three points stand out. First the greater public profile that office could provide for office holders had the potential to put the families of office holders at a financial disadvantage because of the higher estate valuations provided in the IPMs. This could occur as a result of the Court knowing more about the estates of a particular family because of an individual's local and/or national profile as an office holder. Second, the Court of Wards appears to have financially exploited or discriminated against groups within the nobility. This can be seen in the way the Court treated office holders with the titles of Duke/Earl who experienced heavier fines which may have resulted from their greater social status. Exploitation/discrimination also took place towards those who were without office and possessed the titles of Viscount/Baron. This latter group could also have been a target for the Court of Wards because they were socially inferior to their higher ranked counterparts.

Finally the Court of Wards could also administer patronage to groups of nobles through the application of lower feudal fines. One of the ways this was achieved was in the approach the Court took to office holders. This group received patronage in order to 'provide for continuing policy-making and royal administration' while those who were without office and sued livery also experienced favour although this was more likely to have resulted from the relationship between the master and surveyor-general. Patronage could also be seen in the treatment of nobles with the titles of Duke/Earl and who were without office. It appears that their superior social rank combined with the fact that they did not enjoy the benefit of holding office led to smaller fines being imposed. Indeed favour could also be seen in the way office holders who held central office were treated in regards to the administration of livery. This may have stemmed from the larger public profile this group had at the royal court which created greater opportunities for receiving patronage.



This has consequences for the historiography of fiscal feudalism. It is clear that the traditional meaning of fiscal feudalism, where the crown utilised its feudal rights for financial gain, applies to the management of crown patronage by the Court of Wards. This is because money was always present even when favour was being bestowed through advantageous wardship or livery fines. Also the policy pursued during the first phase of fiscal feudalism can partly be seen in operation as the Court provided advantageous terms to noble groups both with and without office. But it is also possible to contribute an additional element to the historiography of fiscal feudalism and this concerns the specific financial exploitation/discrimination of certain groups for the fiscal benefit of the crown. This does not represent deliberate exploitation/discrimination; instead it can be viewed as a calculated policy which was possibly designed to extract extra income from groups that the Court of Wards judged to be legitimate targets at the time.

As far as the masterships of Naunton and Cottington are concerned, considerable change can be discerned during this period. To begin with, the Court of Wards during Cottington's mastership imposed higher fines on individuals both with and without office. As well as Cottington's energetic mastership this may have resulted from the belief that it was justified to set higher fines for this group because of the prestige that office holding conferred upon individuals. Similarly the Court under Cottington imposed heavier financial burdens on Dukes/Earls who possessed office as well as on Dukes/Earls and Viscounts/Barons who did not hold office. Although in regards to this latter group livery fines actually fell at the same time. It was only in the context of nobles who held the titles of Viscount/Baron and office that the Court of Wards under Naunton's leadership actually charged slightly larger fines than it did when Cottington was master. This level of exploitation/discrimination under Cottington can again be explained by Cottington's muscular mastership. But the small fall in livery fines for Viscounts/Barons with office under Cottington possibly stemmed from a policy being pursued by Rudyerd which gave favour to lower ranked office holders resulting from the relationship between the master and surveyor-general. In relation to central and local office holding the Court under Cottington's mastership set higher fines for both types of office holder than was seen during Naunton's tenure as master and again Cottington's energetic mastership may have been behind this change in the policy of the Court of Wards.

These results appear to concur with some of the historiography surrounding the masterships of Naunton and Cottington. First the lower fines that were generally set by the Court of Wards when Naunton was master, in comparison to when Cottington was master, potentially fit in with part of Schreiber's analysis of Naunton as a man who was 'not well suited for the post of Master of the Wards'. Secondly, the higher ratios under Cottington help to confirm part of the assessment of Cottington's mastership by Havran. He noted not only Cottington's 'aggressive administration of the Court of Wards and Liveries' but also the 'spectacular rise in the Court's income under Cottington'. Bell pointed out that far greater revenues were produced by the Court of Wards when Cottington was in charge. Indeed the general increase in the fines during Cottington's mastership can possibly be partially connected with Cooper's belief that Cottington 'showed himself to be concerned with the expected revenue which failed to materialise, although the arrears since the inception of the Court were only estimated to be £20,000 in 1640'.<sup>331</sup> Therefore the findings in this chapter have some relevance for the existing historiography.

Change was also a dominant theme during the Personal Rule. To begin with the second period of the Personal Rule saw the Court of Wards showing favour to those without office. Those who were without office could have received favour in order to improve their disposition towards the crown especially as they did not enjoy the benefit of holding office. However, when examining the relationship between the Court of Wards, nobles both with and without office, and the different ranks within the nobility, the change was more mixed. As far as Dukes/Earls are concerned, the second period witnessed larger fines being set by the Court for both office holders and non-office holders. This was potentially based on the crown's possible decision to focus on its financial situation in the wake of the Scottish crisis as well as potentially in the belief that nobles with high ranking titles deserved larger fines. For Dukes/Earls with office the higher fines could have been based on the belief that this was justified because this group enjoyed the benefit of holding office. For nobles both with and without office and in possession of the titles of Viscount/Baron the second period was a time when the fines levied by the Court of Wards actually

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<sup>331</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50; Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 161; Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 134; Havran, *Caroline Courtier: The Life of Lord Cottington*, pp. 135-38. The quotation from Cooper may not reflect the meaning that Cooper originally intended to convey as Cooper may have been talking about existing revenue not collected rather than potential revenue which this thesis wishes to convey.

dropped slightly. This may have been driven by the desire to 'provide for continuing policy-making and royal administration' as well as to gather support for the crown from this numerically larger group within the nobility who were without office as events in Scotland developed. This pattern continues when considering office holders who held central and local office. Those who occupied central office experienced higher fines during the second period as the political problems in Scotland may have directed attention to the finances of the crown while those who were in possession of local office encountered an opposite trend as the second period actually witnessed a decline in the feudal charges this group had to pay. The explanation for this can be possibly found in the way Rudyard may have responded to the Scottish rebellion by trying to generate loyalty towards, and support for, the crown from local office holders.

This therefore suggests that Sharpe's model can be considered a credible analytical tool for examining the employment of crown patronage by the Court of Wards during the Personal Rule. This is because there was change from mid-1637 onwards and the Scottish crisis can be legitimately considered the most important political development from 1637 until the Short Parliament. Consequently it is reasonable to explain the changes highlighted above as resulting from the way the Court responded to the changing domestic situation in which it found itself from 1637 to 1640.

# Chapter Three: The Court of Wards and the Roman Catholic Nobility

## Introduction

During the reign of Charles I twenty per cent of the English and Welsh nobility were Catholic.<sup>332</sup> This figure is significant because of the fear that Catholicism generated within England in the early seventeenth century and it can also be viewed as a demonstration of the crown's failure to deal with Catholicism through instruments such as wardship. Despite this failure Anstruther believed the 'auctioneering of wards was always a tragedy but for Catholics it was a catastrophe for whoever purchased the wardship had full control over the education and marriage of the ward, as well as over the estates'.<sup>333</sup> Stone agreed with Anstruther, as he argued that Burghley used wardship as a way of giving noble heirs a Protestant education and Bell stated that in all likelihood noble minors were sent to well thought-of members of the nobility, which suggests the opportunity for religious conversion.<sup>334</sup> Yet Hawkins has suggested that 'the administrative controls were not strict enough to prevent abuses, and indeed that they may have been sidestepped by the last Master of the Court before the Civil War, Lord Cottington, who was himself suspected of Catholic sympathies'.<sup>335</sup> This therefore illustrates the mixed picture that historians have created when describing the relationship between the nobility and the Court of Wards in the sixteenth and seventeenth centuries and suggests that the relationship the Court had with noble Catholicism requires greater investigation.<sup>336</sup>

This chapter examines the treatment of the English and Welsh nobility by the Court of Wards through the Court's management of wardship and livery. However there are a significant number of noble families who have been deliberately excluded

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<sup>332</sup> Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 124.

<sup>333</sup> Anstruther, O.P., 'Vaux of Harrowden', (Newport, 1953), p. 231, cited in Doyle, 'Catholics and the Court of Wards', p. 85.

<sup>334</sup> Stone, *The Crisis of the Aristocracy 1558-1641*, p. 739; Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 124.

<sup>335</sup> Hawkins, 'Royal Wardship in the Seventeenth Century', p. 45.

<sup>336</sup> Often it is not clear which social group and which period historians are referring to when discussing the Court of Wards.

from this chapter. Noble families who held Irish or Scottish titles have been left out as this chapter is solely interested in the nobles who were allowed to sit in the House of Lords.<sup>337</sup> Similarly nobles who were named in documents of the Court as an ancestor or an heir have been left out if the heir of a noble ancestor or an ancestor of a noble heir were either not in possession of a noble title or were not of noble lineage.<sup>338</sup> This is to ensure that only cases of 'pure' noble inheritance are examined in this chapter in order to obtain an accurate examination of how nobility were treated by the Court of Wards. Finally noble heirs who received their writ of livery in a previous reign have also been excluded. This is because unlike sales of wardship there appear to be no records noting the dates when Caroline fines for livery were set. Therefore the only way of dating the livery process is through the dates given when the writs of livery were issued by the Court. This would normally be after the livery fines were set but could be before or after part/full payment of the livery fine was made.<sup>339</sup>

This chapter has four sections. The first section examines the relationship between the Court of Wards and the different social ranks within the Catholic nobility. The second section considers the custodial consequences of wardship for an heir of a Catholic family who was within age with specific reference to whose 'use' the wardship was granted, the number of relatives and Catholics within the committees and whether any religious conversions were attempted. The third section analyses the wardship and livery fines the Court set for these heirs. Finally the chapter examines the potential impact that these feudal incidents had on the religious trajectory of Catholic heirs. These sections will also demonstrate that these areas have wider consequences for the issues of fiscal feudalism and the level of continuity

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<sup>337</sup> This refers to the following noble titles: Viscount Cholmondeley of Kells and Wiche-Malbank, Viscount Castleton of Sandbeck, Viscount Carlingford, the Earl of Carberry, Viscount Kilmorey, Lord Baltimore, Lord Brereton of Laghlin, Viscount Grandison of Limerick, Viscount Drogheda, Viscount Beaumont of Swords, Lord Sherard of Leitrim and Stapleford, the Earl of Downe, Lord Digby of Geashill, Viscount Molyneux of Maryborough, Viscount Falkland, Viscount Fairfax of Emley, Viscount Strangford and the Earl of Armandale.

<sup>338</sup> This refers to the following noble titles: Lord Dacre of Gilsland and the South, Lord Berkeley, Lord Grey of Warke, Lord Stanhope of Shelford, the Earl of Arundel and Surrey, Lord Cromwell, Lord Deincourt of Sutton, the Countess of Warwick, Lord Hastings, Lord Vere of Tilbury, Lord Roos of Helmsley, the Earl of Holderness and the Countess of Sussex.

<sup>339</sup> This was after consultation with M. J. Hawkins. There are also possible noble families who have been excluded either as a result of document damage (Manchester[?], Jones[?]) or because the manuscript entries make no sense as it has not been possible to match a noble family with the information contained within the Court of Wards entry books (Willoughby, Capell).

and change during the masterships of Naunton, Cottington as well as the Personal Rule thereby showing how the Court of Wards can make meaningful contributions to larger historiographical issues.

There is also the matter of identifying Catholic families, a problem that will be familiar to any historian who has attempted to work on English Catholicism in the sixteenth and seventeenth centuries. This chapter has used a list of recusant members of the nobility who had weapons removed by the crown in 1625-26, as well as the petitions supporting and opposing Dr Richard Smith in 1627 and 1631 who was the Bishop of Chalcedon and 'vicar apostolic of the English church', and a 'List of letters of grace [and protection] granted by his Majesty to recusants', in order to make a preliminary identification of Catholic members of the nobility.<sup>340</sup> B. Magee's list of Catholic members of the nobility in *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws* has also been used.<sup>341</sup> These sources are not comprehensive but they do provide an accessible way for an historian to identify noble Catholic families in the seventeenth century.

### Social Status

Early modern English society had a social hierarchy based on title, ancestry and wealth.<sup>342</sup> Therefore the impact that social status had on the way the Court of Wards treated noble Catholic families experiencing wardship or livery in terms of the fines that were imposed is both important and worthy of consideration. This can be highlighted through a comparison of Catholic with Protestant families. Thirty-seven families who encountered the feudal obligations of wardship and/or livery possess the necessary information which will allow a sale to IPM ratio to be calculated.

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<sup>340</sup> See J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I*, 1, 1625-26 (23 vols, London, 1858-97), pp. 143-88; 'General Archives, SJ, Anglia, Historia IV, printed in Hughes, *History of the Society of Jesus in North America*', in D. Mathew, *The Age of Charles I* (London, 1951), p. 143, n. 2; J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I*, 15, 1639-40 (23 vols, London, 1858-97), p. 215; J. Bergin, 'Smith, Richard (1567-1655)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com/view/article/25886>, accessed 15 June 2011]; Other additional sources such as the Oxford Dictionary of National Biography and Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 1-12, have also been used when necessary.

<sup>341</sup> See Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, pp. 127-31.

<sup>342</sup> Based on Sharp, *The Coming of the Civil War, 1603-49*, p. 6.

However, in order to prevent distinctions that are too fine being drawn between the different ranks within the nobility, this section will compare the treatment of Dukes/Earls with Viscounts/Barons. This section will first examine the fiscal relationship between the Court and the noble ranks within both Catholic and Protestant families before moving on to consider the level of continuity and change in this relationship during the masterships of Naunton and Cottington as well as the Personal Rule.

**Table 11: Sale to IPM ratios for Catholic and Protestant noble families who possessed the titles of Duke/Earl or Viscount/Baron.**<sup>343</sup>

Religion and social status	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
R.C. Duke/Earl	-	3.82	3.82
R.C. Viscount/Baron	8.83	1.46	3.92
Prot. Duke/Earl	3.65	2.89	3.00
Prot. Viscount/Baron	36.86	2.52	11.67

Sadly, the samples for Catholic Dukes/Earls going through livery, and Catholic Viscounts/Barons along with Protestant Dukes/Earls experiencing wardship are small. As normal these samples are taken to 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. Despite there being a lack of information for Catholic Dukes/Earls experiencing wardship which is probably due to simple chance, it appears that Catholic Viscounts/Barons, overall, had to pay slightly more for their feudal obligations than their higher ranking counterparts. For example Peterborough, son and heir of the Catholic Mordaunt, had to pay £175 11s 8d[?] for his livery, a ratio of 0.98, while the livery fine for the Catholic Morley and Mouteagle, son[?] and heir of Morley, who was a former Catholic whose religious beliefs after conformity were still treated with uncertainty, was £216 17s 3d, a ratio of 2.17.<sup>344</sup>

<sup>343</sup> Catholics are identified by 'R.C.' and Protestants are identified by 'Prot.'. This table is based on the following sources: Hawkins' Wardship Data; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI); Ward Class 9, 'Entry Books of Liveries', Ward 9/75, Ward 9/77, Ward 9/78, Ward 9/79, Ward 9/80, Ward 9/81, Ward 9/82, Ward 9/83 (17 JI-21 CI); Ward Class 9, 'Abstracts of Inquisitions', Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI); Ward Class 9, 'Receiver-General's Accounts', Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431, Series C (22 JI-17 CI).

<sup>344</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 9, p. 197; M. Nicholls, 'Parker, William, thirteenth Baron Morley and fifth or first Baron Monteagle (1574/5-1622)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [http://www.oxforddnb.com/view/article/21345,

However, it is worth noting two things. First that when the figures are broken down, Dukes/Earls had to pay more for their liveries and second that the overall difference between these two groups was very small. The reasons for these two points will be better explained by looking at the treatment of Protestant Dukes/Earls and Viscounts/Barons below. Therefore while bearing these two matters in mind it appears that Dukes/Earls were treated with slightly greater deference than their lower ranked colleagues which may have been a result of a policy of social deference in the management of wardship.

The picture for the two Protestant groups partially differs from that of the Catholic groups. Again, overall, Viscounts/Barons experienced heavier fines than Dukes/Earls, but the difference between them is far greater. This can be illustrated by the wardship of Buckingham who was sold for £2666 13s 4d, a ratio of 4.84, in contrast to Spencer who was sold for the much larger sum of £5000, a ratio of 34.01.<sup>345</sup> Clearly this overall picture is influenced by the very large difference between the wardship figures for Dukes/Earls and Viscounts/Barons with this latter group actually being treated slightly more leniently when suing livery. This can be explained through the ‘internal rivalry in the Court between the Master of the Wards and the Surveyor of the Liveries’, the latter in this case being Rudyerd.<sup>346</sup> The master may have decided to show remarkable favour to the higher ranking members of the nobility, while the surveyor-general of the liveries may have deliberately undermined this policy.<sup>347</sup> Therefore, it was the greater flexibility in the financial administration of wardship, based again on a policy of deference, and the dynamics between master and surveyor-general, which possibly determined the overall treatment of these groups.

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accessed 15 June 2011]; J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I*, 1, 1625-26 (23 vols, London, 1858-97), p. 180; TNA, London, Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/321 (5-10 JI), f. 40, No. 159; Ward 9, ‘Abstracts of Inquisitions’, Ward 9/324 (1-5 CI), Michaelmas and Hillary Term, 4 Charles I, No. 173; Ward Class 9, ‘Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates’, Ward 9/273 (21 JI-16 CI), ff. 141-206; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/417 (1-5 CI), f. 154; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/422 (5-9 CI), f. 58; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/430 (12-15 CI), f. 196.

<sup>345</sup> Hawkins’ Wardship Data.

<sup>346</sup> Hawkins, *Sales of Wards in Somerset, 1603-41*, p. xix.

<sup>347</sup> Based on Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 129.



There are also similarities in the treatment of these Catholic and Protestant social groups. Dukes/Earls in both groups were treated more favourably than Viscounts/Barons and this was a result of the much larger wardship fines being imposed in comparison to the fines that were being set for liveries. For both Catholics and Protestants, the influence of wardship ratios on the overall figures and the difference between the wardship and livery ratios can possibly be explained by the potential policy being pursued by the master, the inflexibility of livery fines and the relationship between the master and the surveyor-general. The differences occur when comparing the far greater overall fines that were set for Protestant Viscounts/Barons with the same Catholic group as well as the larger change in the livery fines imposed for the two Catholic groups. The first difference was a result of the higher wardship fines being set for Protestant Viscounts/Barons in contrast to Catholic Viscounts/Barons. The second difference can be explained by the fact that Rudyerd was 'vehemently anti-Catholic' and may well have focused on the opportunity to exploit/discriminate against the more privileged Catholic Dukes/Earls suing livery. This in turn may have led to a loss of interest in the lower ranking Catholic nobility.<sup>348</sup>

**Table 12: Sale to IPM ratios for Catholic and Protestant noble families who possessed the titles of Duke/Earl or Viscount/Baron during the masterships of Sir Robert Naunton and Francis Baron Cottington.<sup>349</sup>**

Religion and social status	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
R.N. R.C. Duke/Earl	-	0.98	0.98
R.N. R.C. Viscount/Baron	5.88	1.79	2.81
R.N. Prot. Duke/Earl	4.84	2.52	2.75
R.N. Prot. Viscount/Baron	6.71	3.11	3.83
F.C. R.C. Duke/Earl	-	6.66	6.66
F.C. R.C. Viscount/Baron	11.79	0.49	6.14
F.C. Prot. Duke/Earl	2.46	5.52	4.50
F.C. Prot. Viscount/Baron	111.79	0.95	28.66

<sup>348</sup> D. L. Smith, 'Rudyerd, Sir Benjamin (1572–1658)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, May 2009 [http://www.oxforddnb.com/view/article/24256, accessed 22 March 2011].

<sup>349</sup> Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 128; See footnote 343 for the sources used to compile this table. The mastership of Sir Robert Naunton is signified by 'R.N.'. The mastership of Francis Baron Cottington is signified by 'F.C.'.

Unfortunately almost all of the groups (with the exception of the ‘Overall sale to IPM ratio’ groups) in the above table possess figures that are based upon small samples.<sup>350</sup> These samples are taken to ‘reflect the development of the Court’s policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases’. Again there is no data available for Catholic Dukes/Earls who encountered wardship during the masterships of Naunton and Cottington. Nonetheless this data can still provide an indicator of the policy of the Court of Wards during the masterships of Naunton and Cottington. During the latter’s mastership Catholic Dukes/Earls were charged considerably more in comparison to the fines that were set during Naunton’s time as master. For example the livery fine of Peterborough was set at £175 11s 8d[?], a ratio of 0.98, while the livery fine for the daughters and coheirs of Shrewsbury, which included Aletheia Countess of Arundel who was a ‘devout Roman Catholic throughout her life’, was set at £400, a ratio of 6.66.<sup>351</sup> This shows that the Court of Wards during Cottington’s mastership was more heavily exploiting the feudal rights of the crown although it was based on livery fines which was likely to ultimately come under the remit of the surveyor-general. Therefore given the relationship between the master and the surveyor-general, as well as the possible feelings of antipathy that Rudyerd may have had for Cottington’s religious beliefs, it may have been Rudyerd’s anti-Catholicism that led him to adhere to Cottington’s energetic policy.<sup>352</sup>

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<sup>350</sup> Small samples concern ‘R.N. R.C. Duke/Earl’ (livery); ‘R.N. R.C. Viscount/Baron’ (wardship); ‘R.N. R.C. Viscount/Baron’ (livery); ‘R.N. Prot. Duke/Earl’ (wardship); ‘R.N. Prot. Viscount/Baron’ (wardship); ‘F.C. R.C. Duke/Earl’ (livery); ‘F.C. R.C. Viscount/Baron’ (wardship); ‘F.C. R.C. Viscount/Baron’ (livery); ‘F.C. Prot. Duke/Earl’ (wardship); ‘F.C. Prot. Duke/Earl’ (livery); ‘F.C. Prot. Viscount/Baron’ (wardship); ‘F.C. Prot. Viscount/Baron’ (livery).

<sup>351</sup> Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 128; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 11, p. 715, n. c. This reference includes reference to ‘*Cal. S. P. Dom.*, 1591-94, p. 174’; M. DiMeo, ‘Howard, Aletheia, countess of Arundel, of Surrey, and of Norfolk, and suo jure Baroness Furnivall, Baroness Talbot, and Baroness Strange of Blackmere (d. 1654)’, *Oxford Dictionary of National Biography*, Oxford University Press, Oct 2006; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/94252>, accessed 10 June 2011]; TNA, London, Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/324 (1-5 CI), Michaelmas and Hillary Term, 4 Charles I, No. 180; Ward Class 9, ‘Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates’, Ward 9/273 (21 JI-16 CI), f. 311[?]; Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/422 (5-9 CI), ff. 137-227.

<sup>352</sup> This is based on advice from M. J. Hawkins who noted the difference in the religious beliefs between Cottington and the other officials within the Court of Wards.

The treatment of Catholic Viscounts/Barons by the Court of Wards under Naunton and Cottington generally follows the pattern outlined above for Dukes/Earls. During Cottington's tenure as master this group was heavily exploited by/discriminated against by the Court with much higher overall fines being set. This is illustrated by the wardships of Francis Viscount Montagu under Naunton and Petre under Cottington. Montagu's wardship was sold for £1200, a ratio of 5.88, but the wardship of Petre was accompanied by a much larger fine of £10,000, a far higher ratio of 11.79.<sup>353</sup> Again this indicates the greater level of exploitation of feudal incidents by the Court of Wards under Cottington yet at the same time livery fines actually fell for this group during this period. This suggests again that Rudyerd focused on the higher ranked Catholic nobles which in turn may have led to a lack of attention being paid to the lower ranked Catholic nobility.

This pattern continues with the overall administration of wardship and livery by the Court of Wards in relation to Protestant Dukes/Earls and Viscounts/Barons. There was a significant increase in the charges being imposed upon Dukes/Earls during Cottington's time as master. For example during Naunton's mastership the livery fine for Lincoln was £362 10s, a ratio of 1.08, yet when Cottington was master the livery fine for Theophilus Earl of Suffolk was a slightly smaller £324 17s 8d, a much higher ratio of 8.78.<sup>354</sup> However, unusually, wardship fines actually fell during Cottington's tenure and it was an increase in livery fines that drove this overall rise in charges. This may have resulted from Cottington lowering the fines on the higher ranked Protestant majority possibly as a result of a policy of deference. This policy may have been undermined, however, by Rudyerd because of his relationship with Cottington and his anti-Catholicism.

The picture changes to an extent when considering Naunton's and Cottington's treatment of Protestant Viscounts/Barons. The fines that were being set for this group again increased during Cottington's time as master but the scale of this

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<sup>353</sup> Hawkins' Wardship Data; J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I*, 15, 1639-40 (23 vols, London, 1858-97), p. 215; Clay, 'The Misfortunes of William, Fourth Lord Petre (1638-55)'; Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 127.

<sup>354</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 21 James I, No. 6; Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 7 Charles I, No. 206; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), ff. 97-284[?].

increase was enormous. This is best demonstrated through the administration of wardship which drove this very large rise in fines. During Naunton's mastership the wardship of De La Warr was sold on 23 October 1629 for £200, a ratio of 1.69. However, when Cottington was master of the Court of Wards the wardship of Philip Lord Stanhope was sold on 4 March 1636 for £2000, a ratio of 100.<sup>355</sup> This suggests that, as with Catholic families, Cottington was exploiting or discriminating against the lower ranked Protestant nobility, which stands in contrast to the management of livery which actually witnessed a decline in the fines set for this Protestant group. Again this apparent contradiction can potentially be explained through the relationship between the two most important officers within the Court with the surveyor-general possibly choosing to obstruct the policy of Cottington.

**Table 13: Sale to IPM ratios for Catholic and Protestant noble families who possessed the titles of Duke/Earl or Viscount/Baron during the Personal Rule.**<sup>356</sup>

Religion and social status	Wardship sale to IPM ratio	Livery sale to IPM ratio	Overall sale to IPM ratio
1 R.C. Duke/Earl	-	3.82	3.82
1 R.C. Viscount/Baron	5.88	1.79	2.81
1 Prot. Duke/Earl	-	2.14	2.14
1 Prot. Viscount/Baron	36.86	3.98	18.59
2 R.C. Duke/Earl	-	-	-
2 R.C. Viscount/Baron	11.79	0.49	6.14
2 Prot. Duke/Earl	2.46	-	2.46
2 Prot. Viscount/Baron	-	1.86	1.86

Unfortunately most of the groups (with the exception of the 'Overall sale to IPM ratio' groups) in the above table possess figures that are based upon small samples.<sup>357</sup> These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. Once more there is a lack of data for Catholic noble wardships relating to Dukes/Earls. Due to the chronological perimeters of the

<sup>355</sup> Hawkins' Wardship Data.

<sup>356</sup> The first period of Personal Rule is signified by '1'. The second period of Personal Rule is signified by '2'. See footnote 343 for the sources used to compile this table.

<sup>357</sup> Small samples concern '1 R.C. Duke/Earl' (livery); '1 R.C. Viscount/Baron' (wardship); '1 R.C. Viscount/Baron' (livery); '2 R.C. Viscount/Baron' (wardship); '2 R.C. Viscount/Baron' (livery); '2 Prot. Duke/Earl' (wardship); '2 Prot. Viscount/Baron' (livery).

Personal Rule there is an additional lack of information for this group in other areas and for other groups as well. Despite these limitations an analysis of this data can still yield useful and interesting results by acting as an indicator of the policy of the Court of Wards during the Personal Rule. Clearly the fines imposed on Catholic Viscounts/Barons increased during the second period which was driven by a rise in the prices that were being set for wardships. Given the flexibility afforded by these fines it is possible that this reflected the crown's potential decision to give attention to its finances as a result of the Scottish Covenanter rebellion and this is demonstrated by the wardships of Montagu and Petre. During the first period the ratio with Montagu's wardship was 5.88 but during the second period the ratio with Petre's wardship was 11.79. Yet livery fines also fell during the second period. For example the livery fine of Morley in the first period was £216 17s 3d, a ratio of 2.17, while in the second period the livery fine of Petre was a larger £357 2s[?], a ratio of only 0.49.<sup>358</sup> This possibly indicates that the relationship between Cottington and Rudyerd undermined the former's policy.

The management of Protestant Dukes/Earls by the Court of Wards was rather different to the way that Catholic Viscounts/Barons were treated. During the second period the Court slightly raised the overall charges that were being set for this group. Although the figures available for the second period are very limited and the greater elasticity of wardship fines makes a fair comparison between wardship and livery difficult; nonetheless they can still act as a potential indicator of policy and a comparison is possible as long as these matters are taken into consideration. The figures for the first period are based on Protestant liveries such as that of Southampton. Southampton's livery fine was set at £333 18s, a ratio of 0.58. However, the second period is based on the one wardship of Marlborough. Marlborough's wardship was sold for £200, a ratio of 2.46.<sup>359</sup> Although the difference between the overall figures for this group in the first and second period is small it nonetheless suggests that the Court of Wards was possibly raising the fines

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<sup>358</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/329A (10-15 CI), f. 144, No. 396; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 352; Clay, 'The Misfortunes of William, Fourth Lord Petre (1638-55)', p. 89.

<sup>359</sup> Hawkins' Wardship Data; TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Easter and Trinity Term, 1 Charles I, No. 120; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 161.

resulting from a potential focusing of attention onto the crown's finances due to the Scottish crisis. Also the increase in the fines set for this group may have been considered politically justifiable because of the greater social status these nobles possessed while at the same time the small increase would have limited any discontent arising from these higher charges.

However the administration of Protestant Viscounts/Barons experiencing wardship and livery during the Personal Rule exhibits a different pattern. Instead of fines increasing, the overall charges for this group actually fell dramatically in the second period. This may be a result of a lack of families from this group experiencing wardship in the second period, but even if this is the case it can still possibly indicate the policy of the Court of Wards or Rudyerd's obstructionism. This can be shown by the liveries of Stanhope and the daughters and coheirs of Wimbledon. During the first period Stanhope's livery fine was set by the Court at £63 2s 5d, a ratio of 2.1, while the daughters and coheirs of Wimbledon were charged collectively. The fine for their livery was £41 8s 4d, a ratio of 1.86.<sup>360</sup> It therefore appears that the Court was lowering the charges, at least for livery, that were being set for this group. This may have been motivated by a desire to bolster support for the crown from the more numerous lower ranked, politically important, Protestant nobility because of the problems the crown was experiencing in Scotland during the second period of the Personal Rule.

The Court of Wards appears to have been following a policy which was based on deference to noble families, both Catholic and Protestant, who held the titles of Duke/Earl. This was demonstrated by levying smaller feudal fines. Consequently lower ranked families were more likely to be exploited or discriminated against if they held the titles of Viscount/Baron. However it is also of note that there was a slightly greater amount of deference shown towards Protestant Dukes/Earls which can be explained through the political legitimacy of Protestantism as well as the fact that almost all of the officials within the Court were Protestant. Furthermore there was a far greater degree of financial exploitation of/discrimination against Protestant

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<sup>360</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Michaelmas and Hillary Term, 3 Charles I, No. 139; Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, ? Charles I, No. 244 (due to document damage the year of the IPM is uncertain); Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), ff. 165-399[?]; Ward Class 9, 'Receiver-General's Accounts', Ward 9/431 (15-17 CI), f. 89.

Viscounts/Barons than there was of Catholics with similar titles. This indicates that the Court of Wards was possibly attempting to treat Catholic families with sensitivity in order to avoid the potential of domestic trouble in view of the war on the European mainland. Therefore fiscal feudalism can be seen as operating in two different ways. The first is the exploitation of the crown's feudal rights for financial gain and the second is the possible use of wardship and livery as political tools with which to generate support from the more numerous, lower ranking, Catholic members of the nobility.

The period encompassing the masterships of Naunton and Cottington was primarily marked by change but the driving forces behind this change were complex. Catholic and Protestant noble families of all titles, overall, experienced higher fines during Cottington's tenure as master of the Court of Wards. This is in keeping with some of the historiography of Cottington's mastership which emphasises the far greater profits the crown enjoyed from the Court and the higher fines that he set as well.<sup>361</sup> However the reasons for this change are unclear. This is because the increase in the fines for Catholic Dukes/Earls was a result of higher livery fines, while the higher charges for Catholic Viscounts/Barons stemmed from an increase in wardship prices despite an actual decline in livery charges. Further the rise in the prices for Protestant Dukes/Earls was again caused by an increase in livery charges while wardship fines fell. However the increase in the fines for Protestant Viscounts/Barons was driven by a rise in wardship charges while at the same time there was a decline in livery prices. Consequently the reasons for change not only lie with Cottington's grasping mastership but also in the relationship that Cottington had with Rudyerd and the latter's anti-Catholicism as well.

The Personal Rule also witnessed change between the first and second periods of the Personal Rule. Both Catholic Viscounts/Barons and Protestant Dukes/Earls saw an overall increase in the fines that were being levied for wardship and livery but Protestant Viscounts/Barons experienced a huge drop in the overall charges that they received. The increase in the charges for Catholic Viscounts/Barons was driven by a confusing rise in wardship fines while at the same time livery prices were actually declining and this contradiction can be interpreted as stemming from both the relationship between Cottington and Rudyerd and the

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<sup>361</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 138.

latter's possible focus on high ranking Catholics. A broader explanation for the overall increase in the feudal fines for Catholic Viscounts/Barons and Protestant Dukes/Earls can potentially be located in the possible decision of the crown to give attention to its finances as events unfolded in Scotland. However the general fall in the fines set for Protestant Viscounts/Barons can be viewed as a political tactic designed to muster support for the crown from the Protestant, lower ranked majority of the English and Welsh nobility as it attempted to deal with the Scottish Covenanter crisis.

### **Custody**

Seventeen noble minors became wards of the crown during this period.<sup>362</sup> However, only five of these heirs came from Catholic families, the other twelve had Protestant backgrounds.<sup>363</sup> These five Catholic wardships are very important because the custodial element of wardship was the most potent asset the Court of Wards possessed for dealing with Catholicism. The theme of fiscal feudalism does not play a role in this section as the emphasis is solely on the custodial element of wardship. There fore this section is concerned with to whose 'use' the wardship was granted, the composition of the committee, the religious affiliations of the committee, and whether religious conversion was a motivation in the decision of the Court to grant a wardship to a specific committee. This section will first consider these important aspects of Catholic wardships within a broad chronological context before examining the level of continuity and change during the masterships of Naunton, Cottington as well as the Personal Rule.

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<sup>362</sup> Hawkins' Wardship Data.

<sup>363</sup> The five held the titles Stafford, Montagu, Teynham, Wotton and Petre. The twelve held the titles Wharton, Buckingham, De La Warr, Dacre, Oxford, Stanhope, Spencer, Marlborough, Bayning, Bath, Winchilsea, Gerard.



**Table 14: Sale of noble Catholic wardships.**<sup>364</sup>

Sale date	Deceased	Heir	Committee	Use of wardship
23 Feb 1626	Edward Lord Stafford	Henry Lord Stafford	Thomas Howard Earl of Arundel and Surrey	-
15 Feb 1630	Anthony Maria Browne Viscount Montagu	Francis Brown Viscount Montagu	Sir Henry Compton	Ward
27 March 1630-26 March 1631	John Roper Lord Teynham	Christopher Roper Lord Teynham	George Kirke	-
27 March 1630-26 March 1631	Thomas Lord Wotton	Ladies Margaret and Anne Wotton	Mary Lady Wotton	-
20 Feb 1639	Robert Lord Petre	William Lord Petre	Spencer Compton Earl of Northampton	Ward

Clearly the majority of the wardships have no recorded information as to whose use they were granted. It is uncertain why this should be the case but it may simply have been a result of administrative error. However, thankfully it is possible to at least partially determine who was intended to gain benefit from all of the grants of the above wardships. Obviously the wardship of Montagu was granted to Compton with the heir's interests being placed first. This is also the case with the grant of the wardship of Petre in 1639 to Northampton. However there is more to this latter wardship than may at first appear. This is because the unofficial committee of Petre appears to have been 'an uncle of the fourth Lord, William Petre of Stanford Rivers, and Lord Herbert, son and heir apparent to the Earl of Worcester'. Indeed Robert Lord Petre had desired Herbert, a Catholic, to be granted the wardship of his son and the ward 'seems to have spent most of the next few years living in Herbert's household'.<sup>365</sup>

To whose use the other three wardships were awarded to is far less clear, but through an examination of the committees it is possible to partially comprehend who was intended to benefit from these wardship grants. First the wardship of Stafford was unofficially granted to Arundel on 25 October 1625 and on 19 December the same year the fine of 500 marks for the wardship was to be given as a grant to

<sup>364</sup> This table is based on the following sources: Hawkins' Wardship Data; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, pp. 681-82; J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I, 1, 1625-26*, (23 vols, London, 1858-97), pp. 133-555.

<sup>365</sup> Clay, 'The Misfortunes of William, Fourth Lord Petre (1638-55)', p. 89.

Arundel 'in trust for those who have maintenance out of the estate'.<sup>366</sup> This suggests that the wardship was possibly being granted to Arundel for the benefit of Stafford. Similarly the grant of Margaret and Anne Wotton to Lady Wotton, who was likely their mother as well as the wife of the deceased Lord Wotton, was also probably made with the benefit of the two daughters of Wotton who were within age in mind.<sup>367</sup> Unfortunately the third and final wardship is considerably more complex.

When Teynham was granted to Kirke it may have been the same individual who was a 'courtier...groom of the bedchamber and gentleman of the robes to both James I and Charles I' who 'took every opportunity to make money'.<sup>368</sup> Certainly William second Lord Petre, Henry Earl of Worcester and Mary Lady Teynham, who was probably the mother of Teynham, petitioned for his wardship but were turned down because of their recusancy. Then as no other friend/family member petitioned the wardship was sold to the Secretary of State Edward Viscount Conway and Killultagh.<sup>369</sup> Then in order to possibly make money Conway may have sold the wardship on to Kirke for a profit. If this sequence of events is correct then it would suggest that Kirke possibly brought the wardship for his own use rather than for the use of the ward.<sup>370</sup>

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<sup>366</sup> J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I, 1, 1625-26*, (23 vols, London, 1858-97), pp. 133-555. The official grant was probably 23 February 1625/26. P. Holmes, 'Howard, William, Viscount Stafford (1612-1680)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, May 2011 [<http://www.oxforddnb.com/view/article/13948>, accessed 28 June 2011].

<sup>367</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 2, p. 867; Mathew, *The Age of Charles I*, p. 143, n. 2; J. C. H. Aveling, *The Handle and the Axe: The Catholic Recusants in England from Reformation to Emancipation* (London, 1976), p. 132. It is uncertain whether Aveling is referring to the mother or one or more of the daughters.

<sup>368</sup> P. Lewin, 'Kirke, George (c.1600-1675)', *Oxford Dictionary of National Biography*, Oxford University Press, Sept 2004; online edn, Jan 2008 [<http://www.oxforddnb.com.libproxy.york.ac.uk/view/article/15662>, accessed 16 July 2010]; Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 128.

<sup>369</sup> J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I, 3, 1628-29* (23 vols, London, 1858-97), pp. 419-420; Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, p. 681; Based on Stone, *The Crisis of the Aristocracy 1558-1641*, p. 441.

<sup>370</sup> The link between Conway and Kirke appears logical as this would resolve the apparent contradiction between the reference to Conway receiving the Teynham wardship and Kirke being named as the committee of the ward in the records of the Court of Wards.

This convoluted process did not end here because on 14 February 1639 Lady Teynham petitioned Secretary of State Sir Francis Windebank claiming to have received a letter from Charles I to her son ordering him to attend the king at York. She pleaded with Windebank to have her son excused from attending the king as a result of his minority, his youth, weakness and lack of arms, as well as his possession of an impoverished estate.<sup>371</sup> This suggests that by the late 1630s the wardship of Teynham was possibly in the possession of his mother. If this is correct then it may indicate that Kirke had sold the wardship to Lady Teynham. Therefore if Teynham was under his mother's control in the late 1630s this would probably mean that his wardship was being held for his own use and not for the use of the committee. As a result Teynham may have been able to enjoy the same benefits as the Stafford, Montagu, Petre, and Wotton heirs probably received.

The issue of the people who were granted the benefit of wardships is closely tied to the matter of the composition of the committees. It appears that only a minority of the five heirs actually received a committee which included family members and these were the Wotton and Petre wards. The wardships of the coheirs of Wotton were awarded to Lady Wotton who was probably the mother of the children and the wife of the deceased Wotton. The wardship of Petre differs slightly because officially there was no relative recorded as being part of the committee but unofficially, as seen above, the uncle was included within the committee. This may have been in order to stop the Court of Wards from preventing the grant of the heir to Herbert which was according to the wishes of the father.<sup>372</sup>

The matter of the religious make-up of these committees inevitably stems from an analysis of the individuals who comprised these committees. The majority of the heirs appear to have been granted to guardians who were possibly Catholic. The wardship of Montagu was granted to Compton, who was possibly of Brambletye in East Grinstead, Sussex. If this is correct then he was a Sussex Catholic whose family's religious beliefs were acclaimed throughout the local area. Indeed this Compton may have been one of a number of men who was responsible for the

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<sup>371</sup> J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I*, 13, 1638-39 (23 vols, London, 1858-97), p. 462.

<sup>372</sup> Clay, 'The Misfortunes of William, Fourth Lord Petre (1638-55)', p. 89.

estates and heirs of the Sussex Catholic, Sir John Gage, after his death.<sup>373</sup> Also Wotton was a Catholic and Aveling mentions that ‘the Baronesses Mordaunt and Wotton’ formed part of the Catholic nobility in 1640.<sup>374</sup> Finally the wardship of Petre was unofficially granted to the uncle and the Catholic Herbert amongst others. This could partly explain not only why Robert Lord Petre wanted Herbert to act as guardian to his son but also why Petre ‘seems to have spent most of the next few years living in Herbert’s household’.

The minority of the heirs were granted to Protestants but when looking beyond the initial awards it can be seen that the religious beliefs of these committees were more favourable towards Catholicism than first appears. As far as the Stafford wardship is concerned the committee, Arundel, had probably been a Catholic but at Christmas 1616 he took ‘communion in the Church of England’. However Arundel apparently re-joined the Catholic Church during the last years of his life. Therefore it would appear that from late 1616 to the early 1640s Arundel may have been receptive to Catholicism.<sup>375</sup> Consequently it can be seen that the Court of Wards, by awarding the wardship to Arundel, was granting a Catholic noble heir to a guardian who was officially conformist but was possibly receptive to the Catholic faith.

The Teynham wardship is more complex. As a result of Charles I refusing to permit Lady Teynham, Worcester and William Lord Petre to buy the wardship of Teynham and as no other friends or relatives came forward, he instructed Conway to receive and pay for the wardship instead. It appears then that Kirke, who may have been a Catholic courtier, was granted the wardship of Teynham after possibly paying Conway for it.<sup>376</sup> It would then appear that at a later date Lady Teynham may have brought the wardship, which was probably for her son, from Kirke. Therefore as

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<sup>373</sup> A. J. Fletcher, *A County Community in Peace and War: Sussex, 1600-1660* (London; New York, 1975), pp. 97-100.

<sup>374</sup> Aveling, *The Handle and the Axe: The Catholic Recusants in England from Reformation to Emancipation*, p. 132.

<sup>375</sup> R. M. Smuts, ‘Howard, Thomas, fourteenth earl of Arundel, fourth earl of Surrey, and first earl of Norfolk (1585–1646)’, *Oxford Dictionary of National Biography*, Oxford University Press, Sept 2004; online edn, Jan 2008 [<http://www.oxforddnb.com.libproxy.york.ac.uk/view/article/13943>, accessed 19 July 2010].

<sup>376</sup> P. Lewin, ‘Kirke, George (c. 1600–1675)’, *Oxford Dictionary of National Biography*, Oxford University Press, Sept 2004; online edn, Jan 2008 [<http://www.oxforddnb.com.libproxy.york.ac.uk/view/article/15662>, accessed 16 July 2010]. This reference makes reference to ‘M. A. E. Green, ed., *Calendar of the proceedings of the committee for compounding ... 1643–1660*, 2, PRO (1890), Oct 1645’.

Lady Teynham may have been the daughter of the Catholic William second Lord Petre, as well as probably the wife of the Catholic Teynham, she may also have been a Catholic as well.<sup>377</sup> This could have enabled a Catholic upbringing for Teynham.

Therefore it seems that the Court of Wards never made an effort to change the religious beliefs of noble Catholic heirs. It is true that Stafford was granted to Arundel but he may have possessed an understanding attitude towards Catholicism while the award of Teynham to Conway was probably more to do with the payment of a servant of the crown than an attempt to change Teynham's Catholic beliefs.<sup>378</sup> Furthermore, as the wardship of Teynham was possibly sold on by Conway to Kirke, who was possibly a Catholic courtier, this, along with other Catholic wardships, may suggest that both the Court and courtiers were not insensitive to the religious beliefs of noble families.

**Table 15: Sale of noble Catholic wardships during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>379</sup>

Mastership	Sale date	Deceased	Heir	Committee	Use of wardship
R.N.	23 Feb 1626	Edward Lord Stafford	Henry Lord Stafford	Thomas Howard Earl of Arundel and Surrey	-
R.N.	15 Feb 1630	Anthony Maria Browne Viscount Montagu	Francis Brown Viscount Montagu	Sir Henry Compton	Ward
R.N.	27 March 1630-26 March 1631	John Roper Lord Teynham	Christopher Roper Lord Teynham	George Kirke	-
R.N.	27 March 1630-26 March 1631	Thomas Lord Wotton	Ladies Margaret and Anne Wotton	Mary Lady Wotton	-
F.C.	20 Feb 1639	Robert Lord Petre	William Lord Petre	Spencer Compton Earl of Northampton	Ward

<sup>377</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 10, pp. 506-07. This reference includes a reference to 'Acts of P. C., 1625-26, p. 228; *Cal. S. P. Dom.*, 1628-29, p. 420; cf. *Hist. MSS. Com.*, 7<sup>th</sup> Rep., p. 38'.

Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, p. 681, and n. c. This reference includes a reference to 'Entry in a Book of Hours, *penes* Lord Petre, Gen. Coll. ....of *Rom. Cath. Families of England*, ed. Howard, pt. i, p. 51.'

<sup>378</sup> Based on Stone, *The Crisis of the Aristocracy 1558-1641*, p. 441.

<sup>379</sup> See footnote 364 for the sources used to compile this table.

Unfortunately the analysis of the sale of noble Catholic wardships during the mastership of Cottington is based on a very small sample. Therefore it needs to be pointed out that this sample is taken to 'reflect the development of the Court's policies, but [it is accepted that it] might also be the result of ad hoc negotiations in... [this]...particular' instance.<sup>380</sup> Despite the already highlighted problems relating to the lack of recorded information about who was to benefit from the majority of the wardships, this data can still possibly provide an indication of the policy of the Court of Wards. It appears that most heirs during Naunton's mastership were probably awarded with the benefit of the ward in mind. For example the wardship of Montagu was granted to Compton for the use of Montagu himself and it is likely that the wardship grants of Margaret and Anne Wotton were made with their benefit in mind. When Cottington was master the wardship of Petre was granted to the use of the heir with Northampton only being the official committee. Indeed Cottington's own possible Catholicism may have made him sympathetic to the tactics that were employed by Northampton, Herbert and the Petre family in obtaining the wardship.<sup>381</sup>

This is surprising as Naunton was a Protestant with a 'profound suspicion of papal influence in England and elsewhere' and it is easy to imagine that he would not look kindly on protecting the interests of Catholic heirs who were minors.<sup>382</sup> In contrast, taking account of Cottington's own religious beliefs, it is unremarkable that he not only granted the wardship of Petre for the benefit of the heir but also possibly turned a blind eye to the tactics being employed by Northampton, Herbert and the Petre family. It may be that, despite Naunton's concerns over Catholicism, he felt bound to ensure that children of the nobility were generally treated in a favourable way because of the emphasis on social status in early seventeenth century society which means that Catholic noble families may have been protected from the risk of an attempt at a religious conversion.

The possible contrast in the composition of the committees of Catholic wards during the masterships of Naunton and Cottington is also interesting. During

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<sup>380</sup> This comes from Professor R. Cust and Dr. M. Jenner.

<sup>381</sup> Based on Hawkins, 'Royal Wardship in the Seventeenth Century', p. 45.

<sup>382</sup> R. E. Schreiber, 'Naunton, Sir Robert (1563–1635)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/19812>, accessed 28 June 2011].

Naunton's time only one of the four heirs initially received the benefit of having a relative included in the committee. This related to the wardships of the daughters and coheirs of Wotton where custody was possibly granted to the mother, Lady Wotton. Yet the other three wardships went to potential non-relatives. The wardship of Stafford was granted to Arundel, the wardship of Montagu to Compton and the wardship of Teynham went to first a minister, then possibly a courtier and only in the end did it appear that the heir may have been in the custody of the mother. Yet during Cottington's time as master, although the wardship of Petre was officially granted to Northampton, it is possible that Cottington was aware the ward was really going to Herbert. Therefore he may have allowed the wardship to be brought and kept by this committee.

Here the policy pursued by the Court of Wards under Naunton in regards to the relatives of Catholic heirs is more understandable given Naunton's own religious opinions. It is possible that Naunton was prepared to grant most Catholic wardships to the use of the ward but was not willing to allow most male heirs to initially go to relatives because of his Protestant prejudices. Yet in contrast it is unlikely that Cottington would have felt such antagonism towards Catholics. Indeed as mentioned above it is possible that he colluded with Northampton, Herbert and the Petre family over the grant of the Petre heir.

This leads on to the issue of how Catholics were treated by the Court of Wards under both masters when decisions were taken on the religious composition of the committees of heirs. During Naunton's mastership the Court was less tolerant of Catholicism with the result that only the Montagu and Wotton heirs possibly enjoyed Catholic committees. On the other hand the Stafford and Teynham wards experienced mixed fortunes with the former going to Arundel who was officially a Protestant while the latter was first awarded to the Protestant Conway, then to the potentially Catholic Kirke and finally possibly to the ward's potentially Catholic mother. When compared to the Court of Wards during Cottington's mastership there is possibly a difference because the wardship of Petre went, potentially with Cottington's knowledge, to one of the unofficial committee members, the Catholic Herbert.

Once more, to an extent, this fits in with what would be expected from the Court of Wards during Naunton's and Cottington's tenures as master. The Protestantism of Naunton proved less amenable to accepting the presence of

Catholics in the committees of heirs while Cottington may have gone out of his way in order to accommodate the one Catholic noble family that experienced wardship during his mastership. It is also of note that despite the decisions taken by the Court and crown on the wardships of the Stafford and Teynham heirs, neither can probably be viewed as attempted religious conversions. As mentioned earlier Arundel may well have held an understanding attitude towards Catholicism while the presence of Conway and Kirke in the wardship process of Teynham is more likely to have been connected to the payment of servants and courtiers than any desire to end the Catholicism of the Teynham family. Therefore it appears that out of social deference both masters respected the religious autonomy of noble families.

**Table 16: Sale of noble Catholic wardships during the Personal Rule.**<sup>383</sup>

First/second period of Personal Rule	Sale date	Deceased	Heir	Committee	Use of wardship
1	15[?] Feb 1630	Anthony Maria Browne Viscount Montagu	Francis Brown Viscount Montagu	Sir Henry Compton	Ward
1	27 March 1630-26 March 1631	John Roper Lord Teynham	Christopher Roper Lord Teynham	George Kirke	-
1	27 March 1630-26 March 1631	Thomas Lord Wotton	Ladies Margaret and Anne Wotton	Mary Lady Wotton	-
2	20 Feb 1639	Robert Lord Petre	William Lord Petre	Spencer Compton Earl of Northampton	Ward

Unfortunately the analysis of the sale of noble Catholic wardships during the Personal Rule is based upon small to very small samples. Therefore it needs to be pointed out that these samples are taken to 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. As a result of the more limited chronology that stems from the Personal Rule one of the ambiguous wardship grants is omitted from this analysis. The policy during the first period appears to have been to normally grant Catholic wardships to the use of the heir which was certainly the case for Montagu whose wardship was granted to his own use through the committee of Compton. It is

<sup>383</sup> See footnote 364 for the sources used to compile this table.



also probable that Margaret and Anne Wotton had their wardships granted for their own benefit as Lady Wotton was likely the mother. Only Teynham may have been the first to be granted to the use of the committee consisting of Conway and then Kirke, before finally being possibly granted to his mother. This would suggest that the sale may have eventually been for the benefit of the heir. In the second period the wardship of Petre was unambiguously granted to his own use through the complex two committees that were established for his wardship.

That not all noble heirs from Catholic families may have had their wardships granted to their own use in the first period can be viewed as a symptom of the more stable position the crown enjoyed during almost all of this period within the Personal Rule, in the context of no serious/immediate threat of rebellion or invasion facing the monarchy. Consequently the Court of Wards was possibly not particularly fearful of a domestic Catholic conspiracy. However during the second period this may have changed because of the threat from the Scottish Covenanters. This may have led the Court to view Catholics as a potentially rebellious religious minority as the crown attempted to deal with the Covenanter crisis. This would therefore suggest that the Court of Wards, through possibly continuously granting Catholic wardships to the use of the heir, may have been trying to keep Catholics onside in order to maintain their loyalty to the crown at this difficult time.

The number of relatives included in the committees follows a different pattern. The only wardship that possibly had a relative in the initial committee during the first period concerns the daughters and coheirs of Wotton. In this case it was most likely the mother who was granted custody. The majority were granted to committees who were not related to the wards. However during the second period the only wardship in the sample involved the Petre family heir. Here the ward was in practice granted to a committee which included a relative. The possible change can again be explained through the onset of the Scottish Covenanter rebellion. Before 1637 the Court may have felt it was unnecessary to ensure that relatives were included in the committees of these heirs from Catholic families. However the inclusion of a relative for the Petre heir, even though it was done unofficially, can be possibly viewed as an attempt by the crown to align itself more closely with the interests of the Catholic nobility, as Catholic loyalty to the crown may have become an increasing concern for the Caroline administration as the second period unfolded

because of the threat that the Scottish Covenanter rebellion posed to the stability of the crown in England.

The way the Court of Wards handled the religious composition of initial committees during the Personal Rule follows the same pattern already seen in the individuals who the Court chose to have the benefit of a wardship. Again in the first period the majority of heirs were awarded to possibly Catholic committees such as Montagu to Compton and Margaret and Anne Wotton to Lady Wotton. But the Teynham wardship initially went to the Protestant Conway. It was only when the wardship was possibly sold on to Kirke, and then potentially to the mother that the committees possibly become Catholic ones. In contrast during the second period the Court of Wards unofficially allowed the wardship committee of Petre to include a Catholic, while possibly no attempt was made at achieving a religious conversion during the Personal Rule which may have been the result of a desire not to alienate the nobility.

The possible difference in the treatment of heirs in relation to the use of the wardship, compared to the religious composition of the committees, is that the Teynham wardship appeared to be transferred more quickly to a Catholic committee, Kirke. Whereas it is quite possible that while the Teynham wardship lay in the hands of Kirke it was still held for the benefit of the committee. This apart, the same explanation can potentially be offered for the possible change that took place during the first and second periods of the Personal Rule. The Court of Wards may have only started to ensure that committees of heirs from Catholic families included individuals of the same faith when the crown was facing a threat to its power and authority. In this situation the Court possibly attempted to bring these families on to the side of the crown by treating their Catholicism with greater respect.

This section has focused on the custodial element of wardship which excludes its fiscal aspect. Consequently fiscal feudalism within the context of Catholic wardships will be dealt with in the following section. Indeed the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule will be the focus of attention. The masterships of Naunton and Cottington was marked by change. Catholic wardships were mainly granted to the use of the heir under Naunton but were possibly solely awarded to heirs during Cottington's mastership. Greater change took place when considering the involvement of relatives in the wardship

committees. Here under Naunton only a minority of wards had relatives included in committees but when Cottington was master, potentially, relatives were always included. Indeed even when examining the proportion of committees containing Catholics, while half of the committees during Naunton's tenure may have included Catholics, under Cottington the committees possibly always included Catholics. This level of change was primarily driven by the religious differences between Naunton and Cottington which influenced the functioning of the Court of Wards. The only form of continuity occurred when both masters probably refused to attempt any religious conversions through the opportunities that wardship provided. Here both masters appear to have shown deference by ultimately respecting the religious traditions of noble Catholic families.

The Personal Rule follows a similar course outlined above with change again being the principal theme. In the first period the majority of the wardships were granted to the use of the heir but in the second period the use of the wardship was possibly always granted to heirs. There was more marked change when considering the presence of relatives in committees. During the first period the majority of the committees did not include relatives but in the second period the committees may have always contained relatives. Indeed even when considering the inclusion of Catholics in committees during the first period, where the majority of committees possibly had Catholics present, it still did not go as far as the second period which potentially always included Catholics. The explanation for the changes can be located in the beginning of the Scottish Covenanter rebellion in 1637. Once this crisis started the partly ambiguous policy of the Court of Wards towards these families may have changed in order to try and encourage loyalty to the crown. The only element of continuity present was in the probable rejection of any attempt to change the religious trajectory of an heir. As with Naunton and Cottington this was likely to have been based on a culture of deference towards the nobility which led to a refusal to interfere in the religious matters of noble families.

### **Fines**

The Court of Wards could also decide the size of the fines that committees would have to pay for their purchased wardships as well as how much money heirs would have to pay for their liveries. Five Catholic families experienced wardship and ten Catholic families had to sue livery during the period 1625-41, while twelve

Protestant families encountered wardship and thirty-five Protestant heirs went through livery. This section will compare the feudal fines imposed on the Catholic and Protestant nobility while also considering the broader implications for the issues of fiscal feudalism as well as the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

**Table 17: Sale to IPM ratios for Catholic and Protestant noble families.**<sup>384</sup>

Religion	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio
R.C.	11200	2	8.83	1836	6	2.25
Prot.	12734	6	25.79	4256	23	2.71

To begin with, unfortunately, the analysis of sale to IPM ratios for Catholic families experiencing wardship is based on a small sample. Therefore it needs to be pointed out that this sample is taken to ‘reflect the development of the Court’s policies, but [it is accepted that it] might also be the result of ad hoc negotiations in... [this]...particular’ instance. It is also important to note that there is a large difference in the income derived from Catholic and Protestant families suing livery. This is to be expected in a nation that was predominantly Protestant. However, in the context of wardship, it is surprising that although three times as many Protestant than Catholic families experienced this feudal incident, the difference in the overall income derived from Catholic and Protestant wardships was not particularly large. Indeed the ratios which would be expected to be much higher for Catholic families in order to account for this are actually a lot lower than those for Protestant families. This can be explained through the much higher valuations provided for the estates of Catholic families in IPMs. The average IPM valuation for Protestant heirs was £190 but for Catholic heirs it was a much higher £526. Consequently, despite Catholic families enjoying much lower ratios, they still generated a disproportionate amount of income for their size because of the much larger estimates being given for the value of their estates. This suggests that at one level the Court of Wards, through the

<sup>384</sup> The sources used to compile this table come from: Hawkins’ Wardship Data; TNA, London, Ward Class 9, ‘Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates’, Ward 9/273 (21 JI-16 CI); Ward Class 9, ‘Entry Books of Liveries’, Ward 9/75, Ward 9/77, Ward 9/78, Ward 9/79, Ward 9/80, Ward 9/81, Ward 9/82, Ward 9/83 (17 JI-21CI); Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI); Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431, Series C (22 JI-17 CI).

feodaries, exploited/discriminated against Catholic families by providing less favourable valuations than those provided for their Protestant counterparts.

However despite this the table shows that in wardship, and to a much lesser extent livery, Catholic families were given favourable treatment by the Court of Wards. Two cases of wardship can illustrate this point very well. Montagu died on 23 October 1629 and left Montagu as his son and heir. On 15 February 1630 Montagu was sold to Compton for £1200, a ratio of 5.88. In contrast when Dacre died on 20 August 1630, leaving Dacre as his son and heir, the wardship was sold on 2 December to Barnham for £2666 13s 4d.<sup>385</sup> The ratio was 11.74. Therefore religion may have been the most important factor for the ratio differences between Catholic and Protestant families and that the former were possibly being treated more leniently by the Court of Wards.

This follows in the administration of livery although to a much smaller degree. Morley, who was the son[?] and heir of Morley, received his writ of livery on 23 May 1631. He sued a special livery and was fined £216 17s 3d, a ratio of 2.17.<sup>386</sup> Yet when Devonshire sued his special livery he was fined £359 16s, a ratio of 13.33. His writ of livery was issued on 23 February 1628.<sup>387</sup> Again the average ratio for Catholics in the management of liveries was slightly lower than the ratio for Protestants which suggests favourable treatment towards Catholics. However the difference between the two ratios is very small and may reflect the inflexibility of livery fines.

Catholic families may have received advantageous treatment because the Court of Wards was attempting to ensure that they supported the crown which was especially important in the context of the Thirty Years War because some contemporaries viewed this conflict in a religious context. However this does not explain the very large difference in the way that Catholic wardships were managed, in contrast to liveries, when compared to Protestant wardships and liveries. It is

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<sup>385</sup> Hawkins' Wardship data.

<sup>386</sup> TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/ 80 (3-9 CI), Index and ff. 214-215.

<sup>387</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Easter and Trinity[?] Term, ? Charles I, No. 103 (parts of the entry book are badly damaged); Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 J1-16 CI), f. 107; Ward Class 9, 'Entry Books of Liveries', Ward 9/78 (3-8 CI), Index and ff. 37-38.

possible that Rudyerd was reluctant to bestow upon Catholics suing livery the same generosity being offered for wardship. This would fit with Rudyerd's own religious opinions but does not account for why Naunton was prepared to follow a policy which required special handling of Catholic families. Perhaps as master, Naunton had to take into account the wider political context which Rudyerd did not have to consider or which Rudyerd ignored. This goes some way to explain the better treatment being given to Catholic families experiencing wardship than those suing livery, and when compared to Protestant wardships and liveries.

**Table 18: Sale to IPM ratios for Catholic and Protestant noble families during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>388</sup>

Master and religion	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio
R.N. R.C.	1200	1	5.88	1079	4	1.58
R.N. Prot.	5534	3	6.09	3704	17	4.48
F.C. R.C.	10000	1	11.79	757	2	3.57
F.C. Prot.	7200	3	45.49	505	5	2.78

To begin with it is important to note that the majority of samples for the groups in the above table are either small or very small. These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases'. Despite the limitations caused by the chance of having only two Catholic wardships handled by the Court of Wards during Naunton's and Cottington's masterships, the relatively small number of Protestant wardships helps to mitigate this problem and this data can still provide an indication of the policy the Court of Wards was following during these two masterships. The Court fined Catholic families more heavily when Cottington was master. For example the wardship of Montagu was dealt with under Naunton and the Court of Wards set a fine of £1200, a ratio of 5.88. However under Cottington the Petre wardship was sold for £10,000, a ratio of 11.79. This possibly continues with the management of Protestant wardships by both masters. Again under Cottington the fines for Protestants were potentially much bigger than those set under Naunton. However the difference may be far greater than seen with Catholic wardships. When Naunton was master the wardship of De La Warr, son and heir of De La Warr, was sold for £200, a ratio of 1.69, but during Cottington's time as master the wardship of

<sup>388</sup> See footnote 384 for the sources used to compile this table.

Spencer, son and heir of Spencer, was sold for £5000, a ratio of 34.01. It therefore may appear that Naunton was not prepared to exploit the nobility in the same way as Cottington. This could have been a result of Naunton's less energetic mastership but also that his 'position was handicapped by his poor health, his age, and his frequent absences from Court'.<sup>389</sup> In contrast Cottington's potentially greater exploitation can be linked to his more energetic administration.

There is a similar picture when considering how the Court of Wards under both masters managed Catholic liveries. Once more Cottington imposed heavier fines than Naunton on families whose heirs had reached full age. This is well represented by the livery fines of Bergavenny under Naunton as master and the coheirs of Shrewsbury during Cottington's mastership. Henry Lord Bergavenny sued a special livery and was fined £550 12s 7d, a ratio of 2.62, while the coheirs of Shrewsbury sued a general livery accompanied with a fine of £400, a ratio of 6.66.<sup>390</sup> This fits with the different levels of drive that Naunton and Cottington brought to the position of master.

However the way the Court of Wards administered Protestant liveries during both masterships differs considerably from the trends identified above. Livery fines were set at a higher rate by the Court during Naunton's mastership compared to the period when Cottington was head of the Court of Wards. For example Stamford received his writ of livery during Naunton's tenure on 27 April 1629 and was fined £111 10s 6d, a ratio of 1.73, but when Cottington was master the writ of livery for Lovelace was issued on 6 July 1637, and he was fined £103 6s 8d, a considerably lower ratio of 0.67.<sup>391</sup> This superficially appears to contradict the above arguments

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<sup>389</sup> Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 159.

<sup>390</sup> J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I, 15, 1639-40* (23 vols, London, 1858-97), p. 215; TNA, London, Ward Class 9, 'Abstracts of Inquisitions' (10 JI-10 CI), Easter and Trinity Term, 22 James I, No. 15; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 251; Ward Class 9, 'Entry Books of Liveries', Ward 9/81 (8-16 CI), Index and ff. 16-17; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/81 (8-16 CI), Index and ff. 287-88.

<sup>391</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 13 Charles I, No. 40; Ward Class 9, 'Abstracts of Inquisitions', Ward 9/329A (10-15 CI), f. 18, No. 239; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), ff. 109-335; Ward Class 9, 'Entry Books of Liveries', Ward 9/ 80 (3-9 CI), Index and ff. 52-53; Ward Class 9, 'Entry Books of Liveries', Ward 9/ 82 (11-20 CI), Index and ff. 120-22.

about the differences between Naunton and Cottington as masters but in actual fact may reflect the relationship between the latter and Rudyerd.

**Table 19: Sale to IPM ratios for Catholic and Protestant noble families during the Personal Rule.**<sup>392</sup>

Personal Rule period and religion	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio
1 R.C.	1200	1	5.88	1479	5	2.60
1 Prot.	9867	4	36.86	2985	14	2.80
2 R.C.	10000	1	11.79	357	1	0.49
2 Prot.	200	1	2.46	41	1	1.86

To begin with it is important to note that the majority of samples for the groups in the above table are very small. These samples are taken to ‘reflect the development of the Court’s policies, but [it is accepted that they] might also be the result of ad hoc negotiations in these particular cases’. Further, the second period appears to have possibly placed significantly greater pressure on Catholic wardships with the level of fines more than doubling. However when considering Protestant wardships it is clear that there was possibly an enormous decline in the charges being levied. This is epitomised by the Stanhope and Marlborough wardships. During the first period the wardship of Stanhope, son and heir of Henry Lord Stanhope, cost Lady Stanhope £2000, a very large ratio of 100. Yet in the second period the wardship of Marlborough, son and heir of Marlborough, only incurred the charge of £200, a ratio of 2.46.<sup>393</sup>

These opposing trends in the management of Catholic and Protestant wardships suggest two very different policies were being pursued in the second period of the Personal Rule. First the sizeable increase in the wardship fines being set for Catholic heirs was presumably a method of generating additional revenue for the crown as the Scottish crisis escalated which was possibly based on the attention potentially being placed upon the finances of the crown at this time. Second the very large decline in the charges being imposed upon the Protestant majority may have been a result of the desire of the Court of Wards to build support and loyalty for the crown within this important social group in England.

<sup>392</sup> See footnote 384 for the sources used to compile this table.

<sup>393</sup> Hawkins’ Wardship Data.



However the administration of Catholic and Protestant liveries possibly creates a much more stable picture which follows the trend set by the management of Protestant wardships. Both groups may have experienced a decline in the fines being set for liveries during the second period of the Personal Rule although there was possibly a significantly larger fall in the charges imposed for Catholic liveries. It is difficult to account for this drop in Catholic livery fines which not only contradicts the possible pattern for Catholic wardships but is also surprising considering Rudyerd's religious opinions. Therefore this suggests that further research is needed to identify explanations for this apparent anomaly.

This section's focus on the fines utilised by the Court of Wards shows that not only did both wardship and livery contain fiscal elements but also the crown's feudal rights were deployed towards Catholicism in a way that benefitted the crown. This took the form of not only exploiting/discriminating against Catholics by providing higher financial estimates of an heir's estate, thereby giving additional revenue, but also providing advantageous fines for committees/heirs when deciding the charges for wardship and livery. Indeed this was most apparent in the setting of wardship fines because of Rudyerd's religious opinions possibly affecting the administration of livery.

Change during the masterships of Naunton and Cottington is clear. Once Cottington became master of the Court of Wards he may have imposed heavier fines on both Catholic and Protestant wardships as well as on Catholic liveries. This was a result of the more energetic administration introduced by Cottington but also of Rudyerd's apparent acquiescence in his management of Catholic heirs suing livery, which was facilitated by his anti-Catholic beliefs. Yet at the same time the fines set for Protestant liveries actually fell during Cottington's mastership which was possibly a result of the relationship between Cottington and Rudyerd, leading to obstructive behaviour by the latter.

Change was also the dominant theme during the Personal Rule. Again there were possible increases in the fines imposed on Catholic wardships during the second period of the Personal Rule but this was potentially not mirrored in the management of Protestant wardships and liveries as here the charges actually declined in the same period, as livery fines may have done for Catholic families. The increase in the fines levied on Catholic wardships possibly occurred because of a

potential focusing of attention onto the crown's finances as the Scottish Covenanter rebellion developed. Yet the Court of Wards pursued a very different policy towards Protestant wardships and liveries. Here the Court sought to generate support for, and loyalty towards, the crown as the crisis in Scotland continued to mount which is unsurprising as the Protestant majority were by far the most important political element within the English and Welsh nobility. However the policy of the Court of Wards towards Catholics suing livery is ambiguous because no discernible rationale can be identified.

### **Religious Beliefs of Adult Catholic Heirs**

The social prominence and political influence of the nobility in early seventeenth century England makes it important to consider how the Court of Wards influenced the religious beliefs of noble heirs. Therefore this section will examine the recorded religious beliefs of Catholic heirs who experienced wardship and livery from the earliest point after the writ of livery had been issued. This is in order to try and obtain the clearest possible indicator of an heir's religious outlook after their experience of the Court had come to an end.<sup>394</sup> If the writ of livery is not available then the year that the heir reached their majority will be used as a substitute. The sources used are derived from Magee's *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*. This uses a variety of source material including 'Letters of protection against Recusancy Laws' and the 'Parliamentary lists of Papists, 1680'.<sup>395</sup> This section will look at the level of continuity and change in the religious beliefs of these heirs.

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<sup>394</sup> Livery payments could still be made after the date of the writ of livery.

<sup>395</sup> Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, pp. 124-33. If no information exists on a particular heir in the above lists contained within Magee's *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, then the heir will be excluded from the analysis. All Catholic nobles who sued livery during this period have been included. This is regardless of whether livery fines or IPMs are available. This is because livery fines and IPM values are not essential for an analysis in this section. The four additional noble titles are the Marquess of Winchester, Earl of Shrewsbury, Viscount Montagu and Lord Windsor.

**Table 20: Continuity and change in the Catholicism of noble heirs who experienced wardship and livery.**<sup>396</sup>

Name of heir	Wardship/livery	R.C./Prot./uncertain
Henry Lord Stafford	Wardship	Catholic
Francis Browne Viscount Montagu	Wardship and livery	Catholic
Christopher Roper Lord Teynham	Wardship	Uncertain
Ladies Margaret and Anne Wotton	Wardship	Uncertain
John Paulet Marquess of Winchester	Livery	Catholic
John Mordaunt Earl of Peterborough	Livery	Uncertain
Henry Parker Lord Morley and Mouteagle	Livery	Catholic
Henry Neville Lord Bergavenny	Livery	Catholic
William Lord Stourton	Livery	Catholic
John Talbot Earl of Shrewsbury	Livery	Catholic
William Lord Petre	Wardship	Catholic
Aletheia Howard Countess of Arundel	Livery	Catholic
Robert Lord Petre	Livery	Catholic
Thomas Lord Windsor	Livery	Catholic

It is unsurprising that almost all of the heirs of Catholic families who experienced wardship and livery continued as Catholics in adulthood. It is also unremarkable, given the additional burdens that wardship placed upon a family with higher fines as well as custody, that the level of continuity for this group of heirs was lower than for heirs who solely sued livery. Nonetheless, despite encountering the extra demands of wardship the majority of heirs were still noted as Catholics in adult life or at early death. For example Stafford died in 1637 while still a ward of the crown. After his death the papal agent, George Conn, wrote to Cardinal Francesco Barberini, the Cardinal Protector of England, on 11 August 1637 commenting that ‘He was a

<sup>396</sup> The sources used to compile this table come from: Hawkins’ Wardship Data; *State Papers Domestic Series from the Reign of Charles I*, (S.P. 12/157/196) INSTVCTIONS AND DIRECTIONS, from *State Papers Online*; TNA, London, Ward Class 9, ‘Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates’, Ward 9/273 (21 JI-16 CI); Ward Class 9, ‘Entry Books of Liveries’, Ward 9/75, Ward 9/77, Ward 9/78, Ward 9/79, Ward 9/80, Ward 9/81, Ward 9/82, Ward 9/83 (17 JI-21 CI); Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI); Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431, Series C (22 JI-17 CI); Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, pp. 124-33; Oxford Dictionary of National Biography, [www.oxforddnb.com](http://www.oxforddnb.com); Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 1-12; Clay, ‘The Misfortunes of William, Fourth Lord Petre (1638-55)’, pp. 87-116.

Catholic, and met death like an angel'.<sup>397</sup> The Petre heir, who experienced wardship, was still noted as a Catholic in the 'Parliamentary lists of Papists, 1680'.<sup>398</sup> Particular note needs to be made of Montagu who went through both wardship and livery. Little is known of his livery other than two recorded payments in the 'Receiver-General's Accounts' in 1632 and 1633.<sup>399</sup> But he was a Catholic in early adulthood as it was noted that he received a 'Letter of protection against Recusancy Laws'.<sup>400</sup>

However the religious beliefs of the heirs of two families who experienced wardship are unclear. The first of these is the Teynham family where the wardship of the heir was sold in 27 March 1630-26 March 1631. There is no recorded writ of livery but Teynham would have reached full age on 20 April 1642. Yet because Teynham died before the 'Parliamentary lists of Papists, 1680' was created the closest source to 1642 is the 'Letter of protection against Recusancy Laws'. This, combined with his son probably being included in the 'Parliamentary lists of Papists, 1680', suggests that Teynham possibly did continue as a Catholic in adulthood but it is not possible to be certain that this was the case.<sup>401</sup> The second family concerns the coheirs of Wotton. Margaret and Anne would have reached full age by 1640 and Aveling included 'the Baronesses Mordaunt and Wotton' as Catholics in 1640 but whether this referred to the mother and/or one or more of the daughters is unclear.<sup>402</sup>

The picture is less ambiguous when considering the effect of livery on heirs of Catholic families. Here almost all of the heirs were practicing Catholics in adulthood. This would make sense as the burdens that livery placed on families was not as onerous as those created by wardship. For example Winchester was fined

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<sup>397</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, p. 187 and n. e. This reference includes reference to 'Letter, dat. 11 Aug. 1637, from G. Conn to Cardinal Barberini, in B. M. Add. MS. 15390, f. 378, cited by Mary Hervey, *Life of Thomas Howard, Earl of Arundel*, p. 407.'

<sup>398</sup> Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 127.

<sup>399</sup> TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), ff. 228-317.

<sup>400</sup> Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 127.

<sup>401</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 1, pp. 681-82; Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 128.

<sup>402</sup> Cokayne, ed. *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, Extant, Extinct and Dormant*, 12, pt. 2, p. 867, n. i.

£575 2s 11d for what was possibly a special livery and received his writ of livery on 26 February 1630. Despite this fine Winchester continued as a Catholic because he received a 'Letter of protection against Recusancy Laws'.<sup>403</sup> This was also the case for Stourton who was possibly fined a more moderate sum of £134 12s 1d for his special livery and his writ of livery was issued on 11 November 1634. Again he also received a 'Letter of protection against Recusancy Laws'.<sup>404</sup> The only heir from a Catholic family who may have abandoned Catholicism was Peterborough. Peterborough was fined £175 11s 8d[?] for his special livery and received permission to enter his inheritance. Although Peterborough was recorded as a Catholic in the 'House of Commons Journal 1626' it was also recorded that he had a 'tendency to conform'. No record exists of his Catholicism after 1630 and therefore it is possible that he conformed to the Church of England after this date.<sup>405</sup>

This section has demonstrated the overall ineffectiveness of both wardship and livery in influencing the religious beliefs of heirs from Catholic families. It has already been mentioned that livery was not as burdensome as wardship but this does not explain why the majority of heirs from Catholic families experiencing wardship still maintained their Catholic faith in adulthood. It also does not completely explain why livery fines had very little effect. To better understand the apparent impotency of wardship and livery in influencing heirs it is necessary to look at the custodial and financial elements of wardship and the fiscal aspect of livery.

To begin with it has already been shown that the custodial element of wardship was not used effectively by the Court of Wards. The wardship of Montagu was granted to Compton who was a possible Catholic, the Ladies Margaret and Anne

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<sup>403</sup> J. Bruce, W. D. Hamilton, and S. C. Lomas, eds. *Calendar of State Papers Domestic Series. Charles I, 1, 1625-26*, (23 vols, London, 1858-97), pp. 157-72; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f.162; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/78 (3-8 CI), Index and ff. 195-96; Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 127.

<sup>404</sup> Mathew, *The Age of Charles I*, p. 143, n. 2; Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 128; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 291; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/81 (8-16 CI), Index and ff. 117-118.

<sup>405</sup> TNA, London, Ward Class 9, 'Entry Books of Liveries', WARD 9/80 (3-9 CI), Index and ff. 155-56; Magee, *The English Recusants. A Study of the Post-Reformation Catholic Survival and the Operation of the Recusancy Laws*, p. 128.

Wotton may have been allowed to enter the custody of the mother who was possibly a Catholic, and through a complex arrangement the body of Petre was allowed to come to the Catholic Herbert. Even Stafford's wardship was granted to Arundel who was likely to have been understanding of Catholics, while the wardship of Teynham may have found its way into the hands of a courtier who may also have been Catholic before then possibly going to the potentially Catholic mother, Lady Teynham. Therefore it can be seen that every heir at some stage was permitted to have committees including individuals who were either possibly Catholic or receptive to Catholicism. This can be explained through the social deference the Court afforded to members of the nobility who experienced wardship.

There is also the fiscal side of wardship and livery to consider. As noted in section three it is true that Catholics were exploited/discriminated against by the higher valuations provided in the IPMs compared to those provided for Protestants, nonetheless the heirs of Catholic families who entered wardship were given much smaller wardship fines than their Protestant counterparts. Indeed this also extended to livery although the difference between the charges imposed on Catholic heirs compared to Protestant heirs at full age was very small. The fluctuation in the scale of the differences between Catholics and Protestants, when considering wardship and livery charges, can be attributed to the far greater flexibility of wardship fines as well as Rudyard. The lower wardship and livery prices set for Catholics may have resulted from the Court of Wards choosing to pursue a policy which attempted to establish ties of loyalty between the Catholic nobility and the crown. This would have been particularly important because of the on-going Thirty Years War, as some contemporaries viewed this conflict within a religious context. Therefore the Court neglected to utilise feudal fines as another potential method of exploitation/discrimination against noble Catholics.

### **Conclusion**

This chapter has concentrated on the relationship between the Court of Wards and the Catholic nobility. Within this context fiscal feudalism can be viewed as a financial device that allowed the Court to pursue a possible policy of both favour and exploitation/discrimination towards different social groups on the basis of the interests of the crown. This is apparent in the treatment of Catholic Viscounts/Barons. Here this group was charged slightly more heavily for its

wardships and liveries because of the greater deference bestowed upon their respective co-religionists who were Dukes/Earls. Simultaneously there also appears to have been other forms of exploitation/discrimination and favour towards Catholic families. The exploitation/discrimination occurred at the beginning of the wardship and livery process with the holding of an IPM as the local feodaries (with possibly the escheators) provided higher valuations of the financial worth of Catholic estates than the estimates recorded for Protestant estates. The favourable treatment afforded to Catholics occurred in the ratios for wardship and livery. This possibly resulted from the desire of the Court of Wards to try and buy the loyalty of the Catholic nobility, especially with the continuation of the Thirty Years war because some contemporaries viewed this conflict in a religious context.

This has repercussions for the traditional historiography of fiscal feudalism. First the utilisation of the crown's feudal rights for financial gain was clearly continuing in the treatment of the Catholic nobility during the Caroline period. Also the policy pursued during the first phase of fiscal feudalism can be partly seen in operation as the Court of Wards provided advantageous terms, not only slightly to Catholic Dukes/Earls who represented the higher echelons of English Catholic society, but also to Catholic families generally. It is the financial exploitation of/discrimination against Catholicism through the higher financial valuations of Catholic estates in the IPMs that a new element of fiscal feudalism can be seen. This indicates that fiscal feudalism was possibly developing into a more exploitative/discriminatory system of generating crown income.

It is also of note that the policies of the Court of Wards towards Catholicism changed considerably during the masterships of Naunton and Cottington. Administration of the titled Catholic families witnessed significant change with an overall increase in the fines being set during Cottington's mastership. This was probably caused by Cottington's energetic mastership and Rudyerd's anti-Catholicism. Change also possibly occurred in the management of the custodial element of wardship. Here the approach taken to who was granted the use of the ward, and the number of relatives and Catholics included in the committees may have been more favourable for Catholics during Cottington's tenure. It was the potential refusal of both masters to attempt a religious conversion that represented the only continuity in policy. The changes can possibly be located in the different religious beliefs of Naunton and Cottington, while the continuity may have been

rooted in the social deference of both masters. There was also possible change in the overall financial treatment of Catholic wardships and liveries. This is because fines may have generally increased during Cottington's tenure as master. These changes were possibly caused by Naunton's 'frequent absences from Court', his illness and fragility, as well as Cottington's energetic mastership.

This change relates to the historiography surrounding Naunton and Cottington. Cottington's greater exploitation of the crown's feudal incidents is partially supported by Bell who noted the far greater revenues produced by the Court of Wards during Cottington's mastership and Havran viewed Cottington's mastership as being characterised by forcefulness.<sup>406</sup> Schreiber described Naunton as having a 'deep and public commitment to the protestant cause' and 'a profound suspicion of papal influence' while Havran believed that Cottington was a man regarded by contemporaries as a Catholic.<sup>407</sup> Therefore the historiography appears to fairly reflect the change that may have taken place when Cottington replaced Naunton as master of the Court.

The relationship between the Court of Wards and Catholicism during the Personal Rule was also marked by change. To begin with the financial management of Catholic noble families with different titles witnessed an overall increase in the fines set during the second period of the Personal Rule. As far as the custodial element of Catholic wardships is concerned, the second period may have seen the proportion of wardships granted to the use of the ward, as well as the proportion of relatives and Catholics included in committees, possibly increase as well. Indeed there was also a lack of continuity in the overall fiscal management of wardship and livery for Catholic families. This is because fines possibly rose for wardship but dropped for livery during the second period. The primary reason for these various changes is possibly the Scottish Covenanter rebellion. This may have directed attention towards the finances of the crown and could then have led to an overall increase in the size of the fines being set. However it also possibly gave birth to policies, such as favouring Catholics through potentially advantageous custody

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<sup>406</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 135; Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50.

<sup>407</sup> R. E. Schreiber, 'Naunton, Sir Robert (1563–1635)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/19812>, accessed 28 June 2011]; Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 223.



arrangements, to try and bind Catholics more closely to the crown as the crisis in Scotland developed.

This suggests that Sharpe's model of the Personal Rule has significant validity when it is applied to the relationship between the Court of Wards and the Catholic nobility. This is because the most significant event during the period of 1637-40 was probably the growth of the Scottish rebellion. Therefore it is reasonable to locate these changes as responses to the Scottish crisis undertaken by the Court which, to an extent, provides a rational explanation for the level of change highlighted in this relationship between the Court of Wards and Catholicism during the Personal Rule.

# Chapter Four: The Relationship between the Court of Wards and the Statutory Laws, Jacobean Instructions and the Customary Practice Governing the Administration of the Court of Wards

## Introduction

It is important that research into the Court of Wards considers the relationship the Court had with the laws, orders and customs that governed elements of its functioning as an institution, and a good place to start is with the Great Contract of 1610. There were a number of consequences that resulted from the failure of the Great Contract. To begin with, its collapse was important in encouraging James I to form a negative view of parliament. It also showed that government and parliament were incapable of working together to reform the fiscal system, and it undermined the connection between James I and Salisbury.<sup>408</sup> The crown also continued to rely on parliament for financial help.<sup>409</sup> However a further consequence stemming from the failure of the Great Contract was that it resulted in Salisbury 'reconstructing the royal finances on a prerogative basis' which has particular relevance for this thesis.<sup>410</sup> This resulted in the introduction of the first set of Instructions for the Court of Wards on the 9 January 1610 and then the formation of later Instructions in 1617, 1618 and finally 1622.<sup>411</sup> These Instructions were intended to operate alongside the existing statutes of 1540 and 1541 which statutorily created the Court of Wards and then the Court of Wards and Liveries respectively. Therefore alongside these two statutes the Jacobean Instructions possess considerable importance when considering how the Court functioned from 1610 until its eventual abolition. This leads to the

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<sup>408</sup> Smith, 'Crown, Parliament and Finance: The Great Contract of 1610', pp. 126-27; Coward, *The Stuart Age: England, 1603-1714*, p. 145.

<sup>409</sup> Hurstfield, *The Queen's Wards: Wardship and Marriage under Elizabeth I*, p. 323.

<sup>410</sup> R. Lockyer, *Tudor and Stuart Britain, 1485-1714* (3<sup>rd</sup> edn., Harlow, 2005), p. 258.

<sup>411</sup> The Instructions of 1617 were only an addition to the existing Instructions of 1610.

question of what kind of relationship the Caroline Court of Wards had with the two Henrician statutes and the Jacobean Instructions?

The original statute creating the Court of Wards did not do much beyond giving statutory power to the current system under which the crown's feudal rights were managed. Nonetheless it was intended to help the crown gather its feudal income more effectively at a time when the crown was experiencing financial problems. Setting the Court on a statutory basis was also a direct result of the statute of Uses 27 Henry VIII c.10 because of the greater amount of work that would occur as a result of the act. Meanwhile the selling of monastic land through the Court of Augmentations led to an increase in the number of subjects possessing land held under the tenure of knight service in chief which provided an additional reason for the creation of the Court of Wards. The same statutory basis was also given to liveries in 1541 with the act of 33 Henry VIII c.22. The statute of 1540 ensured that there was a link between the Court and livery and there were clear benefits of managing wardship and livery together, which led to liveries being attached to the Court of Wards the following year.<sup>412</sup> There was no further significant change in the official management of the crown's feudal rights until the introduction of the Instructions in the reign of James I.

These Instructions were intended to set down rules, in addition to the two statutes, about how the Court of Wards should be administered. They synthesised the feudal responsibilities of the crown towards heirs within age with the need for adequate revenue from the crown's feudal rights.<sup>413</sup> The Instructions of 1610 were introduced by Salisbury and were an attempt to both placate the subject's concerns and improve administration.<sup>414</sup> Some of the most important features of the 1610 Instructions was a month's grace awarded to families of the ward, and favour to be shown to individuals presented as guardians by the deceased. Also informers of concealed feudal obligations could be rewarded, while wardships were no longer to be allowed as payment. Even some of the burdens that could exist on an heir's estate could now be taken into account.<sup>415</sup> Further orders were added to the Instructions of

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<sup>412</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 13-15.

<sup>413</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 65.

<sup>414</sup> M. Prestwich, *Cranfield: Politics and Profits under the Early Stuarts: The Career of Lionel Cranfield, Earl of Middlesex* (Oxford, 1966), p. 46.

1610 in the form of the Additions of Instructions on 29 January 1617. These Instructions included an order that ‘...forbade the finding of any inquisition against the crown during the first year after the tenant’s death, and made it the feodary’s duty to acquaint the Court at once of any case of the sort that might crop up’. However, the following year witnessed greater changes in the procedures of the Court of Wards.<sup>416</sup>

1618 saw two new sets of Instructions issued. The first was issued on 23 February and the second on 11 December, the latter of which was intended to be a permanent answer to difficulties that had been present before or after 1610.<sup>417</sup> It is possible to see the origins of these Instructions in the financial problems that James I was experiencing at the time. R. Lockyer describes James I from possibly mid-1614 to 1618 as ‘living from hand to mouth, hoping, like Mr Micawber, that something would turn up’.<sup>418</sup> The first set of the 1618 Instructions allowed the master to reward individuals who discovered concealments in order to stimulate this activity. Also grants of wardships were only allowed within the council chamber of the Court of Wards when occasions were set aside for this.<sup>419</sup> The second set of Instructions issued in 1618 was created by the Lord Chancellor and legal as well as feudal experts. This set of Instructions was much larger than the Instructions issued earlier on in the year and was designed with the intention of obtaining better estimates of the value of the lands of heirs who were within age as well as further reducing the

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<sup>415</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 51-137.

<sup>416</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 53-54.

<sup>417</sup> ‘Magistro Curie [?] Wardorum & Liberatorum de quibusdam Instructionibus & Directionibus pro eadem Curia’ in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), pp. 66-69, Eighteenth Century Collections Online. Date consulted 14/5/2011; ‘A COMMISSION WITH INSTRVCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks’, pp. 18-19, Early English Books Online. Date consulted 28/4/11; R. H. Tawney, *Business and Politics under James I: Lionel Cranfield as Merchant and Minister* (Cambridge, 1958), p. 181.

<sup>418</sup> Lockyer, *Tudor and Stuart Britain, 1485-1714*, p. 259.

<sup>419</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 51-58.

scope for underhand financial activity. These Instructions remained in place until 1622 when Cranfield changed them with controversial results.<sup>420</sup>

The Instructions of 21 August 1622 can be closely tied to the mastership of Middlesex. Soon after Middlesex became master he commissioned a report by somebody closely linked with the Court of Wards which produced sensational information about the functioning of the Court. The report claimed that previous concerns raised by the author about abuses had been suppressed to avoid the ruptures and problems that would follow. The specific problems concerned a large amount of money withheld from the crown by the receiver-general, that the auditors' relationship with higher ranking officials undermined the operation of the Court of Wards, that the attorney of the Court operated outside the control of the master and with no regard for any other official, while both the attorney 'and his clerk, feather their nests by issuing orders in chambers at 20s. apiece to stay the issue of process for the recovery of debts due to the Crown'. If this was not enough it was also alleged that the work of the auditors was damaged by the intransigence of the clerk (presumably the clerk of the wards). Indeed this same clerk along with the sheriffs were also accused of corruption with the latter taking custody of lands worth a fraction of the debts due to the Court of Wards while the clerk 'leases at low annual rents, with the result that the King must wait interminably for his money'. Even feodaries were accused of 'granting long leases and conniving at procrastination in taking out livery'.<sup>421</sup>

This report helped to set in motion the creation of the Instructions of 1622. It led Middlesex to disagree with the December 1618 Instructions because they created an imbalance in power between the master and the other officials within the Court of Wards.<sup>422</sup> The new Instructions were argued in front of the king and were also considered by some members of the Privy Council. However unlike the Instructions

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<sup>420</sup> Prestwich, *Cranfield: Politics and Profits under the Early Stuarts: The Career of Lionel Cranfield, Earl of Middlesex*, pp. 232-38. This reference contains a reference to 'Spedding, vi. 446 (Bacon to Buckingham); Bell, op. cit., p. 58'.

<sup>421</sup> Tawney, *Business and Politics under James I: Lionel Cranfield as Merchant and Minister*, pp. 179-80. This reference includes a reference to 'Cranfield MSS. No. 4845 (1620): "Means to remedy abuses and to increase the King's revenue in the Court of Wards and Liveries"' and 'Cranfield MSS. no. 6890 (27 November 1622), Mr Auditor Curle to the Lord Treasurer; Goodman, vol. I, pp. 310-11'. Prestwich, *Cranfield: Politics and Profits under the Early Stuarts: The Career of Lionel Cranfield, Earl of Middlesex*, p. 237. This last reference includes a reference to 'Goodman, i. 271'.

<sup>422</sup> Prestwich, *Cranfield: Politics and Profits under the Early Stuarts: The Career of Lionel Cranfield, Earl of Middlesex*, p. 238.

of 1618 no external legal authorities were involved in the consultation process. Instead the only specialist officials who were involved were from the Court and they could be swayed by Middlesex.<sup>423</sup> These Instructions were a stricter version of the former Instructions of 1610 and 1618.<sup>424</sup> They did have a lot in common with the previous Instructions but they also gave greater power to the master as well as attack concealments, regulate the conduct of the feodaries, and attempt to increase the revenue from liveries.<sup>425</sup> These Instructions angered the other officials within the Court of Wards because they saw Middlesex as trying to accrue too much power while also using it unfairly.<sup>426</sup> After the successful impeachment of Middlesex parliament asked James I to cancel the 1622 Instructions and alter the December 1618 Instructions. This did not meet with success because parliament again raised the issue concerning the withdrawal of the 1622 Instructions in 1625, which was met with a commitment by Charles I to do so.<sup>427</sup> There is, however, no evidence to suggest that this ever happened and the records of the Court give an ambiguous answer to the question of which set of Instructions the Court of Wards was following in Charles I's reign.<sup>428</sup>

Consequently this chapter has to confront a serious ambiguity which stems from the lack of clarity over which set of Instructions the Court of Wards was following during the period 1625-41. As a result of the uncertainty this chapter will utilise the Instructions of December 1618 and 1622 as part of a lens, along with other sources mentioned below, with which to examine the relationship between the Court, the statutes, the Jacobean Instructions and the custom governing livery. Furthermore the availability of source material and time constraints also pose problems when attempting to understand the nature of this relationship. Consequently it is only possible to examine a small fraction of all the laws, orders and customs contained

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<sup>423</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 147.

<sup>424</sup> Tawney, *Business and Politics under James I: Lionel Cranfield as Merchant and Minister*, p. 181.

<sup>425</sup> Prestwich, *Cranfield: Politics and Profits under the Early Stuarts: The Career of Lionel Cranfield, Earl of Middlesex*, pp. 238-39.

<sup>426</sup> Tawney, *Business and Politics under James I: Lionel Cranfield as Merchant and Minister*, p. 183.

<sup>427</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 147.

<sup>428</sup> This uncertainty about which set of Instructions were being utilised by the Court of Wards during the Caroline period is confirmed by M. J. Hawkins who, despite his in-depth research into the Court during the 1960s, was unable to reach a conclusion about which Instructions were being followed.

within the statutes, the Instructions of December 1618 and 1622, and other sources. As a result this chapter will concentrate on the management of neglected wardships, the administration of idiots and lunatics, and the processes involved in heirs suing livery. This chapter will utilise the laws the crown established at the statutory creation of the Court of Wards and Liveries, the orders within the Instructions of December 1618 and 1622 and the customs of the Court which governed these three specific areas of responsibility. This will allow an examination of the relationship between the Court of Wards and the specific laws, orders and customs governing these particular feudal areas, starting with the management of neglected wardships.

### **Neglected Wardships**

Neglected wardships were wardships where the process for purchasing a wardship had been initiated but had been unfairly put back, not completed, or the committees had not paid the expected fines.<sup>429</sup> They featured in both the Instructions of December 1618 and 1622. The former Instructions stated:

THAT the Oath be taken by those that are Committees or Lessees vpon neglect *in hec verba; I. A.B. doe sweare, that neither I, nor any other to my knowledge, or as I beleue, or haue heard, haue or hath taken any course, or vsed any practise or combination directly or indirectly, by my selfe or by any other, with any person or persons whatsoever, to stay or hinder the prosecution of, and for the Composition for the Wardship of the body of B.C. or the Lease of any of the said Wards lands, with any purpose or intent whatsoever, that the said Wardship and Lease, or either of them, by such neglect and default of prosecution, might come to mee, or to anye other to my vse, or by my meanes or procurement, or to my knowledge; So helpe me God. Per ipsum Regem.*<sup>430</sup>

There was little deviation from this oath in the final Instructions of 1622.<sup>431</sup> Both orders clearly intended to deter the deliberate attempts of some men to obtain wardships that other parties were interested in by preventing a completion of the

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<sup>429</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 81-82; Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 97.

<sup>430</sup> 'A COMMISSION WITH INSTRVCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks', pp. 18-19, Early English Books Online. Date consulted 28/4/11.

<sup>431</sup> '*De Instructionibus quibusdam Curie[?] Wardorum & Liberaturarum*' in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), p. 403, Eighteenth Century Collections Online. Date consulted 4/5/2011.

wardship or leasing process. However the Instructions of December 1618 also contained an additional order to regulate neglected wardships. It instructed:

THAT the Clerks of the Pettie Bagge, doe file and transcribe all Offices that bee brought to them, and not to reiect or suppress the same, and the like course to be vsed in the Exchequer with Offices that be returned into the Exchequer; and that all due Fees bee foorthwith discharged and payd vnto the Clerkes and Officers of the sayd Courts: And if any person shall denie or neglect to pay any such due Fees, then vpon the petition of the sayd Clerke to the Court of Wards, order shall bee taken for their satisfaction.<sup>432</sup>

This order reappeared again in approximately the same form in the Instructions of 1622.<sup>433</sup> It possibly suggests that one of the ways in which neglects could occur was when a party interested in a wardship refused to pay the fees of officers. Another possible way was when one competing party bribed the clerks of the Petty Bag to ignore the IPM that had been found and deposited into the Chancery by another interested party. Alternatively the clerks may have been attempting to gain an upper hand in the business of wardship themselves by delaying the processing of an IPM until the wardship effectively became a neglect.<sup>434</sup> This would then have allowed the parties or the clerks to approach the Court of Wards about what had become a neglected wardship. Therefore the above order can be viewed as both an additional and complimentary tool to the first order, with which the Court hoped to lower or end the number of neglected wardships it was forced to deal with.<sup>435</sup> Both orders would have been in use during the period of 1625-41.

This section of the chapter is based on the wardship data collected by Mr Hawkins. Sadly the data does not permit an examination of how the neglects came

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<sup>432</sup> 'A COMMISSION WITH INSTRVCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks', pp. 11-12. Early English Books Online. Date consulted 28/4/11.

<sup>433</sup> 'De Instructionibus quibusdam Curie[?] Wardorum & Liberaturarum' in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), p. 402, Eighteenth Century Collections Online. Date consulted 4/5/2011.

<sup>434</sup> This is based on Tawney, *Business and Politics under James I: Lionel Cranfield as Merchant and Minister*, p. 256. The clerks of the Petty Bag 'transcribed [IPMs] into the Court of Wards'. They may have had other duties as well. The quotation comes from Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 75.

<sup>435</sup> This is based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 81-82.



about or show how the eventual committees obtained these wardships, nor does it allow an assessment of how often the obligatory oath was taken when a neglected wardship was granted. However the data does provide the names of the deceased and heir, the dates of death and of purchase, as well as the committees, to who's use the wardship was granted, and the prices that were charged. This means that while it is not possible to explicitly test the extent to which these two orders regarding neglected wardships were adhered to, the orders do still clearly convey the impression that neglected wardships were undesirable occurrences which the Court of Wards wished to prevent. Therefore examining how the Court handled these wardships with the intention of deterrence, through both the setting of fines and the granting of custody within the contexts of fiscal feudalism, the masterships of Naunton and Cottington and the Personal Rule, can provide fruitful avenues of research for not only the matter of neglected wardships but also the broader issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.<sup>436</sup>

**Table 21: A comparison of sale to IPM ratios between unconcealed and neglected wardships.**<sup>437</sup>

Wardship type: unconcealed/neglected	Average sale to IPM ratio
Unconcealed wardships	24.14
Neglected wardships	10.86

Clearly the average ratio for neglected wardships was a lot lower than those for unconcealed wardships. This represents a significant difference in the way the Court of Wards treated the amount of profit expected to be generated from an heir's estate when dealing with wardships that were unconcealed or neglected.<sup>438</sup> Four examples are the unconcealed wardships of the Yorkshire Cholmley and Haineworth families and the neglected wardships of the Yorkshire Lewin and Etherington families. The wardship of Tristram Cholmley who was the son and heir of William Cholmley, was sold on 24 June 1628 for £3 to the mother Dudley Cholmley. Similarly on 31 May 1628 John Haineworth, son and heir of his father who

<sup>436</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxv.

<sup>437</sup> Only unconcealed wardships have been used as a point of comparison to neglected wardships as it is difficult to fully ascertain which wardships were unconcealed and concealed in Hawkins' 'Mostly Concealed' Wardship Data. This table is based on Hawkins' Wardship Data.

<sup>438</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxv.

possessed the same name, was sold to Thomas Mallone and Grace Mallone for £20. Grace Mallone was the re-married mother of John Haineworth. The ratios for these two wardships were 12 and 5 respectively. However the neglected wardship of Lewis Lewin, the heir of Thomas Lewin was sold to William Boswell for £26 13s 4d, a ratio of 4.5. Indeed there was even an exhibition of 13s 4d granted to Boswell. The following year George Etherington, who was the son and heir of Richard Etherington, was sold to Thomas Broxupp for £20, a ratio of 2.5.<sup>439</sup>

The reasons why the Court of Wards accompanied fines with much lower ratios for neglected wardships was to attempt to attract previously uninterested buyers into the market place. It was also probably intended to act as a deterrent to those who initiated proceedings for purchasing a wardship but then delayed, withdrew, or failed to pay the fines by allowing another party to enjoy the benefits of the previous party's work along with the receipt of a much lower wardship fine as well, despite the crown losing money. It is of note that Boswell also received an exhibition.<sup>440</sup> This is because it was unusual for any committee to be given an exhibition in the Caroline period and suggests that for some reason the Court was particularly interested in disposing of this particular wardship. This also possibly challenges Hawkins' argument that 'any ward whose relatives did not compound and who was therefore sold to an outsider as a concealment...was certainly not granted any exhibition'.<sup>441</sup>

**Table 22: Neglected wardships during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>442</sup>

Mastership	Average sale to IPM ratio	Percentage of wardship grants to the use of the ward	Percentage of wardship grants to the use of the committee	Percentage of wardship grants whose use is unknown
Sir Robert Naunton	6.78	-	100	-
Francis Baron Cottington	18	-	100	-

<sup>439</sup> Hawkins' Wardship Data.

<sup>440</sup> This is based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 81-82 and Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 99-105.

<sup>441</sup> This is based on both an examination and analysis of Hawkins' Wardship Data; Hawkins, *Sales of Wards in Somerset, 1603-41*, p. xxviii.

<sup>442</sup> See footnote 437 for the primary sources used to compile this table.

There is a startling difference in the way Naunton and Cottington managed the ratios for neglected wardships during their respective tenures. Quite clearly Cottington was charging much higher prices for these types of wardships than his predecessor did. This is reflected in the neglected wardships of the heirs of Sir John Constable and Henry Lockey. Both families came from Yorkshire. During 27 March 1631 to 26 March 1632 during Naunton's tenure as master, the heir of Sir John Constable, Alice Constable, who was the wife of Edward Anderson, was sold for £100 to John Cooke, a ratio of 4.16. Yet on 22 June 1635 the wardship of Richard Lockey, who was the heir of Henry Lockey, was sold during Cottington's mastership to Josiah Conyers for £5, a ratio of 10.<sup>443</sup>

This change is enhanced when considering that the average ratio for unconcealed wardships during Naunton's time as master was 23.66 while during Cottington's mastership it was 25.06. Furthermore it must be considered possible that Cottington based his greater profits on the exploitation of/discrimination against wardships in the Home Counties as the ratios for unconcealed Sussex wardships show a much larger difference. This county saw an average ratio of 17.95 in the Court of Wards under Naunton and an average ratio of 24.82 in the Court under Cottington. Yet in Yorkshire the ratios under Naunton and Cottington were 25.16 and 25.08 respectively.<sup>444</sup> Consequently as all of the neglected wardships come from Yorkshire this variation in the ratios for neglected wardships is particularly pronounced and is probably best explained through Cottington's more 'aggressive administration of the Court', at least in particular counties and in certain areas of wardship administration.<sup>445</sup> However Cottington's 'free hand to the bureaucracy of legal experts,-middlemen who facilitated the discovery of concealed wards, and who assisted the inexperienced to grants of wardship, in return for a share in the profits' may have also helped to create a more vibrant market for neglected wardships, thereby allowing the Court of Wards to increase the fines it set for these wardships.<sup>446</sup>

Yet the administration of the custodial element of neglected wardship shows no change at all. Both masters ensured that these wardships were available for the

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<sup>443</sup> Hawkins' Wardship Data.

<sup>444</sup> This is based on Hawkins' Wardship Data.

<sup>445</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, pp. 135-36.

<sup>446</sup> Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 162.

benefit, and potential exploitation, of the committee.<sup>447</sup> For example the heir of Yorkshire's William Hunter, Thomas Hunter, was sold by the Court of Wards during Naunton's mastership on possibly the 30 May 1632 to William Nelson for £10. The use of the wardship was bestowed upon Nelson. Apparently this may have been a result of an alteration in the original judgement which was made in June 1632. Who made this order, however, and why the original wardship grant was possibly not already given for Nelson's own use is unclear, while during Cottington's tenure as master the wardship of John Harrison, who was the heir of Yorkshire's John Harrison, was granted to John Crosland for the committee's own use with a fine of £20.<sup>448</sup>

This level of continuity appears almost seamless and represents what appears to have been a well-established practice of granting the benefit of neglected wardships to the committees. These grants were made with deterrence in mind as a petitioner who was interested in a wardship, especially if it was a friend or relative, would be far less likely to delay or abandon a suit when they knew that a neglect could lead to the young heir possibly being granted to a stranger who may have the ability to exploit both the heir and the heir's estate.<sup>449</sup> This would have been a particularly effective deterrent and one that was apparently readily seen as such by both Naunton and Cottington.

**Table 23: Neglected wardships during the Personal Rule.**<sup>450</sup>

First/second period of Personal Rule	Average sale to IPM ratio	Percentage of wardship grants to the use of the ward	Percentage of wardship grants to the use of the committee	Percentage of wardship grants whose use is unknown
First period	9.12	-	100	-
Second period	21	-	100	-

To begin with it is important to note that the figures for neglected wardships during the second period of the Personal Rule are based on a small sample. This sample is taken to 'reflect the development of the Court's policies, but [it is accepted that it] might also be the result of ad hoc negotiations in these particular cases'. There is a

<sup>447</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxv.

<sup>448</sup> Hawkins' Wardship Data.

<sup>449</sup> This is based on Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 97-98.

<sup>450</sup> See footnote 437 for the primary sources used to compile this table.

similar mixture of continuity and change during the Personal Rule as there was during the masterships of Naunton and Cottington. Again the difference in the ratios for neglected wardships is considerable with far higher ratios during the second period of the Personal Rule. Two neglected wardships in Yorkshire capture this difference particularly well. During the first period the wardship of Henry Herryeatt, who was the heir of Thomas Herryeatt, was sold on 25 November 1630 to Gerrard Trollopp for the sum of £2, a ratio of 8. Yet during the second period the wardship of Harrison, heir of Harrison, was sold to Crosland for £20, a ratio of 40.<sup>451</sup> Admittedly there are only two neglected wardships during the second period in comparison to eight neglected wardships during the first period. Also, the high ratio for the Harrison wardship distorts the overall average for the second period. Nonetheless the higher overall ratio for this period is, to an extent, consistent with similar analysis contained within this thesis which suggests that neglected wardships were being exploited to a greater extent than they had been previously. This was presumably because of attention potentially being placed upon the finances of the crown as it attempted to respond to the Scottish Covenanter crisis, because while the average ratios for unconcealed wardships during the Personal Rule fell from 30.15 in the first period to 23.42 in the second period, possibly with the aim of generating support for the crown, the income from sources such as neglected wardships may have been increased to offset the reductions that were being made elsewhere.<sup>452</sup>

Nonetheless the custodial aspect of wardships that were neglected went unchanged throughout the Personal Rule. The first neglected wardship in Yorkshire was that of Etherington, son and heir of Etherington, who was awarded to Broxupp for the committee's own use. This continued throughout the period right up until the final neglected wardship of Harrison, heir of Harrison, who was also granted to the use of the committee, Crosland.<sup>453</sup> This suggests that the policy of granting neglected wardships for the benefit of the buyer remained unchanged because it held financial advantages for the crown. Undoubtedly neglected wardships postponed the payment of fines into the Court of Wards because when a petitioner delayed or abandoned his suit for a wardship the Court had to wait or find alternative buyers. Therefore money

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<sup>451</sup> Hawkins' Wardship Data.

<sup>452</sup> This is based on Hawkins' Wardship Data.

<sup>453</sup> Hawkins' Wardship Data.

was lost, even during the second period of the Personal Rule, because the average ratio for unconcealed wardships was still higher than the greatly increased average ratio for neglected wardships. Therefore the powerful deterrent of allowing an heir within age to possibly be granted to a stranger and potentially become personally and financially exploited which was present in the first period, continued to possess strong monetary benefits in the second period.

This section shows that the overall decision of the Court of Wards to follow the general orders relating to neglected wardships highlights not only the traditional nature of fiscal feudalism, with the sale of the crown's rights to wardship, but also the way fiscal feudalism could be manipulated to achieve specific objectives. Throughout the period 1625-41 the Court normally adhered to the general policy set down in the Instructions for the treatment of neglected wardships. The crown wanted and needed profit from its feudal rights and neglected wardships undermined the ability of the Court of Wards to fulfil this need as both time and money were lost when suits for wardships were delayed, abandoned, or fines left unpaid. Therefore fiscal feudalism was manipulated through lower ratios for neglected wardships.<sup>454</sup> This limited the available money to the crown. However it was done in order, not only to pass on possibly unwanted wardships, but also to ensure that such generous grants acted as a deterrent to petitioners who neglected their suits and responsibilities. This was done by ensuring that others profited from the original petitioners failure in initiating and then delaying or abandoning their suit for a wardship or even not paying their wardship fines.

A mixture of both continuity and change during the masterships of Naunton, Cottington and the Personal Rule was also highlighted in this section. Change was apparent in the average ratios under Naunton, Cottington and the Personal Rule. The average ratios during Naunton's mastership and the first period were 6.78 and 9.12 respectively. But during Cottington's mastership and the second period the ratios jumped to 18 and 21 respectively. This suggests that while Naunton manipulated fines for neglected wardships to act as a deterrent, Cottington rejected the strategy of financial manipulation in order to obtain greater financial profits from these wardships. The second period followed a similar policy towards neglected wardships

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<sup>454</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxv.

but the reasoning was possibly based on increasing revenue from neglected wardships while the ratios for unconcealed wardships were reduced to potentially gain support from the political nation.

Yet throughout the masterships of Naunton, Cottington and the Personal Rule there was complete uninterrupted continuity in the way the custodial aspect of neglected wardships was handled because all of these wardships were ultimately allowed for the benefit of the committee. Once again the thinking behind this policy was based on a desire to lower or end the number of neglected wardships in order to protect the crown's revenue. Yet while the continuity of this policy by Cottington may have been based on its ability to deter petitioners from delaying or abandoning their suits or not adhering to their payment schedule which protected the income of the Court of Wards, by the second period of the Personal Rule the financial benefits this possibly brought may have taken on greater importance as the crown attempted to manage the Scottish rebellion because there may have been a focusing of attention upon the finances of the crown as a result. Bearing these issues in mind this chapter will now turn to the treatment of idiocy and lunacy by the Court and its ramifications for fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

### **Idiocy and Lunacy**

The feudal rights and duties that the Court of Wards administered on behalf of the crown also extended to what contemporary sources referred to as idiots and lunatics.<sup>455</sup> Idiocy encompassed somebody 'of simple mind who could never hope for the full development of his faculties' while lunacy concerned a person 'who was assumed to be only intermittently insane'.<sup>456</sup> To determine idiocy a writ to enquire into the mental state of an individual was first needed and the supposed idiocy was judged through certain tests. These tests required individuals to demonstrate their knowledge of basic matters such as age, names, money and the ability to produce offspring. These individuals also had to be tested by the chancellor (it is unclear but perhaps this duty was partially taken over by officials of the Court of Wards in the early seventeenth century), before a final decision could be made. However in the case of lunatics it is unclear whether only a 'commission' and 'office of lunacy' to

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<sup>455</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 128-29.

<sup>456</sup> Hurstfield, *The Queen's Wards: Wardship and Marriage under Elizabeth I*, p. 72.

enquire into an alleged lunacy was needed as there is a certain amount of ambiguity about whether supposed lunatics were expected to undergo tests similar to those carried out by the Chancellor/Court of Wards on potential idiots.<sup>457</sup>

As far as the Court of Wards is concerned, laws governing the management of idiots first appeared in the statute of 1540. Almost all references to idiocy were contained within more general instructions to the Court but it was still made reasonably clear that idiots were considered a legitimate source of income for the crown.<sup>458</sup> However whether this was to be derived from the body and/or lands of idiots is uncertain. The one order in 1540 which explicitly concerned idiots stated:

ALSO be it enactid by thauctoritie aforesaid, that the said maister by thadvise of the said attournay receyvour generall and auditours or three of them shalhave auctoritie by this acte to survey governe and order all and singulier ideottis and naturall fooles now being in the Kinges handis or that herafter shall come and be in the Kinges handis, And also to survey and ordre all the mannours landis tentis and other hereditamentis whatsoever nowe being in the Kinges handis or in thandis of anny other psonne or psonnes, to their uses or to thuse of anny of them, that herafter shall come and be in the Kinges handis his heires and successours in the right of any of them, by reason of his Graces prerogative roiall; And also by thadvise of the said attournay receyvour generall and auditours, or three or twoo of them, to lett and sett the Manours landis and tenementis to the Kinges use for the tyme of the Kinges interest for suche rent and fyne as by their discretion shalbe thought convenient, the fynding and keaping of the said psonnes their wives and children and the reparations of their houses and landis alwaie to be considred, in the doing therof the same rentis and fynes reservid to the Kinges Grace to be paid alwaies to thandis of the receyvour genall of the wardis landis for the tyme being, as the same maye appere in his accompt and be recorded in the Court of wardis.<sup>459</sup>

This appears to suggest that the crown had custody over the body of the idiot but the only possible profit to be had was from their estates. However it also noted the crown's responsibility towards the maintenance of idiots, their dependants and their property. It is unclear whether this or any other law included lunatics as well.

The statute of 1541 made no alterations to the existing orders concerning idiots and there were no new instructions for the governing of idiots or lunatics

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<sup>457</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 128-32.

<sup>458</sup> The Court of Wards, 32 Hen. VIII. c. 46, in A. Luders, and others, eds. *Statutes of the Realm: From Original Records and Authentic Manuscripts, (1101-1713)*, 3 (1810-28), pp. 802-807.

<sup>459</sup> The Court of Wards, 32 Hen. VIII. c. 46, in A. Luders, and others, eds. *Statutes of the Realm: From Original Records and Authentic Manuscripts, (1101-1713)*, 3 (1810-28), p. 806.



either.<sup>460</sup> However both the Instructions of December 1618 and 1622 returned to the issues of idiocy and lunacy. As with the statute of 1540 both sets of Instructions possess ambiguity when setting out the exact nature of the crown's interest in idiots and lunatics. That revenue was expected to come from idiots is reasonably clear but the source of this revenue was not clear. Additionally the orders for the management of lunatics also fudged the issue of whether or not the crown desired profit to be made from its responsibilities towards these individuals.

This is epitomized in the cases of idiocy by the following order contained within the Instructions of December 1618:

THAT all Sales and Compositions for Wardships of the Bodies, and Leases of Lands, (except the cases of Concealments hereafter mentioned) and all Commitments of Ideots, and custodie of their Estates bee made by the Master and Councill of the same Court, openly in the Councill Chamber of the Court of Wards, and by such persons as are authorised by Statute in that behalfe. Neuerthelesse, the Surueyor of the Liueries, the Attourney of the Wards, Receiuer and Auditors, or any foure of them, without the Master, may treat with any to bring the sayd Wardships, and the Leases, and the Commitments of Ideots to a price, openly in the Councill Chamber of the Court of Wards, and acquaint the Master therewith, in whose power it shall bee to allow of the same, according to the said Statute.<sup>461</sup>

This suggests that the crown potentially viewed the custody of idiots and their lands as sources of income. Yet a similar order in the Instructions of 1622 discretely altered this as can be seen:

That all Sales and Compositions for Wardshipps of the Bodies and Leases of Lands (except the Leases for Concealments) and all Commitments of Ideots and Custody of their Estates be made by the Maister and Councill of the same Courte openly in the Councill Chamber of the Court of Wardes, and by such Persons as are authorized by Statute in that behalf: nevertheles the Surveyor of the Liveries, the Attorney of the Wards, Receivor and Auditors, or any four of them, without the Master may treat with any to bring the said Wardships, and the Leases of the Commitments of Ideots, to a Price openly in the Councill Chamber of the Court of Wardes, and acquaint the Maister therewith, in whose Power it shall be to allow or disallow of the same according to the said Statute.<sup>462</sup>

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<sup>460</sup> An Acte concerninge the Order of Wardes and Lyveries, 33 Hen. VIII. c. 21, 22, in A. Luders, and others, eds. *Statutes of the Realm: From Original Records and Authentic Manuscripts, (1101-1713)*, 3 (1810-28), pp. 860-63.

<sup>461</sup> 'A COMMISSION WITH INSTRVCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks,' pp. 12-13, Early English Books Online. Date consulted 28/4/11.

The above order possibly changed the instruction in the Instructions of December 1618 as although it still allows for the possibility of imposing fines for the custody of an idiot as well as charging rent from their estate it may also specifically state that only the lands of idiots were to be utilised as sources of profit. Consequently how the crown's responsibilities towards idiots were to be turned to its financial advantage was still uncertain.

This level of ambiguity was also present in the Instructions when setting out how the Court of Wards was to handle lunatics and their estates. The one explicit order contained for lunatics within both sets of Instructions stated:

BVT touching Lunatiques, let no composition bee taken for the committing of them or their Estates, but let such care be had therein, as they may bee freely committed to their best and nearest friends, that can receiue no benefit by their death, and the Committees bound to answeere, not onely the values found by Office, but the very iust value of their Estates vpon accompts, for the benefit of such Lunatique, (if hee reouer) or of his next Heire, Executors or Administrators, due regard beeing had to the paines and charges of such Committees, in keeping, maintaining gouerning, and curing of the said distracted persons.<sup>463</sup>

This clearly indicates that the crown had no desire to derive any income from its duties towards individuals who were found to be lunatics. Yet this is possibly contradicted by other orders within the Instructions. This includes one contained in both sets of Instructions stating that officials within the Court of Wards were required to take the oath:

I, A.B. doe sweare, that neither I, nor any other person for me by my appointment, knowledge or consent, shall take or recieue of any person, any gift or reward directly or indirectly, for any Composition or preferment, or causing any person or persons to be preferred to compound before another, or to haue any mitigation in the price, or payment in any Composition or contract, at any time hereafter to bee made for the Wardship of the bodie, or Lease of the Lands of any his Maiesties Wards, or for the

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<sup>462</sup> 'De Instructionibus quibusdam Curie[?] Wardorum & Liberaturarum' in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), p. 402.

<sup>463</sup> 'A COMMISSION WITH INSTRVCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks,' pp. 19-20, Early English Books Online. Date consulted 28/4/11; 'De Instructionibus quibusdam Curie[?] Wardorum & Liberaturarum' in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), p. 404. There are only minor variations in this order with the Instructions of December 1618.

custody of any his Maiesties Ideots, or Lunatikes, or their Lands, Goods or Chattels, or for the signing or dispatching of any Warrant for any Grant of them or any of them, excepting ordinary Fees: So helpe mee God.<sup>464</sup>

The oath opens the possibility that fines for the custody of idiots and lunatics as well as rent from their estates was deemed to be an acceptable source of profit. This is because the use of words such as ‘price’ and ‘payment’ within the context of idiocy and lunacy have clear and direct financial implications for the way the crown viewed its rights and duties towards these individuals.

Therefore the statute of 1540, along with the Instructions of December 1618 and 1622, do show that some form of revenue was probably expected to be derived from either the custody of the body and/or the lands of an idiot although where the money was to come from was nonetheless unclear. Considering lunatics, the policy of the crown was also ambiguous. It is difficult to reconcile the explicit rejection of any profit coming from the granting of the custody of the body and the lands of the lunatic with the other possible references to some form of payment for either the custody and/or lands of the lunatic as highlighted in the oath quoted above. Therefore it is necessary to leave open the possibility that the crown sought to make money from the custody and/or lands of lunatics.

Consequently this section will examine the financial relationship between the committees of idiots and lunatics with the Court of Wards within the laws and orders governing this area. It will consider whether the Court imposed fines on the custody and/or lands of idiots and lunatics and if it did how this was implemented. Not only will this provide important information on the way the Court of Wards responded to its rights and obligations towards these individuals but it can also shed valuable light on fiscal feudalism, the masterships of Naunton and Cottington, and the Personal Rule. This section will utilise the ‘Entry Books of Petitions and Compositions for Wardship, Leases etc’ which contains fully recorded grants of two idiots and six lunatics from Yorkshire and Sussex during the period 1625-41.

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<sup>464</sup> ‘A COMMISSION WITH INSTRVCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks,’ pp. 28-29, Early English Books Online. Date consulted 28/4/11; ‘*De Instructionibus quibusdam Curie[?] Wardorum & Liberaturarum*’ in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), p. 405. There are only minor variations in the oaths contained within the Instructions of December 1618 and 1622.

**Table 24: Sale to IPM ratios for the management of idiocy and lunacy.**<sup>465</sup>

Idiot/lunatic	Sale to IPM ratio for custody of idiot/lunatic	Sale to IPM ratio for leasing of idiot's/lunatic's lands
Idiots	0.5	1.12
Lunatics	-	-

To begin with it is important to note that the figures for the management of idiocy are based on a small sample. This sample is taken to 'reflect the development of the Court's policies, but [it is accepted that the sample] might also be the result of ad hoc negotiations in these particular cases'. Clearly the crown did expect to generate some revenue from idiots, as the above table demonstrates, and this was achieved through both potential fines for the custody of the idiot and/or rent through the leasing of the idiot's lands. This is best illustrated by the case of Sara Dyson of Yorkshire in 1639. On 22 November 1638 Thomas Fenny[?], Thomas Brooke and John Eastwood, who all claimed to be acting on behalf of the friends of Dyson, petitioned the Court of Wards to compound. The Court responded by giving direction for a writ and to attend with a schedule on the fourth sitting in Hilary term. Evidently the petitioners were successful because a grant was made to Fenny, Brooke and Eastwood on 9 May 1639 with a fine, possibly for the custody of Dyson, of 20s[?] and for a lease of her lands for 10s.<sup>466</sup> It is credible to suggest that as the crown's rights over individuals labelled as idiots was relatively firmly established in statute it felt more confident in turning idiots to some sort of financial benefit, as well as interpreting both the statute of 1540, and the Instructions of December 1618 and 1622 to permit fines for both the custody and the renting of an idiot's lands. Yet the fines and rents, as shown by the case of Dyson, were set at only minimal levels which would indicate that the crown did not feel comfortable in exploiting its rights over idiots as it did with wardship and livery. Alternatively the moral issues that were connected with idiocy discouraged the Court of Wards from exploiting these individuals too much.<sup>467</sup>

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<sup>465</sup> The primary sources used to compile this table come from: TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/218 (1629-1632); TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/219 (1637-1641); TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/220 (1641-1645).

<sup>466</sup> TNA, London, Ward Class 9 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/219 (1637-1641), f. 147. Transcribing and translating this entry was particularly challenging which is why there are a number of '?' placed within the text.

<sup>467</sup> This comes from advice provided by M. J. Hawkins.

However this was obviously not the case with lunatics. All individuals who were considered to be suffering from lunacy were granted without a fine or rent for the custody of the lunatic or the estate. A particularly interesting example is the lunacy of John Thornton of Yorkshire. On 28 October 1629 Thornton's son, who was also called John Thornton, petitioned the Court of Wards asking for the grant of his father who he claimed was 'non compos mentis'. The response of the Court was to issue orders for a writ of 'de[?] lunatic[?] inquirend[?]' and for Thornton to bring a schedule at the fourth sitting in Hillary term. This writ is interesting as it appears to be a specific writ for enquiring into lunacy. The estate[?] of Thornton was judged to be worth 20s in land but a far greater £132 14s 8d in goods. Yet no fine or lease was set and the grant was made to the petitioner, Thornton, the son and heir.<sup>468</sup> The decision of the Court of Wards not to utilise lunacy for the financial benefit of the crown may have been a result of the crown's rights and responsibilities not being laid down in statute which could have created a sense of insecurity in any attempt to derive income from lunatics. This in turn may have led the Court to take a cautious interpretation of the Instructions regarding how to handle lunatics. However it may also have been a result of moral pressure exerted on the crown from the political nation when dealing with cases of lunacy.

**Table 25: Treatment of idiocy and lunacy during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>469</sup>

Idiot/lunatic and mastership.	Sale to IPM ratio for custody of idiot/lunatic	Sale to IPM ratio for the leasing of idiot's/lunatic's lands
R.N. idiots	-	2
R.N. lunatics	-	-
F.C. idiots	0.44	0.22
F.C. lunatics	-	-

To begin with it is important to note that the figures for the treatment of idiocy are based on very small samples. These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that the samples] might also be the result of ad hoc negotiations in these particular cases'. It has already been established that idiocy was being used by the crown to contribute towards its income, although this

<sup>468</sup> TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/218 (1629-1632), f. 47. Transcribing and translating this entry was particularly challenging which is why there are a number of '?' placed within the text.

<sup>469</sup> The mastership of Sir Robert Naunton is signified by 'R.N.'. The mastership of Francis Baron Cottington is signified by 'F.C.'. See footnote 465 for the primary sources used to compile this table.

revenue was minimal because of the low fines and rents the Court of Wards set. However there is possibly a distinct difference in the way idiocy was handled by Naunton and Cottington. The one case of idiocy that the Court encountered under Naunton was that of Isabell Benson from Yorkshire. The brother William Benson petitioned the Court of Wards on 29 June 1629 stating that his sister was in possession of an estate and that she had always been an idiot. He asked for both custody and a valuation of his sister's estate. The Court answered by giving direction for an IPM and for him to be present at the seventh sitting in Michaelmas term with a schedule. After a second petition, which although not recorded in detail suggests that it was similar to the first petition, the award was made to Benson the brother, with a lease of the lands set at £10[?], possibly a year, despite the lands possibly being valued at £5 a year and the goods valued at £30.<sup>470</sup>

However the one case of idiocy during Cottington's time as master was the already highlighted individual, Dyson. Here the Court of Wards set a fine of 20s[?] and a lease of the lands set at 10s. Although this was the only case to unambiguously grant the custody to the use of the idiot or lunatic, as the Court under Cottington set both a fine and a rent it potentially suggests that this was a result of Cottington's 'aggressive administration', possibly resulting in a more comprehensive interpretation of the statutory laws and royal orders. Yet it is also worth bearing in mind that the rent set for the lands of Benson under Naunton was possibly set at a much higher figure than the rent for Dyson's lands during Cottington's time as master. Even though Benson's lands were possibly worth quite a bit more the ratio of 2 under Naunton was considerably higher than the ratio of 0.25 under Cottington. Therefore while Cottington was possibly prepared to take a more comprehensive interpretation of the statute and Instructions governing idiocy by imposing a fine for the custody of idiots as well as leasing their lands, Naunton's potentially more narrow interpretation may have resulted in a more intense focus on the ability of the crown to rent out the lands of idiots thereby creating an ambiguous picture of how these two masters handled idiocy.

The management of lunacy by both masters paints a very different picture. Two recorded cases of lunacy were handled by the Court of Wards during Naunton's tenure while during Cottington's mastership four cases of lunacy occurred.

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<sup>470</sup> TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/218 (1629-1632), f. 28.

Throughout both Naunton's and Cottington's masterships the Court made no attempt to try and exploit the custody and lands of lunatics for the crown's financial benefit. This suggests Cottington's 'aggressive' handling of the Court of Wards had limits. Cottington followed the cautious assessment by the Court under Naunton of the royal Instructions whereby the Court of Wards focused on the one explicit order to the rejection of the other more ambiguous orders concerning lunatics. This probably resulted in cases of lunacy playing no part in the far greater revenues the crown enjoyed from the Court during Cottington's mastership.

**Table 26: Treatment of idiocy and lunacy during the Personal Rule.**<sup>471</sup>

Idiot/lunatic and period of Personal Rule.	Sale to IPM ratio for custody of idiot/lunatic	Sale to IPM ratio for the leasing of idiot's/lunatic's lands
1 idiots	-	2
1 lunatics	-	-
2 idiots	0.44	0.22
2 lunatics	-	-

To begin with it is important to note that the figures for the treatment of idiocy are based on very small samples. These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that the samples] might also be the result of ad hoc negotiations in these particular cases'. The relationship between the management of idiocy and lunacy by the Court of Wards with the Personal Rule follows the overall pattern described for the masterships of Naunton and Cottington. During the first period of the Personal Rule the one case of idiocy the Court dealt with was that of Benson. Although there was no fine for the custody of her body the Court of Wards did impose a rent of £10, possibly a year, for the lease of her lands. But in the second period the custody of the idiot, Dyson, was possibly sold for 20s while her lands were leased out for the much smaller rent of 10s a year. This potentially creates a cloudy picture of the level of continuity and change during the Personal Rule. This is because the Court in the second period may have been prepared to fine for custody as well as impose rent for leasing lands and this can potentially be tied to the crown's possible direction of attention towards its finances resulting from the Scottish Covenanter rebellion. Yet it is difficult to explain why a much smaller ratio can be seen for the leasing of lands in this period, especially since the potential fine for the custody of the idiot did not offset this large reduction in the

<sup>471</sup> The first period of Personal Rule is signified by '1'. The second period of Personal Rule is signified by '2'. See footnote 465 for the primary sources used to compile this table.

required rent. The most obvious, but least satisfying answer, must be that the small sample of the cases of idiocy dealt with by the Court of Wards from Yorkshire and Sussex throughout the Personal Rule possibly distorts this financial analysis for the treatment of idiots during this period.

Thankfully this is not the case for the treatment of lunacy during the Personal Rule. Here a much clearer picture emerges showing that throughout the first and second period of the Personal Rule the Court of Wards consistently awarded the custody of a lunatic's body and their lands without a fine or rent being imposed. This can be demonstrated by two examples. During the first period the lunacy of Richard Rich from Yorkshire was brought to the attention of the Court on 5 July 1631 by the petition of the father, Aymore[?] Rich. The father stated that Richard was his second son and although it is unclear he also possibly said that he was not capable of looking after himself or his estate and he then requested that the custody of his son be granted to him. The Court of Wards ordered an IPM to be taken and for the father to attend in Michaelmas term with a schedule. Despite the lands[?] being valued at 14s 4d Rich[?] was granted the custody of his son on possibly 22 October 1631 without a fine or rent being set on the lands.<sup>472</sup>

In the second period the lunatic William Bilby from Micklethwaite Grange in Yorkshire who was a former recusant, was petitioned for on 21 November 1637 by Roger Wyvell[?] his brother-in-law. Wyvell stated that Bilby had become a lunatic, while holding an estate, as well as being married and having children, and asked for both a writ and custody of Bilby. The Court of Wards initially responded by granting a writ and requiring Wyvell to come to the fourth sitting in Hilary term with a schedule. But Susan Bilby, wife of Bilby, then petitioned the Court claiming that Wyvell had entered[?] her husband's estate and she possibly provided evidence for this. Furthermore she may have stated that Wyvell had petitioned without her knowledge and she also may have claimed that he was only interested in his own gain and not the interests of her husband. Susan Bilby may have then asked for a writ of *supersedeas* after the writ given to Wyvell. She also possibly asked for a writ of *diem clausit extremum* because of the death of a Thomas Bilby and a writ of 'de[?] lunat[?] inq[?]' for her husband. Susan Bilby may then have been told to attend the

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<sup>472</sup> TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/218 (1629-1632), f. 183. Transcribing and translating this entry was particularly challenging which is why there are a number of '?' placed within the text.



second sitting in Easter term with a schedule. Then after Wyvell petitioned the Court of Wards again he[?] was instructed to compete against Susan Bilby once the IPM had been taken. Eventually after the lands[?] of Bilby were estimated to be worth £25 10s and his goods £126 16s, he was granted to the custody of his wife, her brother Abraham Sunderland and George Thwing[?] without a fine or rent being imposed.<sup>473</sup> This suggests that throughout the Personal Rule the Court placed a greater emphasis on the one explicit royal order rather than the more ambiguous orders governing the treatment of lunatics. This is of particular note because there may have been a focusing of attention on to the finances of the crown during the second period of the Personal Rule because of the Scottish crisis.

This study of the relationship between the Court of Wards and its laws and orders has consequences for the concept of fiscal feudalism. Clearly the Court followed the ambiguous orders governing the treatment of idiocy by exploiting its rights for the financial gain of the crown. It is uncertain whether this exploitation increased during the latter years of the Court of Wards even though the previous limits of fiscal feudalism possibly widened by also encompassing the custody of the body of idiots. However at the same time the size of both the fines, and possibly the rents, that were being imposed by the Court were still very small in comparison to those set for wardships and liveries. This indicates that fiscal feudalism within the context of idiocy was strictly limited by the moral issues associated with the treatment of individuals who were deemed to be idiots.

The ramifications for fiscal feudalism when considering the treatment of lunatics are even greater. Here despite the obvious potential for financial gain and the apparent lack of statutory attention given to lunacy cases, the Court of Wards still did not set any fine or rent upon the committees of lunatics. Instead it interpreted the ambiguous orders within the Instructions concerning lunacy by clearly following the one explicit order covering the management of lunatics which made clear that no financial gain was to come to the crown. Therefore it appears that the moral pressure on the Court was so great it was deemed necessary to ensure that the crown enjoyed no monetary benefit from cases of lunacy at all.

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<sup>473</sup> TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/219 (1637-1641), f. 14; Cliffe's Data. Transcribing and translating this entry was particularly challenging which is why there are a number of '?' placed within the text.

The masterships of Naunton and Cottington as well as the Personal Rule in the context of this section, represents a mixture of both continuity and change. Continuity occurred with the treatment of lunacy. Throughout the two masterships and the Personal Rule the Court of Wards made no attempt to derive financial benefit from its administration of lunacy. Regardless of the different personalities and skills of Naunton and Cottington as well as the changing political situation which marks out the two periods of Personal Rule, the Court rigidly chose to adhere to the explicit order over the more numerous and ambiguous orders governing the administration of lunacy, which may have resulted from a moral pressure to do so. However change possibly manifested itself in the treatment of idiocy when the Court of Wards both under the mastership of Naunton and during the first period of the Personal Rule chose to limit the potential rights of the crown over idiots by only charging rent when granting idiots to committees. But under Cottington's tenure and during the second period this may have changed with a more inclusive interpretation of the crown's rights which possibly resulted in fines for the custody of idiots which potentially stemmed from not only the character of Cottington's mastership but also attention possibly being placed upon the crown's finances due to the political situation in Scotland. Yet the Court still appeared to generate more revenue from simply leasing than it did from imposing both fines and rents. This suggests that the small working sample for idiocy that this section possesses may have a distorting effect on the results of the analysis of this particular area of idiocy, although thankfully, for lunacy, the picture is much clearer.

### **Livery**

The statute of 1541 which attached the administration of liveries to the Court of Wards likely made the two orders relating to livery in the statute of 1540 null and void. The act established a wide range of rules governing the management of livery. The orders varied from creating the offices of surveyor-general of the liveries and clerk of the liveries to the finding of an IPM when suing livery and the circumstances where general liveries could be sued. It is these latter two areas which will be considered in this section. The statute made clear that any heir whose lands were above the value of five pounds a year could not sue a livery until a writ had been issued for holding an IPM, while authorisation for the writ had to come from the Court of Wards. This was stated in the following words:

AND be it enacted by auctoritie aforesaid, that noe pson or psons havinge landes or tents above the yerlye value of five pounds, shall have or sue any liverie, before Inquisicon or Office founde before the Excheter or other Comissioner or Comissioners by vertue of the Kings Writt or Comission to be directed out of the Kings Chancerie or other Courts havinge auctoritie to make suche Writts or Comissions for suyng of Lyveries; such writts or Comissions shall not passé out of the Chauncerie or any other Courts but by a warrante or bill to be assigned and subscribed withe the hands and names of the saide maister surveyor or attorney & receyvor, or thre two or one of them, to be directed and delivered to the Chauncellor of Englande or to any other Chauncellor or officer havinge power to awarde suche writs...<sup>474</sup>

The act also allowed general liveries to be sued by individuals who were in possession of land at or under the value of twenty pounds a year. The act said:

AND it is further enacted by auctoritie aforesaide, that everie pson and psons from henceforth maye sue at their pleasure a genall Lyverie, for anye mannors landes tents rents revcons remaynders or other hereditaments whereof the clere yerely value shall not excede Twentye pounds, after office thereof by Write or Comission founde returned and ctyfied as ys aforesaide. Provided alwayes that noe suche Liverie shall passe or be sued without a Bill or Warrante to be firste obteyned for the same from the saide Maister of the Wardes and Liveries and the saide Surveyor Attorney and Genall Receyvor or thre of them, and signed and subscribed with the names and handes of the saide Maister Surveyor Attorney and Genall Receyvor or thre of them as ys aforesaide.<sup>475</sup>

The two final sets of Jacobean Instructions added orders to the laws governing the administration of livery and as these were the last orders touching liveries to be passed to the Court of Wards it is worthwhile considering them. The Instructions of December 1618 stated that: ‘all tenders and continuances of Liueries, be onely made to the Surueyour of the Liueries’. Also the official had to be vigilant of the crown’s profit and would be called to account to the crown for this responsibility. Another order stated ‘the Feodaries shall make Surueys vpon Liueries, in cases of ful age, aswel as in cases within age; and both according to the reasonable value, haing respect to the improved value’. The latter value would presumably be derived from the feodary certificates. The Instructions also included

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<sup>474</sup> An Acte concerninge the Order of Wardes and Lyveries, 33 Hen. VIII. c. 21, 22 in A. Luders, and others, eds. *Statutes of the Realm: From Original Records and Authentic Manuscripts, (1101-1713)*, 3 (1810-28), p. 861.

<sup>475</sup> An Acte concerninge the Order of Wardes and Lyveries, 33 Hen. VIII. c. 21, 22, in A. Luders, and others, eds. *Statutes of the Realm: From Original Records and Authentic Manuscripts, (1101-1713)*, 3 (1810-28), p. 861.

liveries in an order on how to deal with feudal incidents which had not been recognised within a period of thirty years. Individuals who discovered such tenures were to be rewarded with the benefits that derived from the crown's feudal rights resulting from these tenures, although this was not to go beyond one-third of the entire estate found by the IPM. At the same time the Court had to ensure that the crown's various rights stemming from these tenures would be protected in the future.<sup>476</sup>

The Instructions of 1622 both altered and added to these orders. Both tenders and continuances were to be initiated through the master of the Court of Wards before then going to the surveyor-general of the liveries, while only ordinary fees for tenders were to be allowed. Additionally, when feodaries carried out their surveys of the estates of heirs who were suing livery the estimate provided by the survey was to be 'considered openly at the Councell Table of the Court of Wardes and Liveries by the Maister and Councell at their Sittings, before the Liverie shall pass', while no value contained within the survey would be allowed if it was lower than a previously recorded valuation. Also individuals who discovered feudal tenures which went undetected within thirty years could now be rewarded from the benefits deriving from the feudal rights stemming from these tenures without any restriction on the size of the reward. Finally the clerk of the liveries had to 'mention the Date of all Fynes rated, and the tymes of Payment, and deliver the Bonds to the Receivor, and make a Certificate of the said Fynes, tymes of Payment and Bondes, with the Parties bound and their Dwellings, to the Auditors, within twenty Dayes after the end of everie Terme, and certifie them also what is to be payed in hande without Bond, and also certifie the Rent reserved upon every Lease'.<sup>477</sup>

This section will focus on one of the two laws contained within the 1541 statute which governed the finding of an IPM before a livery could be successfully sued as well as the circumstances where a general livery could be sued by an heir. It is important to note, however, that in regards to the latter, James Ley, Earl of

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<sup>476</sup> 'A COMMISSION WITH INSTRVCTIONS AND DIRECTIONS, granted by his Maiestie to the Master and Counsaile of the Court of Wards and Liveries, For compounding for Wards, Ideots, and Lunaticks', pp. 19-25, Early English Books Online. Date consulted 28/4/11.

<sup>477</sup> '*De Instructionibus quibusdam Curie[?] Wardorum & Liberaturarum*' in T. Rymer, R. Sanderson, eds. *Foedera: Treaties, Conventions, Letters and Public Acts of Any Kind Concluded between the Kings of England and Other Emperors, Kings, Popes, Princes or Communes (1101-1654)*, 17 (1704-35), pp. 404-406.

Marlbrough and at one time an attorney of the Court of Wards, wrote in his *A Learned Treatise Concerning Wards and Liveries* that possibly after the statute of 1541 the practice of suing various types of livery was that heirs who inherited lands which were found by an IPM to be at or under the value of £5 a year sued a 'generall Livery under value'. Heirs who were in possession of lands which were discovered by an IPM to be worth over £5 but under £20 a year sued a 'generall Livery above value'. Finally heirs, who according to the IPM held lands worth more than £20 a year, or heirs who claimed to hold lands worth more than £20 a year, sued a 'speciall Livery'.<sup>478</sup>

Consequently this section will only use the law in the statute of 1541 governing the finding of an IPM before a livery could be successfully sued while also following Ley's description of the types of liveries and the circumstances in which these liveries could be sued. The 'Entry Books of Liveries', the 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', the 'Abstracts of Inquisitions', as well as the 'Receiver-General's Accounts' will be utilised to examine the extent to which the Court of Wards followed this law and customs. This section will use twenty-eight gentry heirs from Yorkshire and Sussex who sued livery to show how an examination of this law and customs can not only provide valuable information about the relationship between the Court and the Henrician laws and customs, but can also make an important contribution to the larger issues of fiscal feudalism, the masterships of Naunton and Cottington, as well as the Personal Rule.

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<sup>478</sup> J. Ley, *A Learned Treatise Concerning Wards and Liveries* (1642), pp. 61-62. See the introduction to this thesis regarding special liveries. The 'generall Livery above value' was more expensive than the 'generall Livery under value'. This comes from Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 77.

**Table 27a: Relationship between the value of an heir's estate and the writ for an IPM.<sup>479</sup>**

No. of heirs with lands valued at or below £5	No. of heirs with lands valued above £5	No writ: <i>virtute officii</i>	Writ: <i>diem clausit extremum</i>	Writ: <i>mandamus</i>
1	N/A	-	1	-
N/A	27	-	21	6

Clearly the sample for 'heirs with lands valued at or below £5' is very small, however this sample is still taken to 'reflect the development of the Court's policies, but [it is accepted that the sample] might also be the result of ad hoc negotiations in...[this]...particular' instance. Table 27a shows that throughout the period no heir sued their livery without receiving a writ for an IPM. However this included Leonard Robinson from Yorkshire, who was the son and heir of Leonard Robinson. Robinson obtained a writ of *diem clausit extremum* for holding his IPM despite his lands only being worth £4 13s 4d according to the subsequent IPM valuation.<sup>480</sup> Yet all of the heirs who possessed lands over the value of £5 a year clearly followed the law laid down in the statute of 1541. Two examples are Herbert Boord from Sussex and William Fleetwood from Yorkshire. Boord, who was the son and heir of Nimian Boord, also received a writ of *diem clausit extremum* for the holding of his IPM which returned a valuation of £13 16s. Fleetwood, who was the brother and heir of Thomas Fleetwood, neither of whom were relations of the receiver-general of the Court of Wards, received a writ of *mandamus* for his IPM and his estate was considered to be worth £6 15s.<sup>481</sup>

<sup>479</sup> This table is based on an analysis of the following material: TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI); Ward Class 9, 'Entry Books of Liveries', Ward 9/75, Ward 9/77, Ward 9/78, Ward 9/79, Ward 9/80, Ward 9/81, Ward 9/82, Ward 9/83 (17 JI-21 CI); Ward Class 9, 'Abstracts of Inquisitions', Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI); Ward Class 9, 'Receiver-General's Accounts', Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431, Series C (22 JI-17 CI).

<sup>480</sup> TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/78 (3-8 C1), Index and f. 104; TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 11 James I, No. 80; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/417 (22 JI-5 CI), f. 293.

<sup>481</sup> TNA, London, Ward Class 9, 'Entry Book of Liveries', Ward 9/77 (18 JI-4 CI), Index and ff. 331-32; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/417 (22 JI-5 CI), f. 153; TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/320 (43 EI-5 JI), f. 200, No. 170; TNA, London, Ward Class 9, 'Entry Book of Liveries', Ward 9/77 (18 JI-4 CI) Index and ff. 344-45; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/417 (22 JI-5 CI), f. 153; TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Michaelmas and Hillary

It appears that the procedure of obtaining a writ before holding an IPM had become a well-established custom of heirs wishing to sue livery. Indeed this is noted by Bell who states that the ‘inquisition was usually taken on the authority of a writ or commission, issuing out of the Chancery’.<sup>482</sup> It suggests that heirs possibly preferred to take a cautious approach and ensure that a writ was issued rather than have an IPM by *virtute officii*. Indeed as Bell argues ‘even this narrow privilege of the escheator was regarded with jealousy’ by the Court of Wards and it is therefore possible that the Court encouraged heirs to seek a writ in advance of an IPM being held because the escheator was an employee of the Exchequer and therefore was not appointed by the Court of Wards.<sup>483</sup>

**Table 27b: Relationship between the value of an heir’s estate and the type of livery sued.**<sup>484</sup>

No. of heirs with lands valued below £20	No. of heirs with lands valued above £20	Type of livery: general	Type of livery: special
10	N/A	-	10
N/A	18	-	18

Clearly all heirs sued a special livery regardless of the value of their lands. The majority could legitimately claim that the value of their estate was over £20 a year but for the minority who held lands worth less than £20 a year this was not the case. This latter group included the Yorkshire families of Lepton and Hutton. On 19 July 1625 John Lepton died leaving his son and heir, Thomas Lepton, to sue his livery. A writ of *mandamus* was issued and it found Lepton’s estate to be worth £5 10s[?] and Lepton had to pay a fine of £9 15s 1d for his special livery. The story is similar for Matthew Hutton. The father, Sir Timothy Hutton, died on 5 April 1629 but it was not until 21 April 1631 that an IPM was held. The IPM estimated that the estate possessed a value of £8 13s 4d and the fine set for the special livery was £13 7s 2d.<sup>485</sup> This group of heirs formed a large minority of the total numbers of individuals

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Term, 2 Charles I, No. 32; S. M. Jack, ‘Fleetwood, Sir Miles (d. 1641)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [http://www.oxforddnb.com/view/article/66616, accessed 24 May 2011].

<sup>482</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 69-70.

<sup>483</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 42-72

<sup>484</sup> See footnote 479 for the primary sources used to compile this table.

suing livery during this period. Why were so many heirs both wishing and able to sue a special livery?

To begin with, though Ley states that although an heir's special livery should only be allowed to go forward if the estates held were judged in the IPM to be over £20 a year, nonetheless heirs could still sue a special livery if they lied about the value of their estates by claiming that their lands held a value above £20 a year.<sup>486</sup> Therefore according to Ley it was a relatively simple matter of deception to ensure the ability to sue a special livery and the Court of Wards was not going to object to a practice that allowed them to set expensive fines for liveries. Also the Court could possibly utilise the admission of heirs that their lands were worth more than they really were in order to ensure that higher fines could be set on these estates in the future.<sup>487</sup> The reasoning behind the decision of heirs to sue an expensive special livery was as equally self-motivated as the Court of Wards' ready acceptance of them. The special livery ensured that the heir would not get into trouble for anything 'wrongfully done in the way of entry or intrusion' and also allowed the heir to start taking money from the estate straight away. Other advantages of the special livery came from allowing heirs to avoid proving their ages and it was also 'eminently safe'.<sup>488</sup>

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<sup>485</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Easter and Trinity Term, 4 Charles I, No. 75; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 139; TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 J1-10 CI), Easter and Trinity Term, 7 Charles I, No. 145; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 227; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273, (21 J1-16 CI), ff. 203-216; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/80, (3-9 CI), Index and ff. 243-335.

<sup>486</sup> J. Ley, *A Learned Treatise Concerning Wards and Liveries* (1642), p. 62.

<sup>487</sup> Based on Hurstfield, *The Queen's Wards: Wardship and Marriage under Elizabeth I*, p. 171.

<sup>488</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 77-78.



**Table 28a: Relationship between the value of an heir's estate and the writ for an IPM during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>489</sup>

Mastership	No. of heirs with lands valued at or below £5	No. of heirs with lands valued above £5	No writ: <i>virtute officii</i>	Writ: <i>diem clausit extremum</i>	Writ: <i>mandamus</i>
Sir Robert Naunton	1	N/A	-	1	-
Sir Robert Naunton	N/A	20	-	16	4
Francis Baron Cottington	-	N/A	-	-	-
Francis Baron Cottington	N/A	7	-	5	2

To begin with it is important to note that the figure for ‘heirs with lands valued at or below £5’ during Naunton’s mastership is based on a very small sample. This sample is taken to ‘reflect the development of the Court’s policies, but [it is accepted that the sample] might also be the result of ad hoc negotiations in...[this]...particular’ instance. It is not possible to compare the treatment of heirs by the Court of Wards who held lands worth £5 or less a year during the masterships of Naunton and Cottington because, probably through simple chance, no heirs with estates of this value sued livery during Cottington’s time as master. However it is worth noting that all of the heirs who possessed lands worth more than £5 a year during the period of both masterships did seek a writ before holding an IPM. For example William Morley, son and heir of Sir John Morley, received a writ of *diem clausit extremum* for his IPM which was conducted on 3 April 1623 and it was decided by the IPM that Morley’s estates were worth £59 3s 4d a year. Henry Hildyard, whose ancestor was the deceased Sir Christopher Hildyard, received a writ of *diem clausit extremum* for holding an IPM. Here the value of Hildyard’s lands were found to be £47 3s 4d.<sup>490</sup>

The consistency in the use of this mechanism to bring about an IPM suggests that there was indeed an established understanding of a writ preceding an IPM. It

<sup>489</sup> See footnote 479 for the primary sources used to compile this table.

<sup>490</sup> TNA, London, Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 21 James I, No. 129; TNA, London, Ward Class 9, ‘Abstracts of Inquisitions’, Ward 9/329A (10-15 CI), No. 136, f. 33; TNA, London, Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/422 (5-9 CI), f. 138; TNA, London, Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/426 (9-12 CI), f. 270; TNA, London, Ward Class 9, ‘Receiver-General’s Accounts’, Ward 9/430 (12-15 CI), f. 78.

also appears that neither Naunton nor Cottington interfered with this custom. This is because heirs obtaining writs before an IPM took place undermined the position of the escheator by preventing him from holding IPMs by *virtute officii*. Furthermore by authorising writs the Court of Wards could decide whether extra care in the protection of the crown's interests was needed in the holding of an IPM by appointing a commission to administer the inquisition instead.<sup>491</sup> As Cottington was not only a Court official but also was obviously concerned about increasing the profits of the Court of Wards, it is unsurprising that he chose to allow the established custom to go on and indeed may even have encouraged it.

**Table 28b: Relationship between the value of an heir's estate and the type of livery sued during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>492</sup>

Mastership	No. of heirs with lands valued below £20	No. of heirs with lands valued above £20	Type of livery: general	Type of livery: special
Sir Robert Naunton	7	N/A	-	7
Sir Robert Naunton	N/A	14	-	14
Francis Baron Cottington	3	N/A	-	3
Francis Baron Cottington	N/A	4	-	4

To begin with it is important to note that the figure for 'heirs with lands valued below £20' during Cottington's mastership is based on a small sample. This sample is taken to 'reflect the development of the Court's policies, but [it is accepted that the sample] might also be the result of ad hoc negotiations in these particular cases'. During the period of both masterships all heirs suing their livery either clearly wanted, or were allowed to sue, a special livery. One of the heirs suing livery who automatically hit the threshold of above £20 during Naunton's mastership was John Gee, the son and heir of Sir William Gee from Yorkshire. His lands were valued at £48 4s 4d and he was allowed to sue a special livery with a fine of £27 6s 4d[?].<sup>493</sup>

<sup>491</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 42-73. This reference includes a reference to 'Bod. MS. Carte 124, f. 530.'

<sup>492</sup> See footnote 479 for the primary sources used to compile this table.

<sup>493</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 10 James I, No. 98; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 54; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/77 (18 JI-4 CI),

Yet in the same period of Naunton's mastership Fleetwood from Yorkshire, after his brother Fleetwood had died, was only in possession of an estate worth £6 15s but was still able to sue a special livery with a fine of £13 2s 9d.<sup>494</sup> The same picture can be seen during Cottington's time as master. Hildyard from Yorkshire, after his father Hildyard had died, had an estate worth £47 3s 4d and he was automatically entitled to a special livery. He paid £59 18s 6d for his livery.<sup>495</sup> But Marmaduke Wild also from Yorkshire, who was the brother and heir of the deceased John Wild, was in possession of lands that were only valued at £11 13s 4d yet he still paid £7 3s 4d for a special livery.<sup>496</sup>

This remarkable consistency in the masterships of Naunton and Cottington is primarily a testament to the importance that early seventeenth century society placed upon custom. Also, as already alluded to above, by allowing heirs to sue a special livery this type of livery enabled the Court of Wards to generate more revenue for the crown. Therefore this practice was unlikely to be changed by either Naunton or Cottington because the crown's need for money was a persistent problem and made worse by war. As a result both masters continued to adhere to the custom surrounding special liveries where even heirs with only small estates could still obtain this livery.

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Index and ff. 263-64; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/417 (22 JI-5 CI), f. 92.

<sup>494</sup> TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 77.

<sup>495</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/329A (10-15 CI), No. 136, f. 33; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 315; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/82 (11-20 CI), Index and ff. 16-17; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/426 (9-12 CI), f. 270; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/430 (12-15 CI), f. 78.

<sup>496</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/329A (10-15 CI), No. 141, f. 33; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 313; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/81 (8-16 CI), Index and ff. 275-76; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/426 (9-12 CI), f. 169.

**Table 29a: Relationship between the value of an heir's estate and the writ for an IPM during the Personal Rule.<sup>497</sup>**

Period of Personal Rule	No. of heirs with lands valued at or below £5	No. of heirs with lands valued above £5	No writ: <i>virtute officii</i>	Writ: <i>diem clausit extremum</i>	Writ: <i>mandamus</i>
First period	-	N/A	-	-	-
First period	N/A	18	-	15	3
Second period	-	N/A	-	-	-
Second period	N/A	3	-	1	2

To begin with it needs to be pointed out that the sample for 'heirs with lands valued above £5' during the second period of the Personal Rule is small. This sample is taken to 'reflect the development of the Court's policies, but [it is accepted that the sample] might also be the result of ad hoc negotiations in these particular cases'. Again due to the absence of figures for heirs with estates worth £5 a year or less in the second period of the Personal Rule it is not possible to make comparisons between their behaviour and their treatment by the Court of Wards during the first and second period. However there is sufficient information relating to heirs who held lands above the value of £5 a year. This table shows that all these heirs in both the first and second period did receive a writ before the holding of an IPM. During the first period Sir William Culpepper from Sussex, the son and heir of Sir Edward Culpepper, had his estate valued at £25 10s by an IPM which was based on a writ of *diem clausit extremum*.<sup>498</sup> In the second period Sir William Strickland from Yorkshire, son and heir of Walter Strickland, received a writ of *mandamus*. The following IPM concluded that Strickland's estate was worth £48 19s 1d.<sup>499</sup>

The reasons for this continuous adherence to the procedure of obtaining a writ before an IPM was undertaken are very similar to those given in the earlier parts of this section. This procedure appears to have been deeply ingrained, and during the second period of the Personal Rule, when there may have been a focusing of

<sup>497</sup> See footnote 479 for the primary sources used to compile this table.

<sup>498</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Michaelmas and Hillary Term, 6 Charles I, No. 190; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/78 (3-8 CI), ff. 335-36; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 139.

<sup>499</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/329A (10-15 Charles I), No. 218, f. 158; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/82 (11-20 CI), ff. 152-54; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/430 (12-15 CI), ff. 195-311.

attention on to the finances of the crown, it possibly became more important than ever that the Court of Wards assert itself over the escheator and ensure that IPMs were [better?] administered for the crown's benefit through the application of issuing commissions. Indeed it is of note that that there were a greater number of commissions issued to carry out IPMs in the second period. This suggests that the Court was issuing more commissions because of attention potentially being directed towards the crown's finances stemming from the Scottish Covenanter rebellion.

**Table 29b: Relationship between the value of an heir's estate and the type of livery sued during the Personal Rule.**<sup>500</sup>

Period of Personal Rule	No. of heirs with lands valued below £20	No. of heirs with lands valued above £20	Type of livery: general	Type of livery: special
First period	7	N/A	-	7
First period	N/A	11	-	11
Second period	-	N/A	-	-
Second period	N/A	3	-	3

To begin with it needs to be pointed out that the sample for 'heirs with lands valued above £20' during the second period of the Personal Rule is small. This sample is taken to 'reflect the development of the Court's policies, but [it is accepted that the sample] might also be the result of ad hoc negotiations in these particular cases'. The table shows that all heirs suing their livery during the Personal Rule sued a special livery regardless of the value of their lands. A significant minority in the first period of the Personal Rule possessed lands worth £20 or less a year but were still able to obtain a special livery. During the first period Thomas Dalton from Yorkshire, son and heir of Robert Dalton, held lands that were only worth £11 17s 4d a year but was still able to sue a special livery and was fined £33 13s 4d for this benefit.<sup>501</sup> There was also Thomas Dolman who was from Yorkshire as well. When his father Sir Robert Dolman died, Dolman's estate was valued at £23 a year and he sued a special livery costing him £32 2s 2d.<sup>502</sup> During the second period all heirs were in

<sup>500</sup> See footnote 479 for the primary sources used to compile this table.

<sup>501</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI) Michaelmas and Hillary Term, 4 Charles I, No. 97; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f.156; Ward Class 9, 'Entry Books of Liveries', Ward 9/80 (3-9 CI), Index and f. 104; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/430 (5-9 CI), f. 56.

<sup>502</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Easter and Trinity Term, 5 Charles I, No. 72; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 205; Ward

possession of lands that were above the £20 a year threshold. One of these heirs was Henry Arthington, son and heir of William Arthington. The IPM found that Arthington's lands were worth £21 a year and he was able to sue a special livery for a possible fine of £19.<sup>503</sup>

Once again, we must remind ourselves that there was surprising consistency during the Personal Rule in the way the Court of Wards closely followed the custom that dictated the various forms of livery that heirs could sue. The importance of custom in early seventeenth century English society is well known. However it is worthwhile noting again that this custom was of financial benefit to the crown as special liveries allowed the Court to impose expensive fines and if heirs were to declare that their lands were worth more than £20 a year than the Court of Wards could possibly use that when calculating future feudal fines. It is also important to note that it would have been unlikely that the Court would have deviated from this profitable custom during the second period of the Personal Rule. This is because of the Scottish Covenanter rebellion which could have directed attention towards the finances of the crown. Consequently the Court of Wards would probably have strictly adhered to this financially valuable custom as it obviously strove to generate a greater profit for the crown.

This examination of the relationship between the Court of Wards, one of the laws in the statute of 1541 and the custom which dictated how the Court managed the different types of liveries heirs sued, emphasises the prominence of fiscal feudalism. The Court of Wards' greater willingness to grant commissions demonstrates the vital role of the IPM which was to find tenures in the crown's favour which could then be exploited for its financial gain.<sup>504</sup> Also allowing heirs with lands which were not worth more than £20 a year to sue special liveries was a way of maximising the

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Class 9, 'Entry Books of Liveries', Ward 9/80 (3-9 CI), Index and ff. 229-30; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/422 (5-9 CI), f. 139.

<sup>503</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/322 (10 JI-10 CI), Easter and Trinity Term, 22 James I, No. 112; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 374; Ward Class 9, 'Entry Books of Liveries', Ward 9/83 (12-21 Charles I), Index and ff. 175-76; TNA, London, Ward Class 9, 'Receiver-General's Accounts', Ward 9/430 (12-15 CI), f. 311.

<sup>504</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 69. This reference includes a reference to J. Ley, *A Learned Treatise Concerning Wards And Liveries*, (1642), pp. 73-74.

revenue that the Court could obtain for the crown especially when livery fines according to custom were expected to be 'valued at moderate...rates'. Consequently the possible attention placed upon the finances of the crown may have partly led the Court of Wards to use commissions more often, while at the same time strictly maintaining the custom that governed the suing of different forms of liveries.

The relationship between the Court of Wards, one of the laws in the act of 1541, and the custom governing liveries also highlights a surprising level of continuity over change during the masterships of Naunton, Cottington and the Personal Rule. Here the Court strictly kept to the statutory requirement that all heirs who held land worth more than £5 a year had to receive a writ before a livery could be sued. Similarly the custom governing special liveries was also firmly followed. That this custom did not change during Cottington's mastership and the second period of the Personal Rule is a testament to its importance in enhancing the ability of the Court of Wards to generate revenue for the crown. To a certain extent this ties in with both Cottington's 'aggressive' mastership which produced staggeringly high revenues and the crown possibly directing attention towards its finances as the circumstances surrounding the Scottish rebellion worsened over time.

### **Conclusion**

The focus on the relationship between the Court of Wards, a number of the laws in the statutes of 1540, 1541, some of the orders in the Instructions of December 1618, 1622 and one of the Henrician customs, through neglected wardships, idiocy, lunacy and liveries has thrown light on the larger issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

The Court of Wards almost always followed the laws and orders that had been laid down for its administration of neglected wardships, idiocy and lunacy, as well as the custom that had evolved for suing different types of livery. This was mainly because these were in the financial interest of the crown and helped to facilitate the Court's practice of fiscal feudalism. Indeed by primarily following these laws, orders and customs the Court of Wards also possibly demonstrated how fiscal feudalism could be manipulated to meet other needs of the crown by deliberately lowering the prices of neglected wardships to both encourage buyers to come forward as well as to act as a deterrent towards future petitioners who might

delay or abandon their suits or even fail to pay the expected fines, while the decision to only set minimal fines for the custody of the body and/or lands of idiots was a response to the moral pressures from society which the Court took into account.

The area where there was no flexible interpretation of the ambiguous laws and orders relating to idiots and lunatics was in the handling of lunatics. Here the Court placed the one explicit order above the more numerous implicit orders when dealing with cases of lunacy. As a result lunatics were untouched by the Court of Wards' fiscal feudalism as this explicit order required. It can be seen for the first time that fiscal feudalism had limits which not even the Court was able to cross. The Court of Wards imposed no fines or rents on the bodies or lands of lunatics and there was no manipulation of these fines or rents for the gain of the crown. It appears that even fiscal feudalism had to bend to this moral pressure that came from society.

When considering the masterships of Naunton and Cottington as well as the Personal Rule there is a greater degree of continuity over change in the relationship between the Court of Wards, some of the laws in the statutes of 1540 and 1541, a number of orders in the Instructions of December 1618, 1622 and the custom governing the suing of different types of livery. During both masterships and the Personal Rule the policy of granting the custody of heirs from neglected wardships to the benefit of the buyers was maintained thereby adhering to the orders in the Instructions by attempting to deter the occurrence of neglects. Also Naunton, Cottington and the Court during the Personal Rule chose to comply with the explicit order relating to the granting of lunatics within the Instructions while at the same time ignoring the more numerous and implicit references to making profit from such individuals. Both men, and the Court of Wards throughout the Personal Rule, also ensured that writs were always issued for IPMs when an heir's lands were considered to be worth above £5 a year as well as continuing the custom of granting special liveries to heirs whose estates were, or were claimed to be, worth over £20 a year. Yet change occurred when both Cottington and the Court during the second period of the Personal Rule increased the ratios for the prices of neglected wardships which broke the orders regarding neglects because prices were no longer being used as a form of deterrence. Also Cottington and the Court of Wards in the second period possibly took a different and more inclusive interpretation of the laws and orders governing idiocy by imposing fines on the custody as well as the lands of idiots.



The continuity in the masterships of Naunton, Cottington and the Personal Rule can be principally located in what historians see as Cottington's 'aggressive' mastership as well as the development of the Scottish Covenanter rebellion. This is because the orders which required the Court of Wards to deter neglects were adhered to by granting the custody of heirs who were considered neglected wardships to the benefit of the buyers. This helped to protect the revenues of the crown as it discouraged family members from delaying or ending their suits for wardships or not paying their fines. Similarly by continuing to ensure that writs were issued for IPMs to heirs whose lands were worth more than £5 a year was again designed to protect the profits of the crown by allowing commissions to be used. Also, maintaining the custom governing special liveries which allowed anyone to pay for this more expensive livery as long as they claimed their lands to be worth more than £20 a year also helped the crown's revenues. Even the fines set for neglected wardships, although representing change under Cottington and the Court during the second period still reflects Cottington's 'aggressive' behaviour and the impact of the Scottish Covenanter rebellion. It was in the treatment of lunatics that Cottington's 'aggressive' behaviour and the potential pressure being placed upon the Court of Wards as a result of the crown possibly focusing attention upon its finances because of the Scottish crisis, was actually absent. This can be explained through the moral pressure from society on both Cottington and the Court to not interpret the Instructions in a way which could have introduced fines for the bodies and/or lands of lunatics. This suggests that while the differences between Naunton, Cottington and the first and second period of the Personal Rule are not as great as has been previously argued, the picture that historians have built up of Cottington as a master, as well as Sharpe's model of the Personal Rule, does possess some validity.

# Chapter Five: The Court of Wards and the Roman Catholic Gentry

## Introduction

The size of the English Catholic community in the early seventeenth century was relatively small. J. Bossy has suggested that in 1641 there were about 60,000 Catholics in England and Wales while Aveling noted that estimates of Catholicism in the gentry ranged from below 10% to 25%.<sup>505</sup> Yet some contemporaries, such as the Spanish ambassador Diego Sarmiento de Acuna, Count of Gondomar, estimated in 1617 that the English Catholic/recusant population was about 900,000. In 1637 the papal emissary Gregorio Panzani believed recusant numbers to be around 150,000, while in 1638 a later papal emissary, Conn, thought the recusant population to be about 200,000.<sup>506</sup> These estimates were not inconsiderable given that the number of people living in England and Wales in 1600 possibly constituted five and a half million people.<sup>507</sup>

Contemporary estimates of Catholics are important as they can help to contextualise historians' knowledge about how the crown treated this religious group through the Court of Wards. Additionally an examination of Catholicism also has the potential to contribute to historians' understanding of the level of continuity and change during the masterships of Naunton and Cottington who were very different men, particularly on religious matters. Furthermore looking at Catholicism can also help to improve historian's understanding of the validity of Sharpe's model of the Personal Rule by again considering the amount of continuity and change both before and after the key year of 1637.

The historiography of the relationship between the Court of Wards and Catholicism pays little attention to these issues. Instead the obvious consequences of the custody of wardship are principally focused upon. Cliffe has stated that on a theoretical level the Court posed a serious threat to Catholic families and Anstruther argued that wardship created a large risk to these families because the buyer of the

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<sup>505</sup> Aveling, *The Handle and the Axe: The Catholic Recusants in England from Reformation to Emancipation*, p. 142; J. Bossy, *The English Catholic Community, 1570-1850* (London, 1975), p. 188.

<sup>506</sup> M. J. Havran, *The Catholics in Caroline England* (Stanford, CA; London, 1962), p. 83.

<sup>507</sup> Sharp, *The Coming of the Civil War, 1603-49*, p. 4.

wardship could control all aspects of the heir's life. Bell suggested that the Court of Wards was quite careful in ensuring that wards were brought up as Protestants.<sup>508</sup> Stone argued that Burghley, as master of the Court was successful in removing the heirs of Catholic noble families to Protestant households and converting them to Protestantism, while Aveling stated that Wentworth and his associates used wardship against recusancy and that the Long Parliament also made use of the Court of Wards against Catholic families.<sup>509</sup>

However, historians such as Cliffe also argue that although the threat was there in reality the Court of Wards had little interest if un-convicted recusants were on the committee which petitioned for, and was granted, a wardship. Indeed, Cliffe went as far as to say that the heirs of Catholic families were generally given a Catholic upbringing and that wardship had little effect on the religious beliefs of heirs who experienced wardship. Aveling believed that 'No doubt gentry public opinion-hostile to the Court of Wards-would never stand for a policy of systematic taking of wards away from their next of kin'.<sup>510</sup>

Therefore the overall historiography appears to suggest, with the exception of Bell, that the early seventeenth century Court of Wards generally took little interest in the committees purchasing Catholic wards. Doyle has argued that the Court was more concerned about generating revenue than it was about Catholicism.<sup>511</sup> However these arguments, along with the almost exclusive focus of historians on the custody of the heir, will be shown to be an over-simplification of the relationship between the Court of Wards and Catholicism.

This chapter has four main sections. The first section examines the relationship between the Court of Wards and the social ranks within the Catholic gentry. The second section considers how the Court managed the custodial element of wardship when dealing with Catholic heirs. The third section focuses on the level

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<sup>508</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 184; Anstruther, O.P., 'Vaux of Harrowden', p. 231, cited in Doyle, 'Catholics and the Court of Wards', p. 85; Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp.124-25. This reference includes a reference to 'P.R.O. S.P. 14/69, no. 69, discourse to the Court' and F. Philipps, *Tenenda non Tollenda*, (1660), p. 71.

<sup>509</sup> Stone, *The Crisis of the Aristocracy 1558-1641*, p. 739; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, pp. 224-303.

<sup>510</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, pp. 184-85; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, p. 224.

<sup>511</sup> Doyle, 'Catholics and the Court of Wards', p. 88.

of fines imposed on Catholic families while the final section examines the payment terms given to the committees of Catholic heirs. Through each section, fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington, and also the Personal Rule, will be examined thereby demonstrating how research into the Court of Wards has important repercussions for broader early seventeenth century historiography.

Once again it is important to note that any attempt to identify Catholic families, especially amongst the gentry, is fraught with problems. Not least because some Catholic families were able to avoid the recusancy penal laws and the Court of Wards was no better at identifying such families.<sup>512</sup> Historians of Catholicism in the sixteenth and seventeenth centuries will be very familiar with these types of problems. Thankfully, as noted in a foreword to this thesis, Dr. Cliffe has very kindly allowed this thesis to utilise his list of Yorkshire Catholic families for the early seventeenth century. This list is based on an inclusive definition of Catholicism and therefore includes recusants, non-communicants, church-papists, and occasional conformists. However for Sussex this thesis had relied on secondary literature which is based on primary source research. Principally A. J. Fletcher's *A County Community in Peace and War: Sussex, 1600-1660* has been used in conjunction with the Herald's visitations of Sussex in 1530, 1633-34, and 1662 published by The Harleian Society, as well as inquisition post mortems published by Sussex Record Society.<sup>513</sup> Fletcher also appears to have used a more inclusive definition of Catholicism which suggests that the sources which this thesis uses for identifying Catholic families from the gentry who experienced wardship and livery during 1625-41 are roughly comparable.<sup>514</sup>

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<sup>512</sup> A point made by M. J. Hawkins.

<sup>513</sup> Fletcher, *A County Community in Peace and War: Sussex, 1600-1660*; W. B. Bannerman, ed. 'Visitations of Sussex, 1530 and 1633-1634', *Harleian Society*, 53 (1905). Digital Copy from Archive CD Books; A. W. Hughes Clarke, ed. 'The Visitation of Sussex, Anno Domini 1662, Made by Sir Edward Bysshe', *Harleian Society*, 89 (1937). Digital Copy from Archive CD Books. F. W. T. Attree, ed. *Notes of Post Mortem Inquisitions Taken in Sussex, 1 Henry VII to 1649 and After*, Sussex Record Society, 14 (1912).

<sup>514</sup> Fletcher, *A County Community in Peace and War: Sussex, 1600-1660*, p. 94. This reference includes reference to 'J. Bossy, "The character of Elizabethan Catholicism", *Past and Present*, xxi (1962), 39-57'; 'Manning, pp. 151-65'; 'J. Miller, *Popery and Politics in England 1660-1688*, (Cambridge University Press, 1973), pp. 3-27'; 'J. Bossy, "The English Catholic Community 1603-1625"', in A. G. R. Smith, ed., *The Reign of James VI and I*, (Macmillan, 1973), pp. 101-5'; 'BM, Harleian MS 703, fol. 52r.'

## Social Status

Early modern English society had a social hierarchy based on title, ancestry and wealth.<sup>515</sup> Therefore the impact that social status had on the way the Court of Wards treated Catholic families experiencing wardship or livery is important and worthy of consideration. This can be highlighted through a comparison of Catholic with Protestant families. This section examines the similarities and differences in the way the Court treated families from the gentry with and without the title of knight/baronet. This is because the schedules of sales of wardship do not appear to record the ranks of esquire or gentleman. Yet a series of entry books of liveries do record these social ranks which consequently makes direct comparison between wardship and livery difficult unless families are classified according to whether or not they possessed the title of knight/baronet.<sup>516</sup> This section will first examine the fiscal relationship between the Court of Wards and knighted/un-knighted Catholic and Protestant families, before moving on to consider the level of continuity and change in this relationship with regards to the masterships of Naunton, Cottington and the Personal Rule.

**Table 30: Sale to IPM ratios for knighted and un-knighted Catholic and Protestant families.**<sup>517</sup>

Religion and social status	Wardship	Livery
R.C. knighted	-	1.39
R.C. un-knighted	29.69	1.7
Prot. knighted	106.22	1.11
Prot. un-knighted	20.72	1.06

It is important to note that the samples for Catholic knighted families that experienced livery and un-knighted Catholic families that also went through livery are very small to small. These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that the samples] might also be the result of ad

<sup>515</sup> Based on Sharp, *The Coming of the Civil War, 1603-49*, p. 6.

<sup>516</sup> TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI).

<sup>517</sup> Catholics are identified by 'R.C.' and Protestants are identified by 'Prot.'. This table is based on an analysis of the following material: Hawkins' Wardship Data; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI); Ward Class 9, 'Entry Books of Liveries', Ward 9/75, Ward 9/77, Ward 9/78, Ward 9/79, Ward 9/80, Ward 9/81, Ward 9/82, Ward 9/83 (17 JI-21 CI); Ward Class 9, 'Abstracts of Inquisitions', Ward 9/319, Ward 9/320, Ward 9/321, Ward 9/322, Ward 9/324, Ward 9/329A (31 EI-15 CI); Ward 9, 'Receiver-General's Accounts', Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431, Series C (22 JI-17 CI).

hoc negotiations in these particular cases'. It is not possible to examine knighted Catholic families who experienced wardship. This is because the recorded wardship of Sir Thomas Gage, possibly of Firle in Sussex, which was sold during 27 March 1634 to 26 March 1635, has no IPM which would enable a ratio to be calculated.<sup>518</sup> It is unlikely that an IPM did not take place because this was the basis with which the crown determined whether a family was liable for wardship or livery.<sup>519</sup> Consequently it is likely that the IPM was lost in the administrative process although this loss must have occurred early on for it to have been omitted from the schedule of sale.<sup>520</sup> Nonetheless as the fine imposed for this wardship was a very large £1600, and as IPMs generally provided low land values, it can be suggested that the ratio must have been high for the Court of Wards to have arrived at such a price.<sup>521</sup>

However there is data available for a knighted Catholic family suing livery. This is the Dolman family, possibly of Badsworth and Pocklington in Yorkshire.<sup>522</sup> The livery fine for Dolman, heir of Dolman, was set at £32 2s 2d, a ratio of 1.39, and the writ of livery was issued on 29 June 1631.<sup>523</sup> Clearly this was slightly higher than the ratios for both knighted and un-knighted Protestant families suing livery but was a bit lower than the ratios for un-knighted Catholic heirs suing livery. This suggests that Catholic heirs were being exploited by or discriminated against by the Court of Wards because they were seen as an easy political target for extracting additional revenue as they constituted a disliked and distrusted religious minority. However as un-knighted Catholic families were charged more for their liveries it can be suggested that the limited sample for knighted Catholic families prevents a clearer

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<sup>518</sup> Based on Fletcher, *A County Community in Peace and War: Sussex, 1600-1660*, pp. 100-101. This reference includes reference to 'PRO, Prob 11/164/86, 113'; A. W. Hughes, Clarke, ed. 'The Visitation of Sussex, Anno Domini 1662, Made by Sir Edward Bysse', *Harleian Society*, 89 (1937), p. 51. A digital Copy from Archive CD Books. There is no information on the wardship of Sir Walter Vavasour of Hazlewood Castle, Yorkshire.

<sup>519</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xvii.

<sup>520</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xvii-xviii.

<sup>521</sup> Hawkins' Wardship Data.

<sup>522</sup> Sir W. Dugdale, J. W. Clay, ed. *Dugdale's Visitation of Yorkshire with Additions*, 1-3 (Exeter, 1899-1917), pp. 161-63; Cliffe's Data.

<sup>523</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/324 (1-5 CI), Easter and Trinity Term, 5 Charles I, No. 72; Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), f. 205; Ward Class 9, 'Entry Books of Liveries', Ward 9/80 (3-9 CI) Index and ff. 229-30.

picture from emerging in regards to the relationship between these two groups of families.

The picture is clearer for the seven Protestant knighted families who experienced wardship. The ratio for these families was much higher compared to un-knighted Catholic and Protestant families. One example is the wardship of John Reresby of Yorkshire, heir of Sir George Reresby, who was sold during 27 March 1630-26 March 1631 for £666 13s 4d to Sir Richard Beaumont, a ratio of 47.64. It is not possible to compare the ratio of the Gage wardship with the wardship of knighted Protestant families but in all probability a very high ratio could also be seen for the wardship fine for Gage. This suggests two possibilities. One, that knighted families were being financially exploited by/discriminated against through the justification that families with a higher social status deserved greater fines. Two, these knighted families were being charged more as a result of a custom linked to their higher social status.<sup>524</sup> The marginal difference in the ratios for knighted and un-knighted Protestant families suing livery, although very small, supports these two possibilities. Also the slightly lower ratio for knighted Protestant families compared to knighted and un-knighted Catholic families suing livery reinforces the possible financial exploitation of/discrimination against Catholic families.

The issue of justification continues with un-knighted Catholic families. These families were charged more for their wardships than un-knighted Protestant families and were also charged slightly more than any other family group when suing livery. Again it is possible that this was because Catholics were viewed as an easy target for financial exploitation/discrimination by the Court of Wards. An example of this is the wardship of John Dalton of Swine in Yorkshire which was sold in July 1639 to Chris Dallison for a fine of £500, a high ratio of 41.66.<sup>525</sup> By contrast un-knighted Protestant families, in both wardship and livery, experienced lower ratios than any other family group. This fits in with the above arguments because these families were in an advantageous position. They were part of the Protestant mainstream, and due to their social status they were not a viable target for financial exploitation/discrimination by the Court. These factors may have enabled un-knighted Protestant families to escape the worst financial exactions of the Court of

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<sup>524</sup> Hawkins' Wardship Data. One of the points comes from Dr. J. T. Cliffe.

<sup>525</sup> Hawkins' Wardship Data.

Wards. However it is also worth considering the continuity and change in the demands made by the Court under the masterships of Naunton and Cottington.

**Table 31: Sale to IPM ratios for knighted and un-knighted Catholic and Protestant families during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>526</sup>

Master, religion and social status	Wardship	Livery
R.N. R.C. knighted	-	1.39
R.N. R.C. un-knighted	24.40	1.7
R.N. Prot. knighted	117.11	1.01
R.N. Prot. un-knighted	20.12	1.04
F.C. R.C. knighted	-	-
F.C. R.C. un-knighted	32.87	-
F.C. Prot. knighted	91.71	1.49
F.C. Prot. un-knighted	21.54	0.91

Unfortunately the samples for half the groups in the above table are either very small or small.<sup>527</sup> These samples are taken to ‘reflect the development of the Court’s policies, but [it is accepted that the samples] might also be the result of ad hoc negotiations in these particular cases’. There is a lack of information for knighted and un-knighted Catholic families suing livery, as well as a lack of wardship data for the former during Cottington’s mastership, which makes a comparison of knighted Catholic families involved not only in wardship but also knighted and un-knighted Catholic families suing livery under both masters impossible. There are two possible explanations for this lack of data. First, that livery was not given as much attention under Cottington as it was during Naunton’s time as master. This is demonstrated by the fall of livery revenues during Cottington’s tenure and may be explained by Cottington’s apparent focus on wardship as it held greater potential for exploitation due to its elasticity.<sup>528</sup> Second, the possible Catholicism of Cottington may have offended the ‘godly Protestantism’ of Rudyerd who was ‘vehemently anti-Catholic’, and in contrast to Smith’s argument, this may have led Rudyerd to neglect his duties

<sup>526</sup> Catholics are identified as ‘R.C.’ and Protestants are identified as ‘Prot.’. The mastership of Sir Robert Naunton is signified by ‘R.N.’. The mastership of Francis Baron Cottington is signified by ‘F.C.’. See footnote 517 for the primary sources used to compile this table.

<sup>527</sup> Samples concern the ‘R.N. R.C. knighted’ (livery); ‘R.N. R.C. un-knighted’ (wardship); ‘R.N. R.C. un-knighted’ (livery); ‘F.C. Prot. knighted’ (wardship); ‘F.C. Prot. knighted’ (livery); ‘F.C. Prot. un-knighted’ (livery).

<sup>528</sup> Based on Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 129; Table A: ‘Nett Income In Selected Years’ in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93.



within the Court of Wards thereby leading to fewer liveries being sued during this period.<sup>529</sup>

However an examination of knighted Protestant families does allow comparisons to be made in the administration of wardship and livery by the Court of Wards under Naunton and Cottington. Knighted Protestant families were being charged more for wardships under Naunton's tenure than they were during Cottington's time as master yet a slight reverse in policy occurred in the administration of liveries. This may have been driven by a political motivation to lessen the crown's possible unpopularity with this powerful social group at a time when the Scottish Covenanter crisis was unfolding. Also wardship was a more contentious political issue than livery due to the greater financial, and also custodial, demands it placed upon families. The small increase in livery fines under Cottington's mastership for knighted Protestant families may have been a result of the relationship between Cottington and Rudyerd, outlined above, leading to an uncoordinated strategy within the Court of Wards.

However un-knighted Catholic families witnessed an increase in the fines the Court of Wards imposed for wardship. This can be viewed in part as an attempt by Cottington to compensate for the loss of revenue caused by lowering the fines set for knighted Protestant wardships as well as financial exploitation of/discrimination against a disliked and distrusted religious minority. This would have aroused little complaint from the mainly Protestant English political nation and would also have appeased the fears and prejudices of an English parliament possibly sitting in the future. But it should also be understood within the context of Cottington's 'aggressive administration of the Court of Wards'.<sup>530</sup>

Cottington's aggression is also highlighted in his treatment of un-knighted Protestant families. These families had higher fines imposed for wardship but were given marginally lower fines when suing livery. This may have been another way in which Cottington was attempting to offset the reductions in the fines being placed upon knighted Protestant families along with the significantly increased fines on Catholics. Indeed under Cottington the Court of Wards also marginally raised the

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<sup>529</sup> D. L. Smith, 'Rudyerd, Sir Benjamin (1572–1658)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, May 2009 [<http://www.oxforddnb.com/view/article/24256>, accessed 22 March 2011].

<sup>530</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 135.

livery fines imposed on knighted Protestant families suing livery. However it does not explain the slightly lower livery fines being imposed on un-knighted Protestant families. Again the focus should be on the relationship between Cottington and Rudyerd where due to religious differences there may have been variations in the administration of wardship and livery. It is also worth noting the similarities and differences in the first and second periods of the Personal Rule in light of these results.

**Table 32: Sale to IPM ratios for knighted and un-knighted Catholic and Protestant families during the Personal Rule.<sup>531</sup>**

Personal Rule period, religion and social status	Wardship	Livery
1 R.C. knighted	-	1.39
1 R.C. un-knighted	22.71	1.7
1 Prot. knighted	126.83	1.04
1 Prot. un-knighted	24.04	0.99
2 R.C. knighted	-	-
2 R.C. un-knighted	33.51	-
2 Prot. knighted	109.79	1.36
2 Prot. un-knighted	18.66	0.90

Unfortunately the samples for half the groups in the above table are either very small or small.<sup>532</sup> These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that the samples] might also be the result of ad hoc negotiations in these particular cases'. Protestant knights were charged more for their wardships in the first period of the Personal Rule than in the second and this may have been a result of a deliberate policy of relaxing the burden on one of the most important sections of the political nation in order to increase support for the crown as the problems in Scotland continued to mount. The fact that a slightly opposite policy was followed regarding liveries is much harder to explain but it may have been a result of the possible problems in the relationship between Cottington and Rudyerd leading to a disjointed policy. Also as the increase in livery fines was relatively small it may be ascribed to the limited room the Court had for manoeuvre when attempting to increase revenue from liveries.

<sup>531</sup> The first period of Personal Rule is signified by '1'. The second period of Personal Rule is signified by '2'. See footnote 517 for the primary sources used to compile this table.

<sup>532</sup> Samples concern the '1 R.C. knighted' (livery); '1 R.C. un-knighted' (wardship); '1 R.C. un-knighted' (livery); '2 Prot. knighted' (wardship); '2 Prot. knighted' (livery); '2 Prot. un-knighted' (livery).

However un-knighted Catholic families who experienced wardship witnessed a different trend. Wardship fines for these families increased in the second period of the Personal Rule and this may have been an attempt by the Court of Wards to extract greater amounts of money from an unpopular group of people in English society at a time when the crown may have directed attention towards its finances, as well as trying to offset income lost from lowering the wardship fines imposed on knighted Protestant families.<sup>533</sup> This would have aroused little complaint from most members of the political nation and it would also have pleased any parliament that may have been anticipated by the Court in the near future.

In contrast un-knighted Protestant families saw a decline in the fines they had to pay for wardship and livery in the second period. The decline in wardship fines probably resulted from the Court of Wards attempting to gain support for the crown from the political nation as a result of the crown's problems in Scotland. That the reduction of livery fines was much smaller was a sign of the small amount of money being generated from livery which would have prevented a similar proportional decrease in these fines that were witnessed with wardship.

The Court of Wards was possibly pursuing an overall policy of deliberately charging knighted and Catholic families more for their wardships and liveries. As far as knighted families are concerned this may have been a consequence of deliberate financial exploitation/discrimination by the Court or the custom of imposing heavier fines on families which held higher social ranks. For Catholic families the explanation more likely lies with the Court of Wards' intentional exploitation of/discrimination against Catholicism for the crown's financial gain.

However the level of continuity and change during the masterships of Naunton and Cottington is considerably more complex. Yet when considering the available data it does appear that Cottington pursued a more vigorous fiscal policy by charging knighted Protestant families slightly more for their liveries, imposing higher fines on un-knighted Catholic families for their wardships, and inflicting larger wardship fines for un-knighted Protestant families. In comparison Naunton imposed higher fines on knighted Protestant families who experienced wardship and on un-knighted Protestant families suing livery. This difference is further enhanced

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<sup>533</sup> Based on Hughes, *The Causes of the English Civil War*, p. 24.

when remembering that wardship fines possessed greater elasticity than livery fines. It is also of note that on the basis of the available data Cottington charged Catholic families more than Naunton did which challenges the suggestion made by Hawkins that when Cottington was master he treated Catholics favourably despite the requirements of the law.<sup>534</sup>

The level of continuity and change during the two periods of the Personal Rule also shows similar ambiguity to that seen in the masterships of Naunton and Cottington. However it appears that despite the increase in fines for un-knighted Catholic families there was an overall decline in the level of fines imposed during the second period of the Personal Rule. This can be connected to the development of the Scottish Covenanter rebellion and the crown's need to gather support from Protestants who formed the main body of the English political nation. Consequently knighted and un-knighted Protestant families experiencing wardship, and un-knighted Protestant families suing livery, had lower fines imposed on their feudal obligations after the summer of 1637. However the obligations that came with wardship were not just fiscal in nature as they also included a custodial element and it is to this interesting part of wardship that this chapter now turns.

### **Custody**

The custodial element of wardship was the most potent asset the Court of Wards possessed for dealing with Catholicism. Therefore examining how the Court utilised this asset in its management of Catholic heirs who were within age is an important issue to consider. However unlike analysing the fiscal component of wardship and livery it is not necessary to compare the administration of Catholic wardships with Protestant wardships because an examination of the former can convey important and meaningful information in its own right. This information concerns to whose 'use' the wardships were granted, the composition of the committees, the religious affiliations of the committees, and whether religious conversions were a motivation in the decisions of the Court of Wards to grant wardships to specific committees. This section will first consider these important aspects of Catholic wardships within a broad chronological context before considering the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

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<sup>534</sup> Hawkins, 'Royal Wardship in the Seventeenth Century', p. 45.

**Table 33: Sale of Catholic wardships.**<sup>535</sup>

Sale date	Deceased	Heir	Committee	Use of wardship
4 June 1625	Christopher Danby	Thomas Danby	Christopher Wandesford	Ward
27 March 1630- 26 March 1631	William Pudsay	Ambrose Pudsay	Bridget Pudsay and Sir Richard Sandford	-
28[?] November[?] 1636	Henry Lawson	Roger Lawson	Cuthbert Heron	Ward
-	-	Sir Walter Vavasour	-	-
15 November 1638	John Yorke	John Yorke	Sir Ingleby Daniell and George Daniell	Ward
19 November 1638	George Vavasour	John Vavasour	Thomas Skipwith	Ward
July 1639	Thomas Dalton	John Dalton	Chris Dallison	-
November 1639	Thomas Dolman	Robert Dolman	Sir Thomas Metham	-
27 March 1634- 26 March 1635	Sir John Gage	Sir Thomas Gage	Sir Henry Compton	-
25 February 1629[?]	Edward Gage	William Gage	Sir Henry Compton	Ward

There is no information on the wardship of Sir Walter Vavasour of Hazlewood Castle in Yorkshire in the schedules of sales of wardship, the entry books of wardship sales and the 'Receiver-General's Accounts'.<sup>536</sup> It is difficult to account for these missing records especially as this appears to be a problem in all of the relevant documents pertaining to the sale of the Vavasour wardship. However the most likely explanation would be gross administrative failure by officials within the Court of Wards. This would begin with the loss of the schedule of sale which would in turn lead to a missing record in the entry books and then the clerks omitting to record the payment/s for the Vavasour wardship fine. Nonetheless there is still a considerable amount of data with which to consider the relationship between wardship and Catholic heirs.

Clearly where information was recorded by the Court of Wards the wardships of all Catholic heirs were granted for the benefit of the ward. This is also the case for wardships where there is no immediate information about whether the wardships were granted for the use of the heir or the committee. The wardship of Pudsay of Bolton by Bowland in Yorkshire was sold to the mother of Ambrose and the wife of

<sup>535</sup> The sources used to compile this table come from Hawkins' Wardship Data.

<sup>536</sup> Hawkins' Wardship Data.

Ambrose's father. The wardship was for the use of the heir.<sup>537</sup> Similarly the wardship of Dolman of Badsworth and Pocklington in Yorkshire was granted to his possible uncle, Metham, also for the use of the heir.<sup>538</sup> The wardship of Dalton of Swine in Yorkshire was granted to a committee which appears not to have been related to the heir but the wardship was still granted for the use of the ward.<sup>539</sup> Finally the wardship of Gage was granted to Compton who again was not a relative of the heir but was nonetheless a friend of the father. This would suggest that Compton was acting upon the will of the deceased and the wardship was for the use of the heir.<sup>540</sup> This indicates that the Court was concerned that heirs should be placed with guardians who were primarily concerned with the welfare of the ward and this gave Catholic heirs the same benefit that would probably have been on offer to Protestant heirs. The Court of Wards was sensitive to the feelings of the gentry and the gentry would have been angry had the Court decided to start regularly granting Catholic heirs to committees who were unrelated to the ward. Also, towards the end of Henry, third Earl of Huntingdon's tenure as President of the Council of the North, the High Commission in York had for a very short period of time attempted to send minors from recusant families to conformist schools. However due to public feeling this policy was allowed to lapse.<sup>541</sup>

The 'use' of the wardship is closely tied to the composition of the committee. At least three of the committees included relatives of the heir. As already mentioned Bridget Pudsay was the mother of Pudsay. Also Daniell and Daniell were possibly the grandfather and uncle of Yorke of Gouthwaite Hall in Yorkshire respectively, while Metham may have been the uncle of Dolman.<sup>542</sup> However the majority of the

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<sup>537</sup> TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/218, (1629-1632), f. 44; Cliffe's Data.

<sup>538</sup> TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/219 (1637-1641), f. 231; Cliffe's Data.

<sup>539</sup> TNA, London, Ward Class 9 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/219 (1637-1641), f. 190; Cliffe's Data.

<sup>540</sup> Fletcher, *A County Community in Peace and War: Sussex, 1600-1660*, pp. 100-101. This reference includes reference to 'PRO, Prob 11/164/86, 113'.

<sup>541</sup> Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, p. 224.

<sup>542</sup> TNA, London, Ward Class 9, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/219 (1637-1641), f. 58; Cliffe's Data.

committees did not contain relatives of the ward. This does not necessarily reflect poorly upon the Court of Wards nor does it indicate a deliberate policy. This is because the grants the Court made were limited by who actually petitioned for the wardship. Also the name/s of the committee members recorded were normally only the person/s paying the wardship fine. Therefore there could have been additional member/s of the committee who were never recorded.<sup>543</sup> Also relative/s could be involved but were unable to officially act as the committee because they were convicted recusants. This is because a statute in 1606 prevented such individuals from buying wardships. As a result relative/s could ask another person to petition and buy the wardship on their behalf.<sup>544</sup>

Only in one instance did relatives petition for the wardship only to be denied custody of the heir. This concerned the wardship of Dalton, first petitioned for by Thomas Danby, who was possibly the former feodary of the East Riding of Yorkshire or a Thomas Danby from Thorpe Perrow and Farnley in Yorkshire.<sup>545</sup> However Dallison subsequently petitioned for the heir claiming to be a friend of the ward before Henry and John Dalton, possibly uncles of the ward, petitioned for the custody of their nephew[?].<sup>546</sup> It is unclear why the uncles were not given custody of the heir, but it may have been because they were outbid by Dallison who was also prepared to act for the good of the ward. Alternatively Dallison could have been acting on the will of the father. Therefore money and the wishes of the deceased can also be seen as potentially important factors in determining whether relative/s were granted custody of a ward.

The issue of the composition of the committees includes the matter of Catholic guardians. A greater number of Catholics were included in committees than relatives of the heir which at first glance might seem quite surprising. Sir Ingleby Daniell who was one of the guardians of Yorke was a man who was believed by contemporaries to be a Catholic and his wife was a recusant.<sup>547</sup> Also Metham who

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<sup>543</sup> This latter point comes from M. J. Hawkins.

<sup>544</sup> A point made by M. J. Hawkins.

<sup>545</sup> Hawkins' Wardship Data; Cliffe's Data.

<sup>546</sup> TNA, London, Ward Class 9, Ward 9/219, 'Entry Books of Petitions and Compositions for Wardship, Leases etc', Ward 9/219 (1637-1641), f. 190.

<sup>547</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 185.

brought the wardship of Dolman may have been the Catholic Sir Thomas Metham of Metham and North Cave in Yorkshire.<sup>548</sup> Finally the wardships of William Gage, possibly of Bentley in Framfield, Sussex, and Gage were sold to Compton who was possibly the Catholic Compton of Brambletye in East Grinstead, Sussex.<sup>549</sup> It has not been possible to ascertain the religious beliefs of Bridget Pudsay and Sandford, nor Heron, Skipwith, and Dallison. It can only be said with certainty that Wandesford of Kirklington was a Protestant.<sup>550</sup> It can therefore be tentatively argued that Catholic families considered it just as important for committees to contain individuals who were of the same faith as it was for committees to contain relatives. Indeed it may have been more important.

The issue of Catholic committees is particularly pertinent when considering whether the Court of Wards deliberately utilised wardship to achieve a religious conversion during this period. The heir of the Danby family of Masham and Farnley in Yorkshire is the only known heir in this thesis who came from a Catholic family and was partly granted with the intention of a conversion to Protestantism.<sup>551</sup> Danby died on 18 July 1624 leaving his son and heir Danby, who was fourteen years of age at the time of the IPM.<sup>552</sup> Cliffe has noted the circumstances surrounding the Danby wardship. Two potential committees vied for custody of the heir. The first consisted of the mother and others. The second was the grandmother, Wentworth who was related to the grandmother, and other individuals. Initially the mother's group was successful but in the end it appears that the grandmother's group prevailed with Danby being granted to Wentworth's close friend Wandesford.<sup>553</sup>

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<sup>548</sup> Based on Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*.

<sup>549</sup> Hawkins' Wardship Data; Based on Fletcher, *A County Community in Peace and War: Sussex, 1600-1660* and F. W. T. Attree, ed. *Notes of Post Mortem Inquisitions Taken in Sussex, 1 Henry VII to 1649 and After*, Sussex Record Society, 14 (1912), p. 99.

<sup>550</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 186.

<sup>551</sup> Cliffe's Data; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, pp. 224-25.

<sup>552</sup> Hawkins' Wardship Data.

<sup>553</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, pp. 130-31; J. T. Cliffe, 'Danby family (per. 1493-1667)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/71867>, accessed 12 April 2011]; Cliffe's Data.



**Table 34: Sale of Catholic wardships during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>554</sup>

RN/FC	Sale date	Deceased	Heir	Committee	Use of wardship
R.N.	4 June 1625	Christopher Danby	Thomas Danby	Christopher Wandesford	Ward
R.N.	27 March 1630-26 March 1631	William Pudsay	Ambrose Pudsay	Bridget Pudsay and Sir Richard Sandford	-
R.N.	25 February 1629[?]	Edward Gage	William Gage	Sir Henry Compton	Ward
R.N.	27 March 1634-26 March 1635	-	Sir Walter Vavasour	-	-
R.N.	27 March 1634-26 March 1635	Sir John Gage	Sir Thomas Gage	Sir Henry Compton	-
F.C.	28[?] November[?] 1636	Henry Lawson	Roger Lawson	Cuthbert Heron	Ward
F.C.	15 November 1638	John Yorke	John Yorke	Sir Ingleby Daniell and George Daniell	Ward
F.C.	19 November 1638	George Vavasour	John Vavasour	Thomas Skipwith	Ward
F.C.	July 1639	Thomas Dalton	John Dalton	Chris Dallison	-
F.C.	November 1639	Thomas Dolman	Robert Dolman	Sir Thomas Metham	-

There is striking continuity in the decisions made by the Court of Wards to grant all Catholic heirs to the use of the ward during the masterships of Naunton and Cottington. This level of continuity is remarkable because of Naunton's Protestant beliefs while Cottington was possibly a Catholic. This suggests that the focus should be on Naunton's policy towards Catholic heirs within age. Schreiber has described Naunton as possessing a 'profound suspicion of papal influence in England and elsewhere'.<sup>555</sup> Therefore it can appear odd that Naunton made no attempt to attack Catholicism by allowing committees the use of the wardship. The explanation for this can be located in the views of the gentry who would not accept heirs regularly being removed from their relatives. Indeed, if the Court was allowed to pursue such a course of action it could in time also threaten the interests of Protestant families as

<sup>554</sup> See footnote 535 for the primary sources used to compile this table.

<sup>555</sup> R. E. Schreiber, 'Naunton, Sir Robert (1563–1635)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/19812>, accessed 24 March 2011].

well. However the presence of Queen Henrietta Maria is also potentially important after the death of Buckingham. Henrietta Maria was a Catholic and both Charles I and Henrietta Maria became close after the murder of Buckingham in 1628 and when Henrietta Maria 'chose to exert her influence she had a great deal'.<sup>556</sup>

The picture alters slightly when examining the number of relatives contained within the committees. Under Naunton the wardship of Pudsay was granted to the mother as well as Sandford. During Cottington's tenure as master the wardship of Yorke was possibly awarded to his grandfather and his uncle, while the wardship of Dolman was potentially granted to his uncle. Factors such as the type of people who petitioned for wardships, the practice of only recording committee members who paid wardship fines, and the statutory based obstacle for convicted recusants could affect the presence of relatives in committees and these factors have already been touched upon. Nonetheless it does appear that the Court of Wards under Cottington was more likely to look favourably upon relatives petitioning for wardship than it had done during Naunton's mastership. Although Naunton always ensured that Catholic wardships were granted to the use of the heir he may still have been suspicious of family members. Also, throughout roughly half of Naunton's tenure parliaments met regularly, and Catholicism was a persistent political issue. However once Cottington was master, the absence of parliament for some time, with its anti-Catholic views, may have emboldened English Catholics by encouraging them to compete for wardships they would not have previously sought. It may also have encouraged officials within the Court to take a more tolerant approach. The consequences of Cottington's own religious sympathies as master, both on officials within the Court of Wards and on petitioners as well, cannot be dismissed either.

However continuity returns when considering the religious make-up of the committees. Under both masters the Court of Wards showed a willingness to grant Catholic heirs to committees of the same faith. Under Naunton the wardships of both William Gage and Gage were granted to Compton who was possibly a Catholic. During Cottington's mastership Yorke was awarded to Daniell who contemporaries suspected of Catholicism, and Dolman was sold to Metham who may also have been a Catholic. Again the strength of opinion within the gentry may have prevented the

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<sup>556</sup> C. M. Hibbard, 'Henrietta Maria (1609–1669)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/12947>, accessed 8 March 2011].

Court under Naunton from consistently undertaking the sale of Catholic heirs to Protestant committees who would have been less likely to be relatives. At the same time it was also possible that friends and relatives of wards would more likely be Catholic or at least be sympathetic to Catholicism. However in contrast Cottington would probably have been more understanding towards Catholic petitioners because of his religious beliefs. Yet the reality of early seventeenth century English politics may have restricted Cottington's freedom of action.

Despite Naunton's mastership being marked by tolerance towards Catholic heirs experiencing the custodial aspect of wardship it is of note that the only deliberate attempt to carry out a religious conversion occurred during his tenure when Danby was sold to Wandesford. However the historiography points to Wentworth acting as the principal driving force behind the award of Danby to Wandesford rather than any initiative from Naunton on this matter.<sup>557</sup> Therefore there is little evidence to support an argument for either continuity or change during the masterships of Naunton and Cottington on this issue. However it is also important to consider the similarities and differences in the practices of the Court during the Personal Rule.

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<sup>557</sup> Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, pp. 130-31; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, pp. 224-25.

**Table 35: Sale of Catholic wardships during the Personal Rule.**<sup>558</sup>

First/second period of Personal Rule	Sale date	Deceased	Heir	Committee	Use of wardship
1	27 March 1630-26 March 1631	William Pudsay	Ambrose Pudsay	Bridget Pudsay and Sir Richard Sandford	-
1	27 March 1634-26 March 1635	-	Sir Walter Vavasour	-	-
1	27 March 1634-26 March 1635	Sir John Gage	Sir Thomas Gage	Sir Henry Compton	-
1	28[?] November[?] 1636	Henry Lawson	Roger Lawson	Cuthbert Heron	Ward
2	15 November 1638	John Yorke	John Yorke	Sir Ingleby Daniell and George Daniell	Ward
2	19 November 1638	George Vavasour	John Vavasour	Thomas Skipwith	Ward
2	July 1639	Thomas Dalton	John Dalton	Chris Dallison	-
2	November 1639	Thomas Dolman	Robert Dolman	Sir Thomas Metham	-

There is also a great deal of continuity in the granting of wardships to the benefit of the ward during the Personal Rule. Such similarity is not as remarkable as it was during the masterships of Naunton and Cottington because of the different religious views of these two men. Nonetheless it indicates that again the interests of the gentry held sway over the possible desire of the Court of Wards to undermine or remove Catholicism from the political nation.

The above picture changes to an extent when considering the inclusion of relatives and Catholics within the committees purchasing wardships. To a degree, as with the masterships of Naunton and Cottington, more relatives and Catholics were included in the committees during the second period of the Personal Rule. As far as relatives are concerned, in the first period the wardship of Pudsay was granted to his mother as well as to Sandford. But during the second period the wardship of Yorke was possibly granted to the grandfather and uncle. The wardship of Dolman was potentially awarded to the uncle. Similarly, in regards to Catholics being included in committees during the first period, only the wardship of Gage was awarded to the

<sup>558</sup> See footnote 535 for the primary sources used to compile this table.

possible Catholic, Compton. However in the second period Yorke was brought by the suspected Catholic, Daniell, and the wardship of Dolman was purchased by the possibly Catholic, Metham.

It does not appear that these wardships incurred heavier fines for the benefit of having relatives or Catholics included in the committees. Although the wardship of Yorke involved a ratio of 50, the wardship of Dolman was sold with a ratio of 25.65, which was sufficiently less than the ratio accompanying the wardship of Dalton, which was 41.66. Dalton does not appear to have had a relative or Catholic included in his committee. Instead it suggests that there was a reaction by the crown in the wake of the Scottish Covenanter rebellion which led the Court of Wards to decide to treat Catholics more leniently out of fear of the possible threat they might pose at a time when the crown was dealing with the Scottish Covenanters.

As a result of this section focusing on the custodial aspect of wardship there is little to be gained from an examination of fiscal feudalism which has been repeatedly considered throughout this thesis. Instead it is the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule that can provide fruitful information. The masterships of Naunton and Cottington shows greater continuity over change in the way in which the custodial element of wardship was administered. The Court of Wards under both masters was prepared to ensure that Catholic wardships were always granted with the interests of the heir in mind as a result of the pressure of opinion from the gentry.<sup>559</sup> However during Cottington's tenure the Court showed a small amount of increased favour towards Catholics by allowing a greater proportion of relatives to be included on committees which may indicate that this was a consequence of Cottington's own religious preferences. Yet neither master was prepared to increase the number of Catholics being included on the committees of Catholic heirs, which was likely to have been a result of the religious beliefs of Naunton and a recognition of political reality by Cottington.

However this does change when considering the way the Court of Wards managed the custodial element of wardship during the Personal Rule, where a greater level of change took place. All Catholic wardships were granted to the 'use' of the ward during both periods which again would have been a consequence of the

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<sup>559</sup> This is developed from Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*, p. 224.

opinion of the gentry. Nonetheless the second period did witness slightly greater leniency being shown towards Catholics by both allowing more relatives and Catholics to be included in committees purchasing wardships. This is significant for two reasons. First the presence of relatives and Catholics within the committee may have made it easier for a family's Catholicism to continue. Second, the change towards both relatives of Catholic heirs and Catholics themselves can be viewed as a reactionary response by the Court to the rebellion of the Scottish Covenanters. The crown may have feared subversive activities by English Catholics at a time when its attention was focused on Scotland. Therefore by taking a slightly more relaxed attitude to the custodial element of wardship for Catholic families may have been an attempt at placating the Catholic population in a Protestant nation where recusancy laws existed. Yet it is important to remember that wardship also imposed a significant fiscal obligation on subjects, Catholic and Protestant alike, and it is to this that this chapter will now turn.

### **Fines**

The financial obligations that wardship and livery carried play a key part in an examination of fiscal feudalism. The crown and the Court of Wards were able to implement policy through the fines that both feudal incidents imposed upon subjects. This would have been less controversial than removing young heirs away from their family and into the hands of strangers because it did not threaten or offend families in such a personal way. Also fines were expected when a family experienced wardship or livery. Consequently this makes an analysis of the feudal charges associated with wardship and livery particularly important. This section will consider the financial relationship between the Court of Wards and Catholic and Protestant families. Then it will examine the similarities and differences during the masterships of Naunton, Cottington and the Personal Rule.

**Table 36: Sale to IPM ratios for Catholic and Protestant wardships and liveries.**<sup>560</sup>

Religion	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio
R.C.	237.58	8	29.69	4.79	3	1.59
Prot.	7085.06	313	22.63	25.4	24	1.05

It needs to be noted that the sample for Catholic families who experienced livery is small. This sample is taken to 'reflect the development of the Court's policies, but [it is accepted that the sample] might also be the result of ad hoc negotiations in these particular cases'. The table clearly shows the vast differences in both income and families between Catholic and Protestant wardships and liveries which is only to be expected in a predominantly Protestant nation. Nonetheless there is a pattern of exploitation/discrimination against Catholic families who experienced these feudal obligations. This exploitation/discrimination was particularly pronounced in the way the Court of Wards managed wardship. This can be seen in a comparison of the two Catholic wardships in 1638 of Yorke and John Vavasour of Willitof in Yorkshire with a sample of the first two Protestant wardships sold in the same year. The wardship of Yorke, son and heir of Yorke, was sold for £200, a ratio of 50, while the wardship of Vavasour, son and heir of George Vavasour, was sold for £66 13s 4d[?], a ratio of 16.75. However the wardship of the Protestant William Brooks, who was the grandson and heir of William Brooks, was sold on 12 June 1638 for just £5, a ratio of 5, and the wardship of the Protestant John Legard, son and heir of John Legard, was sold on 30 October later the same year for £100, a ratio of 25.<sup>561</sup> The most obvious difference between these families was their religion which can indicate that religious beliefs were a key factor in leading to the heavier fines the Court imposed for wardships and this, to a degree, follows with the administration of livery.

Although there is a small difference in the fines imposed on Catholic and Protestant families suing their livery, the difference is still there. This is highlighted by the livery fine that Dalton possibly of Swine and Myton, son and heir of Dalton, had to pay which was £33 13s 4d, a ratio of 2.83. His writ of livery was issued on 28 November 1629. Also Francis Topham possibly of Agglethorpe, son and heir of

<sup>560</sup> See footnote 517 for the primary sources used to compile this table.

<sup>561</sup> Hawkins' Wardship Data; Cliffe's Data.

Edward Topham, experienced a livery fine of £19 17s 9d, a ratio of 0.57. His writ of livery was issued on 22 February 1632.<sup>562</sup> By contrast the livery fine for the Protestant Boord of Sussex, whose father was Boord, was £10 1d, a ratio of 0.71. The writ of livery was issued on 16 April 1627. Fleetwood who was brother and heir of Fleetwood, was charged £13 2s 9d for his livery. The ratio was 1.85 and his writ of livery was issued on 5 May the same year.<sup>563</sup> Again the obvious difference between these families is religion. This suggests that religion was the motivation for charging Catholic families more for their liveries. It is true that the difference between the livery fines Catholic and Protestant families had to pay was much smaller than for wardship fines, but this can be accounted for by the fact that livery fines were not as elastic as wardship fines. Therefore the Court of Wards did not have the same room for manoeuvre that it had when deciding what fine to impose for a wardship. This is replicated when examining the masterships of Naunton and Cottington.

**Table 37: Sale to IPM ratios for Catholic and Protestant wardships and liveries during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>564</sup>

Master and religion	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio
R.N. R.C.	73.22	3	24.40	4.79	3	1.59
R.N. Prot.	3648.28	162	22.52	18.2	18	1.01
F.C. R.C.	164.36	5	32.87	-	-	-
F.C. Prot.	3377.43	147	22.97	7.2	6	1.2

It needs to be noted that the samples for Catholic wardships and liveries during Naunton's mastership are small. These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that the samples] might also be the result of ad hoc negotiations in these particular cases'. The difference between Naunton

<sup>562</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions' Ward 9/322 (10 JI-10 CI) Michaelmas and Hillary Term, 6 Charles I, No. 61 and Ward 9/324 (1-5 CI) Michaelmas and Hillary Term, 4 Charles I, No. 97; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273, (21 JI-16 CI), ff.156-209; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/80 (3-9 CI), Index and ff. 104-323.

<sup>563</sup> TNA, London, Ward Class 9, 'Abstracts of Inquisitions', Ward 9/320 (43 EI-5 JI), f. 200, No. 110 and Ward 9/324 (1-5 CI), Michaelmas and Hillary Term, 2 Charles I, No. 32; TNA, London, Ward Class 9, 'Entries of sums paid for Fines and Rates of Liveries and entries of obligations for the payment of such fines and rates', Ward 9/273 (21 JI-16 CI), ff. 74-77; TNA, London, Ward Class 9, 'Entry Books of Liveries', Ward 9/77 (18 JI-4 CI), Index and ff. 331-44; Cliffe's Data.

<sup>564</sup> See footnote 517 for the primary sources used to compile this table.



and Cottington in the way the two men managed Catholic wardships is clearly visible with Cottington imposing heavier fines on this group of families during his tenure as master. This can be illustrated by two wardships. The first recorded Catholic wardship sold by Naunton was on 4 June 1625 when the wardship of Danby was sold for £800, a ratio of 10.52, while the first recorded sale of a Catholic wardship during Cottington's time as master was the sale of the wardship of Roger Lawson of Brough in 1636 with a sale price of £1000, a ratio of 30.30.<sup>565</sup> It is surprising that Naunton did not impose heavier fines when dealing with Catholic wardships and that Cottington did choose to do so when taking into account the religious beliefs of both masters. It is possible that because Naunton's 'position was handicapped by his poor health, his age, and his frequent absences from Court' it may explain why Naunton failed to pursue such a policy.<sup>566</sup> However Cottington appears to have seen Catholic families as a valuable source of income as this approach could be politically justified as a deterrent and few members of the political nation would object to Catholics being charged more for their wardships. Given Cottington's own religious opinions it is unlikely that his financial exploitation of/discrimination against Catholic families was motivated by a desire to remove Catholicism from the political nation.

However surprisingly there was only a slight change in the way both masters financially administered the wardships of Protestant families, with Cottington imposing marginally heavier fines upon this group of families. Examples of this are the Sussex wardships of Richard Taylor and Edward Maye. On 19 October 1633 under the mastership of Naunton the wardship of Taylor, son and heir of Richard Taylor, was sold for £100, a ratio of 11.11, while under Cottington the wardship of Maye, son and heir of Anthony Maye, was sold for £500, a ratio of 13.51.<sup>567</sup> This challenges the traditional understanding of Cottington's tenure as master of the Court of Wards and is difficult to explain. However it is worth noting that Sussex wardship ratios were much higher under Cottington which might suggest that the far greater revenues the Court achieved during Cottington's mastership was partly based on a greater utilisation of wardships in the Home Counties. Therefore due to the far more

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<sup>565</sup> Hawkins' Wardship Data; Cliffe's Data.

<sup>566</sup> Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 159.

<sup>567</sup> Hawkins' Wardship Data.

numerous sales of wardships in Yorkshire, brought about by Yorkshire's geographical size in comparison to Sussex, this fact has become obscured.<sup>568</sup> Also the higher revenues generated by the Court of Wards under Cottington may have been partly due to a much larger number of wardships being found across England and Wales overall.<sup>569</sup> This is particularly significant because Cottington was only master of the Court from 1635 to 1641 whereas Naunton was master from 1624 to 1635, yet Cottington still dealt with 147 heirs while under Naunton only 162 were handled.<sup>570</sup> This suggests that the Court of Wards under Cottington was far better at discovering potential wardships than it had been under Naunton, and combined with the higher prices being set, was motivated by the desire to increase the income that could be generated.

The picture is similar when looking at the management of Protestant families suing livery. Again Cottington imposed heavier fines on these families but only slightly compared to Catholic families experiencing wardship, although he possibly imposed higher fines on Protestant families suing livery for the same reason, to increase revenue. As just noted the livery fines the Court of Wards set under Cottington were only slightly higher than those imposed when Naunton was master which suggests that once again it was the inflexibility of livery fines which makes change difficult to discern. However there is a large difference in the number of families experiencing livery during the masterships of Naunton and Cottington. It appears that Cottington was not attempting to increase the number of families who had to pay livery fines. This is because there is no reason why the number of heirs suing livery should not have increased alongside the number of wardships.<sup>571</sup> Consequently Cottington may have held little interest in the administration of livery and this could also explain why the difference in the size of livery fines being imposed by these two masters is much smaller than the difference in the fines being set for wardship.

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<sup>568</sup> Hawkins' Wardship Data.

<sup>569</sup> This latter point is based on Cooper, 'The Political Career of Francis Cottington 1605-1652', p. 162.

<sup>570</sup> Hawkins' Wardship Data.

<sup>571</sup> Based on Cooper, 'The Political Career of Francis Cottington 1605-1652', pp. 162-63.

Finally differences between Cottington and Rudyerd may also have been a factor. Rudyerd was a supporter of ‘godly protestantism’ and was also ‘vehemently anti-Catholic’. Therefore the religious beliefs of Cottington may have disenchanted Rudyerd leading him to pay less attention to his work. This would also account for the far smaller increase in livery fines while Cottington was master. The overall picture of the similarities and differences between Naunton and Cottington is to an extent mirrored by the Personal Rule.

**Table 38: Sale to IPM ratios for Catholic and Protestant wardships and liveries during the Personal Rule.<sup>572</sup>**

Personal Rule period and religion	Total wardship income £	Total no. of individuals	Sale to IPM ratio	Total livery income £	Total no. of individuals	Sale to IPM ratio
1 R.C.	45.43	2	22.71	4.79	3	1.59
1 Prot.	4691.6	178	26.35	15.41	15	1.02
2 R.C.	134.06	4	33.51	-	-	-
2 Prot.	1413.97	66	21.42	2.26	2	1.13

It needs to be noted that the samples for Catholic wardships and liveries during the first period of the Personal Rule are small, as is the sample for Protestant liveries during the second period. These samples are taken to ‘reflect the development of the Court’s policies, but [it is accepted that the samples] might also be the result of ad hoc negotiations in these particular cases’. Clearly Catholic families experiencing wardship were given significantly higher fines during the second period of the Personal Rule. This can be explained through a possible focusing of attention towards the finances of the crown because of the rebellion by the Scottish Covenanters. This in turn would have placed greater demands on the Court of Wards to help meet this attention. One of the ways the Court may have responded to this was to increase the fines imposed on Catholic wardships as not only would it arouse little complaint from most of the political nation but it could also be justified politically as an additional weapon against recusancy. Therefore the increase in the fines imposed on this group of families can be viewed as a fiscal expedient driven by the possible attention being given to the crown’s finances caused by the Scottish Covenanter rebellion.

However the relationship between the Court of Wards, Protestant wardships and the Personal Rule is very different. The first period saw higher fines being set for

<sup>572</sup> See footnote 517 for the primary sources used to compile this table.

Protestant wardships while the second period witnessed a lowering of the charges being levied on this group of families. Again the explanation for this may be found in the way the Court responded to the Scottish Covenanter rebellion. This is because it may have been necessary for the crown to try and bolster its support within the political nation which was almost completely Protestant. Also the possibility of a parliament may have increased and it is possible that the Court of Wards was mindful of both parliamentary criticism and investigation into its revenue raising activities.<sup>573</sup> Furthermore MPs, most of whom would come from the Protestant gentry, would also be needed to vote supply to aid the crown. Therefore relaxing the fines being imposed upon Protestant wardships can be viewed as both a deliberate political act to bolster support for the crown and also a form of self-protection by officers in the Court as well.

However this is not the case for the administration of Protestant livery fines. Here the fines increased, to an extent, during the second period of the Personal Rule in contrast to the fines set for Protestant wardships. Superficially this contradicts the above argument about the way Protestant wardships were managed. However it more likely reflects the relationship between Cottington and Rudyerd. It has already been mentioned that Rudyerd's dissatisfaction with Cottington as master of the Court of Wards may have affected the way he carried out his responsibilities as surveyor-general of the liveries. Therefore this may explain the contradiction in the administration of wardship and livery during the second period because Cottington's time as master closely coincides with the second period and if Rudyerd had taken a long vacation from the Court this may have led to a failure to properly administer liveries. Consequently lower livery fines may not have been applied to heirs suing livery.

This section has highlighted how wardship and livery were utilised not only to generate revenue for the crown but through targeting a specific group were also used to obtain additional income. This involved the exploitation of/discrimination against Catholicism for financial gain which was an extension of the traditional concept of fiscal feudalism because not only feudal rights but also religion was employed for the financial benefit of the crown. The issue of continuity and change during the

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<sup>573</sup> See Chapter One; Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 111.

masterships of Naunton and Cottington is also well served with change being the dominant theme. During Cottington's mastership the Court of Wards charged significantly more money for Catholic wardships than it had done during the mastership of Naunton and possibly represented deliberate financial exploitation/discrimination. There was also a slight change in the way both masters treated Protestant families experiencing wardship with there being a slight increase in the ratios during Cottington's tenure. However when the figures are inspected more closely it is apparent that under Cottington the Court of Wards possibly imposed significantly heavier fines on wardships in the Home Counties and also pulled far more families into the wardship net with the likely motive of generating more revenue. Finally slight change again took place in the management of Protestant families who were suing livery. These families were charged a bit more for suing livery during Cottington's tenure as master with the probable aim of again increasing revenue.

Change also took place during the Personal Rule similar to that witnessed during the masterships of Naunton and Cottington. The second period saw the Court of Wards imposing significantly higher fines for Catholic wardships. This was possibly driven by the potential attention the crown gave to its financial situation as it dealt with the Scottish Covenanter rebellion. However when considering Protestant wardships the change was inverted with the Court setting higher fines in the first period while in the second period the fines were lowered. This was possibly to gather support from the Protestant gentry as the crown dealt with the Scottish Covenanter rebellion. Also in the second period the Court of Wards slightly increased the fines it levied on Protestant families suing livery and this apparently contradictory policy may have resulted from the dynamics of the relationship between Cottington and Rudyerd. The payment of these fines was also an important aspect of both wardship and livery and one which this chapter will now examine.

### **Payment**

The payment terms imposed on committees who were buying wardships and the way those committees responded to these terms are arguably as important as the actual fines themselves. This is because the terms of payment can show how much financial stress the Court of Wards was placing upon families who came in contact with it

through wardship.<sup>574</sup> Furthermore by considering the payment of wardship fines it can be seen how families responded to the financial exactions the Court made which in turn can provide a possible insight into the views of these families about the Court of Wards.<sup>575</sup> Therefore the average payment every month that would have been required if the Court had adopted a monthly payment system will first be considered.<sup>576</sup> This will be followed by an examination of payments made by committees that were on time, and payments made by committees that were late. Finally the matter of how many complete payments were eventually made will be analysed.<sup>577</sup> These three issues will be looked at through the broader themes of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule.

**Table 39: Payment terms for Catholic and Protestant wardships.**<sup>578</sup>

Religion	Average payment per month £	No. of complete payments	No. of incomplete payments	No. of payments on-time	No. of payments late
R.C.	16.94	7	2	2	5
Prot.	20.28	16	0	14	2

The above table shows that when the Court of Wards sold Protestant heirs it required higher monthly payments than it expected when selling Catholic heirs. For example the Catholic wardship of Dalton was sold in July 1639 for £500 with the committee being given forty-nine months to pay the fine. This would have entailed monthly payments of approximately £10. However the wardship of the Sussex Protestant John Baker, son and heir of Thomas Baker, was sold in June 1640 for £150 with the committee being given thirteen months to pay. This would have resulted in an average monthly payment of approximately £12.<sup>579</sup> This suggests that the Court was

<sup>574</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxiv.

<sup>575</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxv.

<sup>576</sup> The average monthly payments are calculated by dividing the fine by the number of months a committee was given to complete the payment of the fine.

<sup>577</sup> Based on a similar approach by M. J. Hawkins, in Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, pp. xxiv-xxv.

<sup>578</sup> A sample of sixteen Protestant, unconcealed, Sussex wardships have been used as point of comparison for payment terms and conditions. These sixteen families were chosen to ensure that one family was taken from each year as well as on the basis of availability of data as well. The sources used to compile this table come from Hawkins' Wardship Data.

<sup>579</sup> Hawkins' Wardship Data.

treating Catholic wardships more leniently because it was primarily concerned with obtaining the greater fines that were being imposed on these wardships. This meant that while the Court of Wards was possibly prepared to compensate for the higher fines, its primary goal was probably the generation of additional revenue from Catholic wardships.<sup>580</sup> This supports the arguments made earlier in this chapter that higher fines imposed on Catholic families were driven by financial exploitation/discrimination because it is unlikely that an attempt to remove Catholicism would allow more generous payment terms.

However despite the more generous payment terms being given to Catholic families experiencing wardship these committees responded quite poorly to the payment conditions set by the Court of Wards in contrast to the committees of Protestant wardships. The wardships of William Gage, Dolman and Thomas Elficke can be used as examples. The Catholic wardship of William Gage was sold for £333 6s 8d and the committee, Compton, was given two years to pay with payment due on February 1631. Yet this final payment was not made until later on in that year. The Catholic wardship of Dolman was sold for £666 13s and 4d with thirty-one months to pay the fine. However according to records the fine was never fully paid. In contrast the Protestant, Sussex wardship of Elficke, son and heir of Thomas Elficke, was sold for £133 6s 8d with seventeen months to pay with the date set for April 1630. This was duly met by the committee.<sup>581</sup>

This suggests that the committees of Catholic heirs did not respond well to the higher fines that were being imposed upon them by the Court of Wards. It is possible that this may have been caused by the committee's difficulty in keeping to the payment conditions set by the Court. However it is equally likely that the poor response to the conditions of payment was a result of resentment and reluctance on the part of the committees towards having to pay these higher wardship fines.<sup>582</sup> It is true that the two incomplete payments concerning the sale of Dalton and Dolman, involved final payments that were not due until 4 July 1643 and 15 May 1642 respectively.<sup>583</sup> Consequent political turmoil and civil war may well have prevented

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<sup>580</sup> Based on Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxiv.

<sup>581</sup> Hawkins' Wardship Data.

<sup>582</sup> Based on Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxv.

<sup>583</sup> Hawkins' Wardship Data.

these committees from paying. Alternatively the records may have been lost due to the ordeal the records of the Court of Wards experienced after the Court's abolition. Nonetheless even if these two cases are put to one side, the majority of the committees of Catholic wardships still made late payments while almost all committees of Protestant wardships kept to their payment schedule. This suggests either that an inability to meet the fiscal demands or resentment and reluctance were the driving forces behind the behaviour of the committees of Catholic wardships towards the payment of wardship fines into the Court of Wards.

**Table 40: Payment terms for Catholic and Protestant wardships during the masterships of Sir Robert Naunton and Francis Baron Cottington.**<sup>584</sup>

Master and religion	Average payment per month £	No. of complete payments	No. of incomplete payments	No. of payments on-time	No. of payments late
R.N. R.C.	20.96	4	0	1	3
R.N. Prot.	27.25	9	0	8	1
F.C. R.C.	13.72	3	2	1	2
F.C. Prot.	11.89	6	0	5	1

It can be seen that the terms of payment for Catholic wardships involved smaller monthly payments during Cottington's mastership than those employed during Naunton's time as master. The principal reason was probably to give sufficient time to the committees of Catholic wardships to ensure that they could and would pay the higher fines being placed upon the wardships of Catholic heirs. But a secondary reason may have been that the Court under Cottington was attempting to placate Catholic opinion because of the larger fines that were being imposed.<sup>585</sup> Therefore the favourable payment terms may have been a mixture of both a means to facilitate the exploitation of/discrimination against Catholic wardships by the Court of Wards under Cottington's mastership and a form of compensation for the higher wardship fines set during Cottington's mastership. However there was a greater change in the monthly payments being set for Protestant wardships during the masterships of Naunton and Cottington. Here it can be seen that the Court was possibly compensating the committees of Protestant wardships from the Home Counties for the heavier fines they were paying during Cottington's tenure by allowing smaller

<sup>584</sup> See footnote 578 for the sources used in the compilation of this table.

<sup>585</sup> Based on Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxiv.



monthly payments to be made. This can be viewed as a possible policy of the Court of Wards to appease the politically important Protestant gentry.

It appears that despite the Court of Wards under Cottington charging more for Catholic wardships the more generous terms of payment the Court set for these committees during Cottington's tenure helped to encourage a more positive response than was witnessed during the mastership of Naunton. This is because when the incomplete payments from the wardship committees of Dalton and Dolman are removed, a smaller proportion of committees made late payments during Cottington's time as master. Furthermore it is also worth noting that Cottington's mastership may have received a more sympathetic response from English Catholics as a result of his own religious beliefs.

However the reverse is true when considering the responses of the committees of Protestant wardships. Although during both masterships there was only one late payment in each period, a higher proportion of Protestant committees failed to make payments on time to the Court of Wards during Cottington's mastership than during Naunton's. This may have resulted from the possibly higher ratios accompanying wardships under Cottington in the Home Counties because Protestant families were not as used to financial exploitation/discrimination as Catholics were. Also concern over royal fiscal policy in the context of Ship Money may have played a part.<sup>586</sup>

**Table 41: Payment terms for Catholic and Protestant wardships during the Personal Rule.**<sup>587</sup>

Personal Rule period and religion	Average payment per month £	No. of complete payments	No. of incomplete payments	No. of payments on-time	No. of payments late
1 R.C.	21.67	3	0	0	3
1 Prot.	24.62	8	0	6	2
2 R.C.	11.95	2	2	1	1
2 Prot.	6.30	2	0	2	0

It is important to point out that the samples for Catholic payments during the first period of the Personal Rule, and for Protestant payments during the second period, are small. These samples are taken to 'reflect the development of the Court's policies, but [it is accepted that the samples] might also be the result of ad hoc

<sup>586</sup> Based on Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxv.

<sup>587</sup> See footnote 578 for the sources used in the compilation of this table.

negotiations in these particular cases'. It is clearly apparent that the average monthly payment that committees of Catholic wardships would have been expected to make declined sharply during the Personal Rule. First, the smaller monthly payments were again probably intended to ensure that the higher fines imposed on Catholic wardships were paid by allowing more time for money to be collected to meet the higher costs of purchasing such a wardship. Second, the Court of Wards may have been attempting to placate Catholic opinion. Also, the very large drop in the average monthly payments that would have been required from the committees of Protestant wardships may have been an attempt to enhance support for the crown from the politically important Protestant gentry in the wake of the Scottish Covenanter rebellion.

An examination of complete and incomplete payments, as well as the payments that were on time and the payments that were late, paints a picture which can be understood in the context of the arguments made above. It is unsurprising that, once the incomplete payments of the Dalton and Dolman wardships have been removed, the committees of Catholic wardships responded more favourably to the payment schedules set by the Court of Wards in the second period of the Personal Rule. A much smaller proportion of committees made late payments in the second period and this was probably a result of the considerably lower average monthly payments that would have been required despite the fact these wardships were also receiving heavier fines during this period. It is the same for the payments made by the committees of Protestant wardships. Again during the second period these committees of Protestant heirs all paid their fines according to the schedule agreed with the Court in comparison to a minority who failed to do so in the first period. This again may have been due to the lower monthly payments that were expected of these committees.

The duality of fiscal feudalism can be seen in the way the Court of Wards handled the payment conditions imposed for wardship fines. Overall Catholics were targeted by the Court through the use of lower required average monthly payments as a result of the heavier wardship fines they were experiencing. The probable intention of the Court of Wards was to ensure that the committees of Catholic wardships were able to pay these larger fines in order for the Court to collect the extra revenue. It is also possible that these more favourable payment arrangements were intended to

compensate angry Catholic families. Indeed angry committees could neglect to make the arranged payments. Consequently this section shows that favourable treatment could aid the Court of Wards in its financial exploitation/discrimination of social groups, in this case Catholics.

The way the Court of Wards managed payment conditions during the masterships of Naunton and Cottington was overwhelmingly marked by change. The Court under Cottington required smaller average monthly payments from both Catholic and Protestant committees than it did under Naunton which was probably a consequence of the higher fines that Cottington was using. Despite the higher fines under Cottington it seems that the more favourable payment conditions he used facilitated a better response from the committees of Catholic wardships while Cottington's own religious beliefs may have played a part as well. However the committees of Protestant wardships, despite the above, were more likely to keep to the terms of payment during Naunton's mastership which may have been a symptom of the higher fines possibly being imposed on wardships in the Home Counties as well as discontent over ship money.

There is a similar picture of change throughout the Personal Rule. The second period saw the Court of Wards utilising far more lenient payment terms for the committees of both Catholic and Protestant wardships with a decline in the average monthly payments that would have been set by the Court. Committees of Protestant wardships saw a greater fall in this regard. This suggests that the committees of Catholic wardships were being given better payment conditions to ensure that the higher wardship fines could and would be paid. The greater drop in the payment demands made upon the committees of Protestant wardships may represent an attempt by the Court of Wards to gather political support for the crown during the Scottish crisis. It appears that as a result of these better terms of payment both types of committee, even though the wardship fines for Catholic heirs were higher, responded more favourably to their payment obligations in the second period of the Personal Rule which indicates the Court's potential policy on payment conditions met with at least partial success.

## Conclusion

This chapter's principal focus has been the relationship between the Court of Wards and gentry Catholicism. Fiscal feudalism can be understood as a financial mechanism which allowed the Court to place heavier or lighter burdens upon particular social groups for the benefit of the Court of Wards and/or the crown. The two most important groups that have been highlighted in this chapter as suffering these burdens and benefits are Catholic families who possessed the title of knight as well as un-knighted Catholic families. These two types of family experienced a greater level of financial exploitation/discrimination because the Court was under pressure to generate a larger amount of revenue for the crown and the Court of Wards may have been able to justify such exploitation/discrimination through the greater social status that knighted families held as well as the fear and distrust many Protestants felt towards Catholicism.<sup>588</sup> Even when Catholic committees were awarded payment conditions which were more lenient than those experienced in the past this still represented an inverted form of exploitation/discrimination. This is because it helped to increase the likelihood that the heavier wardship fines being imposed on the sale of Catholic heirs would be paid by the committees. Fiscal feudalism also acted as a form of patronage through the setting of advantageous monthly payments for Catholic wardships which was possibly designed to mitigate the higher fines being set for this group of families.

This suggests that the traditional understanding of fiscal feudalism still holds significant validity. This is because the Court of Wards was utilising the crown's feudal rights for financial gain and this was most clearly expressed in the way Catholic families were treated. Also an element of the policy pursued during the first phase of fiscal feudalism can be seen during this period with advantageous terms being given to specific social groups. However this was directed towards Catholic families who were being exploited or discriminated against, therefore the Court was heavily taking with one hand and only partly giving back with the other. The financial exploitation of/discrimination against Catholic families from the gentry may have been a new policy of the Court of Wards, which potentially saw fiscal feudalism evolving into a more exploitative/discriminatory revenue system.

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<sup>588</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50.

It is also apparent that the overall relationship between the Court of Wards and Catholicism changed during the masterships of Naunton and Cottington. There was continuity in the way the Court handled the custodial element of wardship with Catholic heirs always being granted for the benefit of the ward and the number of named Catholics within wardship committees remained static. However the Court of Wards under Cottington allowed more relatives to be in the committees of Catholic wardships and also imposed higher fines on un-knighted Catholic families experiencing wardship as well. On a more general level the Court during Cottington's tenure charged larger amounts of money when selling Catholic wardships and allowed more lenient payment terms for the committees of Catholic heirs. These committees were more likely to adhere to the conditions of payment during Cottington's mastership but were less inclined to do so when the Court of Wards was being headed by Naunton.

This change corresponds with the traditional historiography of Naunton and Cottington as masters. Part of the historiography highlights the far greater revenue generated by the Court of Wards during Cottington's mastership as well as the 'aggressive' and efficient way he carried out his responsibilities as master.<sup>589</sup> All fit in with Cottington's financial exploitation of/discrimination against Catholic families. Cottington's own religious beliefs may have led to a greater number of relatives being allowed on Catholic wardship committees as well as more lenient terms of payment being set for these committees. However clearly, as Pogson has argued, his religious sympathies were not allowed to hinder his generation of revenue for the crown and even the generous payment terms that were permitted to Catholic committees were at least partly designed to facilitate the full payment of the wardship fines by these committees.<sup>590</sup>

Change also took place in the relationship between the Court of Wards and Catholicism during the Personal Rule. Un-knighted Catholic families who experienced wardship saw the Court increase the wardship fines on their heirs during the second period. Also the way the Court of Wards handled the custodial element of wardship saw more relatives and Catholics being included in the committees of

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<sup>589</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, pp. 135-38.

<sup>590</sup> F. Pogson, 'Cottington, Francis, first Baron Cottington (1579?-1652)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/6404>, accessed 13 April 2011].

Catholic wardships at this time. The Court also imposed higher fines when selling Catholic heirs as well as utilising more relaxed payment conditions in the second period. This helped to improve the adherence of the committees of Catholic heirs to the set terms of payment.

The level of change that occurred after 1637 clearly fits into Sharpe's model of the Personal Rule. The changes that took place at this time are most obviously explained by the threat that the Scottish Covenanters posed to the crown. Consequently the administration of the Court of Wards during the Personal Rule can be split into two different periods. The first period saw the crown mostly at peace but in the second period the crown first faced, and then engaged in military action, against the Scottish Covenanters. Consequently the higher fines being imposed on Catholic families were possibly caused by the crown potentially directing attention towards its financial position, while the generous payment terms may have been to mitigate the impact of the heavier fines as well as an attempt to ensure that the larger fines were paid to the Court of Wards. The increase in the number of relatives and Catholics in the committees of Catholic wardships may have been to placate Catholic opinion because the crown may have feared that Catholics posed a threat as it attempted to deal with the Scottish Covenanters. All could have been responses from the Court to a changing situation during and after 1637.

# Conclusion

## Introduction

This thesis represents a potentially important contribution towards scholarly understanding of the early seventeenth century. The archival material for the Court of Wards and Liveries in The National Archives has hitherto been used very infrequently and possesses the ability to enhance historians' understanding about a wide variety of issues which the historiography for early seventeenth century England has identified as constituting matters of importance.<sup>591</sup> This thesis has addressed a small number of these issues by considering the relationship between the Court and parliament, the relationship the Court of Wards had with Caroline patronage, the Court's connection with Catholicism amongst the nobility and gentry, as well as the laws, orders and customs which governed selected areas of the administration of the Court of Wards in a specially chosen number of fields. This thesis has also approached wardship and livery in new ways and has provided a greater depth of research than has previously been seen for the above issues.<sup>592</sup> Furthermore, the examination of the relationship the Court had with the historical phenomena noted above has provided new and interesting ways in which to understand the issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule. It is these three issues which will provide the focus for this conclusion by considering the results contained within the main body of this thesis in order to demonstrate the value the Court of Wards possesses for historians attempting to comprehend, not only the three core issues covered in this thesis, but also potentially, other issues relating to the early Stuart period.

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<sup>591</sup> Such as the issues that have been considered in this thesis, which include fiscal feudalism, patronage and Catholicism. See the introduction to this thesis for a survey of the existing scholarly research relating to the Court of Wards. See the Ward Class List in TNA for more information about available archival material for the Court of Wards.

<sup>592</sup> See the introduction to this thesis for a survey of existing scholarly research relating to the Court of Wards. The depth of research is determined by the amount of space or information provided in the existing historiography.

## Fiscal Feudalism

It is worthwhile to begin by again clarifying what is meant by fiscal feudalism. Hurstfield defined fiscal feudalism as being ‘feudalism kept alive for no other reason than to bring in revenue to the government’.<sup>593</sup> This is because ‘Tenants owed obligations to their lord, the original justification having been that their lands had been carved out of his demesne. Long before our period [1558-1714] these obligations had become encumbrances on the land and sources of revenue to the lord’.<sup>594</sup> Indeed Bean has argued that ‘in the period covered by the present work [1215-1540] English feudalism is, to all intents and purposes, a fiscal system’.<sup>595</sup> Nonetheless it was ‘the task of Empson, Dudley and a whole group of civil servants at the beginning of the sixteenth century rudely to awaken the sleeping tenants-in-chief of the crown’.<sup>596</sup>

Hurstfield saw the practice of fiscal feudalism as having two distinct phases. The first was where fiscal feudalism ‘had a dual role to play: to bring an income to the Crown and, in lieu of salary, an income to the government service’. This phase started from the statutory creation of the Court of Wards until the end of the reign of Elizabeth I when Salisbury became master of the Court. Then in ‘a short space of time, Robert Cecil turned upside down the established doctrine upon which the Court of Wards had been operating during the sixty years since its erection’.<sup>597</sup> The second phase was brought about by the:

deepening financial crisis [which] led to the adoption of measures by later masters which Burghley was unwilling to employ, though aware of the acuteness of the situation in his own day. It is clear that the changing social and political structure of England was in any case hastening the abolition of the Court of Wards. In spite of this, the masters were obliged to extract the maximum income from the institution they directed; and it was left, therefore, to Robert Cecil and his successors in the seventeenth century to kill the goose which was laying the golden eggs.<sup>598</sup>

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<sup>593</sup> Hurstfield, ‘The Profits of Fiscal Feudalism, 1541-1602’, p. 53.

<sup>594</sup> Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714*, p. 72.

<sup>595</sup> Bean, *The Decline of English Feudalism, 1215-1540*, p. 6.

<sup>596</sup> Hurstfield, ‘Wardship and Marriage under Elizabeth I’, p. 606.

<sup>597</sup> Hurstfield, ‘The Profits of Fiscal Feudalism, 1541-1602’, pp. 59-60.

<sup>598</sup> Hurstfield, ‘Lord Burghley as Master of the Court of Wards, 1561-98’, p. 114.



The issue of fiscal feudalism was brought to the attention of the Commons or Lords by MPs or members of the Upper House in every single parliament during the period of 1625-41. The fact that issues of this nature were raised so consistently indicates that fiscal feudalism was an issue that persistently irritated some parliamentarians. Indeed the level of consistency in the issues brought up within the broader context of fiscal feudalism, regarding matters such as concealments and secret offices which were raised in the first three Caroline parliaments, can also be connected to the number of parliaments taking place, which could have ‘allowed a continuity of opposition to develop without there being sufficient time for anxieties to calm down between sessions’.<sup>599</sup> It is also worth noting that a large minority of the issues relating to fiscal feudalism could be *directly* connected to fiscal feudalism, while the majority related to the manner in which the Court of Wards practised fiscal feudalism. However, perhaps the most important point that needs to be made here is that, unremarkably, almost all of the issues that were raised which were connected to the practice of fiscal feudalism could be attributed to the costs that the subjects experienced as a result of this practice. This in turn leads on to the four themes that can be identified as relating to fiscal feudalism during this period, which are: the expense incurred by Caroline subjects; the favour shown to particular groups, the exploitation/discrimination perpetuated against selected targets; and the existence of limitations in relation to the practice of fiscal feudalism within Caroline society.<sup>600</sup>

The matter of expense is probably the most easily identifiable theme relating to the practice of fiscal feudalism.<sup>601</sup> One of the ways this can be seen most clearly is through the treatment of office holding heirs/families when an IPM was carried out. Here office holding heirs/families received higher financial estimates relating to the value of their estates than heirs/families without office. This would suggest that the greater public profile that an heir/family in possession of office could have, either at local and/or national level, could lead to the Court of Wards in Westminster, or local officials such as the feodary/escheator, possessing greater knowledge about these

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<sup>599</sup> Smith, *The Stuart Parliaments, 1603-1689*, p. 119.

<sup>600</sup> For one of the limits of fiscal feudalism see Hurstfield, ‘Lord Burghley as Master of the Court of Wards, 1561-98’, p. 114.

<sup>601</sup> See the research referenced in the discussion of the historiography in the introduction to this thesis which this view is based upon. For example see Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 79.

heir's/family's landholdings. Also, another way the practice of fiscal feudalism could prove costly for heirs/families was in the Court's relationship with the laws and orders governing the treatment of neglected wardships, idiocy and the custom that had developed over time for the management of heirs suing livery. Here the Court of Wards almost constantly adhered to these laws, orders and customs relating to these particular areas of its responsibility. This was primarily because these laws, orders and customs were in the financial interest of the crown and helped to facilitate the Court's practice of fiscal feudalism.<sup>602</sup>

A more interesting theme concerns the practice of the Court of Wards in exploiting/discriminating against specific social groups for the financial benefit of the crown. This can be seen in the way the Court handled Dukes/Earls who were in possession of office as well as Viscounts/Barons who were without office. Both groups experienced higher feudal fines which may have resulted from the greater social status that Dukes/Earls enjoyed within broader society as well as within the nobility itself, and which could also have been based on the idea that greater social status merited a larger fine. But as far as Viscounts/Barons are concerned the fact that this group was not in possession of office and held lower ranked noble titles may have encouraged the Court of Wards to target this social group for greater financial exploitation/discrimination in order to benefit the crown because of the social inferiority of this group.

Indeed it was not only the nobility who could experience exploitation/discrimination because the Catholic gentry encountered similar treatment as well. For example knighted and un-knighted Catholic families suffered greater levels of fiscal exploitation/discrimination because of the pressure the Court of Wards was under to generate greater revenue for the crown.<sup>603</sup> Also the Court may have utilised the reasoning that not only did families/heirs with greater social titles deserve larger fines, but also the fear and dislike of Catholicism within England during this period could have been utilised as another justification. Additionally, Catholic committees also encountered an inverted form of exploitation/discrimination. This is because when the committees of Catholic heirs were allowed more generous payment terms by the Court of Wards, it can be viewed

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<sup>602</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 46.

<sup>603</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 50.

in part as a deceptive ploy by attempting to try and ensure that the larger wardship fines would be paid by the committees.<sup>604</sup>

This theme continues in the relationship between the Court of Wards and the Catholic nobility. Catholic Viscounts/Barons experienced slightly higher feudal fines than Catholic Dukes/Earls who may have benefitted from greater social deference.<sup>605</sup> Yet exploitation/discrimination could also occur towards all Catholic noble families when the IPM was taken. Here the IPMs provided higher financial estimates of a family's landholding than was seen with IPMs taken for Protestant families which can be viewed as a result of exploitation/discrimination towards Catholics. Indeed it is also possible to see potential exploitation/discrimination in the way the Court handled neglected wardships. This is because the fines for neglected wardships were reduced, which was probably intended to act as a deterrent to those who initiated proceedings for purchasing a wardship but then delayed, withdrew, or failed to pay the fines, by allowing another party to enjoy the benefits of the previous party's work along with the receipt of a much lower wardship fine as well, despite the crown losing money.<sup>606</sup>

The advantage new petitioners had regarding neglected wardships leads on to the third theme, favour. The first example of this practice by the Court of Wards is in the reduced fines the Court imposed on nobles who were in possession of office. Noble office holders may have benefitted from these lower fines as a result of the royal desire 'to provide for continuing policy-making and royal administration'.<sup>607</sup> Yet it is more difficult to account for why favour was also shown through the administration of livery towards nobles who did not hold office, although this could have stemmed from the problem between the master and the surveyor-general.<sup>608</sup> However the patronage distributed to Dukes/Earls who were without office is easier to explain and was potentially a result of deference towards this group which stood

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<sup>604</sup> Based on Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xxiv.

<sup>605</sup> Based on Sharp, *The Coming of the Civil War, 1603-49*, p. 6.

<sup>606</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 81-82; Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 97-105. Part of the information from Bell is based on an order of the clerk of the Wards, John Hare, from TNA in 'Wards 1/22, order of 11 Feb. 10 Jas. I.'

<sup>607</sup> Peck, "'For a King Not to be Bountiful Were a Fault'": Perspectives on Court Patronage in Early Stuart England', p. 37.

<sup>608</sup> Hawkins, ed. *Sales of Wards in Somerset, 1603-41*, p. xix.

directly below the monarchy in terms of social prestige, as well as also acting as a form of compensation because this group did not possess the same benefits that those who held office were able to enjoy.<sup>609</sup> Favour could even be discerned in the treatment of central and local office holders where the former were more likely to experience slightly lower fines than those who held the latter type of office. This may well have stemmed from the greater public profile central office holders had which increased the opportunity for receiving patronage.

Patronage could also be bestowed upon Catholic families who were part of the nobility. This social group benefitted from lower fines being set for both wardship and livery, which can be explained by a possible decision of the Court of Wards to purchase the loyalty of this section of the nobility which would have been particularly pertinent when taking into consideration the existence of the Thirty Years war because some contemporaries viewed this conflict within a religious context. Indeed, Catholic families from the gentry also enjoyed favour from the Court when the payment terms for their higher fines were established. This may have been a deliberate attempt by the Court of Wards to appease the committees of Catholic wards who had been given a larger feudal fine than was normal as a result of their Catholicism. Finally, let us return to the favourable treatment of committees who stepped in to buy neglected wardships. One of the reasons why the Court imposed much lower fines for neglected wardships was in order to attempt to attract previously uninterested buyers into the marketplace.<sup>610</sup>

The final theme, mentioned above, concerns the limitations that existed for the Court of Wards when practising fiscal feudalism. The limitations of fiscal feudalism appear, as far as this thesis is concerned, to have existed when the Court administered its responsibilities towards idiots and lunatics. As far as idiocy is concerned the Court of Wards may have deliberately imposed minimal fines for the custody and/or lands of idiots as a result of the moral pressure, placed upon the Court, not to exploit this aspect of the crown's responsibilities. In relation to lunacy the Court of Wards was even more generous. Grants of both the custody of the body as well as the lands of lunatics went without any form of charge being imposed upon

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<sup>609</sup> MacCaffrey, 'Place and Patronage in Elizabethan Politics', p. 97.

<sup>610</sup> Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 81-82; Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 97-105. Part of the information from Bell is based on an order of the clerk of the Wards, John Hare, from TNA in 'Wards 1/22, order of 11 Feb. 10 Jas. I.'

the committees. This indicates that, as far as lunacy is concerned, even the imposition of very small fines for lunatics was considered a step too far because of the moral pressure that came from society.

These four themes regarding the expense incurred by Caroline subjects, the favour shown to particular groups, the exploitation/discrimination perpetuated against selected targets, as well as the existence of limitations relating to the practice of fiscal feudalism within Caroline society has consequences for the wider historiography of fiscal feudalism. To begin with, the definition of fiscal feudalism and its two distinct phases, provided by Hurstfield and again noted at the beginning of this conclusion, are clearly connected to the expense the subject incurred as a result of fiscal feudalism. This is because Hurstfield defined fiscal feudalism as being 'feudalism kept alive for no other reason than to bring in revenue to the government' which would inevitably lead to sections of the English population being burdened with the associated costs of such a practice. The issue of expense also connects to the second phase of fiscal feudalism where, as mentioned earlier on, the 'deepening financial crisis led to the adoption of measures by later masters which Burghley was unwilling to employ, though aware of the acuteness of the situation in his own day' whereby 'the masters were obliged to extract the maximum income from the institution they directed; and it was left, therefore, to Robert Cecil and his successors in the seventeenth century to kill the goose which was laying the golden eggs'.<sup>611</sup> This is because almost all of the issues relating to fiscal feudalism which were raised in the Caroline parliaments related to the costs the subject incurred, which combined with the higher financial estimates provided in IPMs for the estates of office holders and the decision of the Court of Wards to closely follow the laws, orders and customs governing certain selected aspects of the Court's administration, both of which ultimately aided the financial interests of the crown, suggests that these matters may well have been symptoms of the second phase of fiscal feudalism, thereby leading to the subject experiencing increased costs as a result. It is also of note that the second phase ultimately reached its zenith during the Caroline years because of the size of the profit being generated by the Court of Wards towards the end of the Personal Rule.<sup>612</sup>

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<sup>611</sup> Hurstfield, 'Lord Burghley as Master of the Court of Wards, 1561-98', p. 114.

The way the Court of Wards exploited/discriminated against specific social groups who came in contact with the Court also has ramifications for the existing historiography. This is because there was a exploitative/discriminatory element in the management of fiscal feudalism which mainly stemmed from the exploitation/discrimination towards certain social groups for the greater financial gain of the crown. This may have been a result of the Court of Wards deeming certain groups to be legitimate targets for exploitation/discrimination. Therefore a new element within fiscal feudalism can be added to the existing historiography where this practice may have been developing into a more nuanced and exploitative/discriminatory system of revenue generation for the crown.<sup>613</sup> Indeed, as far as gentry Catholicism is concerned, even when committees of heirs were given favourable payment terms, the Court can still be viewed as exploiting/discriminating against this group of Catholics because the Court of Wards took a lot with one hand and only partly gave back with the other.

The consequences for the existing historiography, as far as the theme of favour is concerned are not as significant as the ramifications for the historiography regarding that practice of exploitation/discrimination by the Court of Wards. Nonetheless adjustments in existing scholarly work need to be made to take into account the findings of this thesis. This is because, as has been noted, Hurstfield argued that the first phase of fiscal feudalism was marked by fiscal feudalism which ‘had a dual role to play: to bring an income to the Crown and, in lieu of salary, an income to the government service’. According to Hurstfield this started from the statutory creation of the Court until the end of the reign of Elizabeth I when Salisbury became master of the Court of Wards. However it has been demonstrated in this thesis that the Court still bestowed favour, when it considered it to be worthwhile, to social groups such as office holders and slightly towards those who were in possession of central office, as well, in a way, to noble Catholic families. Therefore this suggests that it is possible to argue that Hurstfield was mistaken and that fiscal feudalism was still serving two purposes in the Caroline period.<sup>614</sup>

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<sup>612</sup> Based on Table A: ‘Nett Income In Selected Years’ in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93.

<sup>613</sup> See the introduction to this thesis for an outline of the existing historiography regarding fiscal feudalism.

The issue of the two purposes of fiscal feudalism feeds into the historiography relating to the limitations involved in its practice. It has already been mentioned above that the second phase of fiscal feudalism was brought about by the 'deepening financial crisis [which] led to the adoption of measures by later masters which Burghley was unwilling to employ, though aware of the acuteness of the situation in his own day' because 'he correctly assessed the limits of this source'.<sup>615</sup> Consequently the second phase witnessed the greater exploitation of the crown's feudal rights for financial gain. However there were other limitations involved in the practice of fiscal feudalism, apart from the level of fines that would be tolerated. One of these additional limitations relates to the management of idiots and lunatics. Here the Court of Wards saw that only minimal charges were applied for the custody of the body and/or lands of idiots, while as far as lunatics are concerned, there was no attempt to derive any fiscal benefit from this social group which came within the remit of the Court. Therefore this suggests that Hurstfield's view of the second phase of fiscal feudalism requires additional qualification in regards to its scope during the Caroline period.

### **Continuity and Change during the Masterships of Sir Robert Naunton and Francis Baron Cottington**

To begin with it is worthwhile restating Naunton's and then Cottington's tenure as master of the Court of Wards. Throughout almost the entire period of 1625-41 the position of master was occupied first by Naunton and then by Cottington. Naunton's mastership began on 2 October 1624 and ended on 8 March 1635. Cottington's mastership then began from 25 March 1635 and ended 13 May 1641 when he likely 'resigned out of fear for his life and estates'.<sup>616</sup> This thesis has demonstrated that during the Caroline period the administration of the Court overall witnessed considerable change once Cottington took over the mastership from Naunton.

First, it should be noted that there was some continuity. For example as far as the relationship between the Court of Wards and Catholicism is concerned, both Naunton and Cottington possibly rejected the opportunity of attempting a conversion

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<sup>614</sup> It is unclear if Hurstfield believes that the 'income to the government service' was either stopped or reduced during the second phase of fiscal feudalism.

<sup>615</sup> Hurstfield, 'Lord Burghley as Master of the Court of Wards, 1561-98', p. 114.

<sup>616</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 153.

of noble Catholic heirs to Protestantism which can potentially be explained through the respect both masters had for the nobility. Also, in relation to the Catholic gentry, the Court under both men ensured that Catholic heirs were constantly granted to the 'use' of the heir while at the same time maintaining the same proportion of Catholics within the committees.

However the greatest degree of continuity occurred in the relationship the Court of Wards had with the laws, orders and customs governing the management of selected functions. Here the practice of granting the benefit of neglected wardships to the buyers was maintained throughout the masterships of Naunton and Cottington because of its role in preventing neglected wardships from taking place.<sup>617</sup> Furthermore both masters adhered to the explicit order contained within the Instructions of 11 December 1618 and 21 August 1622 relating to the treatment of lunatics by refusing to obtain revenue from the responsibility the Court of Wards held towards this social group. Indeed, Naunton and Cottington also ensured that writs for IPMs were always allowed to be issued when the lands of heirs were worth above £5 a year. Similarly, within the context of livery, the Court of Wards under both men continued the custom of granting special liveries to heirs whose estates were, or were claimed to be, worth over £20 a year.

This element of continuity in the administration of the Court of Wards during the masterships of Naunton and Cottington possesses consequences for the existing historiography. First, the general acceptance of the various laws, orders and customs governing the running of selected areas within the Court's operations (neglected wardships, lunacy, and liveries) by both men can reflect their financial value to the crown. This is because the orders governing the treatment of neglected wardships were aimed at discouraging situations where wardships became neglected, which in turn helped to protect the income of the crown derived from the sale of wardships. This latter point also applies to the management of writs as well because when writs were allowed to be issued the Court of Wards could decide whether extra care in the protection of the crown's interests was needed in the holding of an IPM by applying a commission to administer the inquisition instead.<sup>618</sup> Also the decision of both masters to continue the custom of granting special liveries to heirs whose estates

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<sup>617</sup> Based on Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, pp. 97-98.

<sup>618</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 42-73.



were, or were claimed to be, worth over £20 a year allowed this more expensive livery, which helped the crown's revenues.<sup>619</sup>

Therefore the above supports the existing historiography as this continuity can represent Cottington's 'aggressive' mastership because the laws, orders and customs maintained the ability of the Court of Wards to enhance the revenue of the crown.<sup>620</sup> However the continuity in the treatment of lunatics by the Court, under both men, also challenges this description of Cottington's administration of the Court of Wards. This is because it suggests that Cottington was prepared to curb or put aside the manner of his management of this institution in the face of the moral expectations that existed within early seventeenth century society. This in turn indicates that the style of Cottington's mastership, portrayed within the historiography, needs to be qualified, while it is important to note that even when continuity served Cottington's aims, the historiography still needs to place greater emphasis on the similarities between Naunton and Cottington rather than implicitly stressing the differences between the two men as masters of this institution.<sup>621</sup>

However despite the importance of acknowledging the existence of continuity during the masterships of Naunton and Cottington, it still remains the case that the administration of the Court of Wards, by both men, was predominantly marked by change. This can be illustrated in many different ways but it will be sufficient to consider the masterships of Naunton and Cottington within the context of parliament and patronage. First, the Court apparently being less unpopular with parliamentarians when Cottington was master may be illusory. One needs to take into account the matter of the Personal Rule potentially interrupting the 'continuity of opposition' that had built up from 1625, as well as the existence of many matters in the Short Parliament and the opening session of the Long Parliament which could have led to issues relating to the Court being pushed to one side. Therefore such considerations suggest that the unpopularity of the Court of Wards may have been greater when Cottington was head of this institution.<sup>622</sup> Furthermore, it is also

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<sup>619</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 77-78. This information from Bell is partly based on E. Coke, 'Fourth Part of the Institutes, edn. of 1669, p. 199.'

<sup>620</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 135.

<sup>621</sup> See the introduction to this thesis for a discussion of the existing historiography regarding the masterships of Naunton and Cottington.

important to note that there is an apparent contradiction in the parliamentary profiles of Naunton and Cottington. This is because although Cottington was more prominent in a single parliament (the Short Parliament) nonetheless Naunton was more active in parliament overall when master, which as far as Cottington's membership of the Lords in the Short Parliament and the opening session of the Long Parliament and Naunton's position as an MP in 1625 and 1626 are concerned, may indicate the different relationship the nobility had with the Court compared to the gentry.<sup>623</sup> There is also the greater amount of concern over the policies of the crown in the opening session of the Long Parliament compared to the years of 1625 and 1626 to consider as well. Therefore a situation was created where although Cottington was more prominent in a single parliament, it was Naunton who overall possessed a greater parliamentary profile when master of the Court of Wards.

Change was also dominant in other areas such as in the context of patronage. Here the Court of Wards under Cottington's mastership set larger fines for both office holders and those who were without office. Higher fines were also utilised when dealing with Dukes/Earls in possession of office as well as Dukes/Earls and Viscounts/Barons without office, although livery fines dropped for this latter group when Cottington was master. This overall trend continued with office holders who held central or local office. It was only in relation to Viscounts/Barons who also held office that the Court under Naunton set slightly larger fines than it did when Cottington was master. This suggests that it was primarily Cottington's energetic mastership that accounts for this scale of change, while the troubled relationship between the master and surveyor-general would explain the decline in livery revenues in regards to Viscounts/Barons who did not hold office.

This level of change, partially identified above, also has an impact on the historiography relating to the masterships of Naunton and Cottington. To begin with, the potentially lower levels of unpopularity the Court of Wards 'enjoyed' when Naunton was master of the Court, reinforces the argument of the historian Schreiber, who believes that when Naunton was master 'the officers contrived to stay within the letter and sometimes even the spirit of the law' while also 'some effort [was made]

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<sup>622</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 146-47.

<sup>623</sup> Stone, *The Crisis of the Aristocracy 1558-1641*, p. 296.

to keep the more blatant misdemeanours in check'.<sup>624</sup> Yet Cottington, in contrast, was viewed by his opponents as 'a ruthless Master' and Aylmer went as far as to say that Cottington participated in 'the candid exploitation of high office for private gain'.<sup>625</sup>

The change in the way the Court of Wards administered Caroline patronage also has repercussions for existing scholarly research as well. It is clear that the level of fiscal feudalism practiced by the Court during Naunton's mastership was not as great as it was when Cottington was master. Consequently this appears to possibly give credibility to Schreiber's opinion that Naunton 'was not well suited for the post of Master of the Wards'.<sup>626</sup> Indeed Naunton's possible unsuitability for this position would partly help to explain the level of change that took place once Cottington became master. Furthermore this argument is confirmed by Havran's opinion of Cottington's suitability for the position of master. Havran has argued that 'Cottington...was a man with a reputation among underlings for efficiency, had had wide experience in fiscal matters, and had learned a good deal about land law as Chancellor of the Exchequer', not to mention Cottington's 'firmness and aggressiveness as an administrator'.<sup>627</sup> This further explains why Cottington's appointment to the mastership of the Court of Wards acted as an agent of change for the way this institution was administered.

### **Continuity and Change during the Personal Rule**

This thesis has utilised the model of the Personal Rule created by Sharpe which was most famously expressed in Sharpe's *The Personal Rule of Charles I*.<sup>628</sup> For Sharpe 'the Personal Rule is not one period but two, dividing sharply when the Scottish uprising began in 1637 and transformed the "natural" course of events'.<sup>629</sup> Clearly the degree of continuity and change before and after 1637 is crucial for determining the legitimacy or otherwise of Sharpe's model and the results contained within this

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<sup>624</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 106.

<sup>625</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 137; Aylmer, *The King's Servants, The Civil Service of Charles I, 1625-42*, p. 349.

<sup>626</sup> Schreiber, *The Political Career of Sir Robert Naunton, 1589-1635*, p. 134.

<sup>627</sup> Havran, *Caroline Courtier: The Life of Lord Cottington*, p. 137.

<sup>628</sup> K. Sharpe, *The Personal Rule of Charles I* (New Haven, CT; London, 1992); Based on Hutton, *Debates in Stuart History*, p. 82.

<sup>629</sup> Hutton, *Debates in Stuart History*, p. 83.

thesis suggest that there is significant evidence of change, which points to this model being a credible interpretative framework for understanding the Personal Rule.

Although change was dominant it does not mean that there were no signs of continuity as well. Before considering the changes that took place from 1637 onwards it is worthwhile looking at the elements of continuity before and after the threshold of 1637. As far as the parliamentary image of the Court of Wards is concerned, issues which were raised and connected to the Court such as the possible instruction that members of the nobility swear upon oath in the Court of Wards and elsewhere which was raised in the Short Parliament, as well as most of the reasons for the creation of a committee to investigate the Court and parliament's focus on the relationship between the Court of Wards and Catholicism, both of which were raised in the opening session of the Long Parliament, were matters that were quite possibly present throughout the Personal Rule. This is because the way in which these matters were raised in parliament appears to suggest, generally, that they were not specifically tied to a particular event or period during the years 1629-40.

There is also a considerable amount of evidence for continuity in the relationship between the Court of Wards and the laws, orders and customs governing selected areas in the administration of the Court. For example the practice of granting the benefit of neglected wardships to the buyers was maintained throughout the Personal Rule because of its role in preventing neglected wardships from taking place. Also, when the Court of Wards dealt with cases of lunacy it consistently made no attempt to exploit lunatics for financial gain, while throughout the Personal Rule writs for IPMs were always allowed to be issued when the lands of heirs were worth above £5 a year. This consistency also manifested itself when the Court continued the custom of granting special liveries to heirs whose estates were, or were claimed to be, worth over £20 a year.

This degree of continuity possesses broader repercussions for existing scholarly research on the Personal Rule. To begin with the overall consistency in the way in which the Court of Wards responded to the laws, orders and customs governing selected areas of its functioning can be tied to the financial usefulness of these various rules and therefore does not necessarily signify that Sharpe's model of the Personal Rule should be questioned. This is because once the Scottish rebellion began, it made sense for the Court to maintain these rules as they helped to facilitate the generation of profit for the crown. It is only the Court of Wards' treatment of

lunatics which does not fit within this argument and indicates that, even after the beginning of the Scottish crisis, there were moral pressures that the Court could not ignore in regards to turning the administration of lunatics to the profit of the crown.

However, the parliamentary image of the Court of Wards suggests that an alternative interpretation is also required. This is because the continuity in some of the issues which were connected to the Court and raised in parliament cannot be explained solely through the production of profit for the crown. Instead it also needs to be emphasised that this degree of consistency, to a limited extent, validates the traditional view of the Personal Rule which 'generally' saw this period as 'a time of unpopular...government, never viable in the long term and brought to an end by public opposition', as well as the belief that 'The troubles in Scotland wrecked the personal rule in England because of the depth of alienation that existed anyway amongst much of the political elite and elements of the broader populace'.<sup>630</sup>

It is also significant that the greatest continuity can be seen in the way the Court of Wards responded to the various laws, orders and customs it was supposed to follow when carrying out certain areas of its business. This suggests that, overall the Court did not deviate from its framework of governance after the Scottish rebellion began. This indicates that it was possibly in matters outside this framework and where the Court of Wards possessed greater flexibility that witnessed the change that was dominant from 1637 onwards. There are many ways of demonstrating this change but the most fruitful method is to highlight the relationship between the Court and Catholicism amongst both the nobility and gentry.

The Catholic nobility witnessed broad change in their relationship with the Court of Wards during the Personal Rule. First of all Catholic nobles with different titles, where evidence is available, saw an overall rise in the fines they had to pay to the Court during the second period of the Personal Rule. Also the administration of the custodial element of wardship possibly witnessed change as well, with potentially more wardships being granted to the use of the ward and a higher proportion of both relatives and Catholics being included within the committees of wards during this period. This trend continued with larger charges being imposed on Catholic wardships even though the fines set for livery actually dropped during the second period. It is quite easy to connect these changes to the Scottish Covenanter

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<sup>630</sup> Hutton, *Debates in Stuart History*, pp. 82-83; Hughes, *The Causes of the English Civil War*, p. 158.

rebellion because of the attention such a development may have given to the income of the crown, which in turn could have led to a general rise in the fines the Court of Wards imposed on this social group. Also the possible changes witnessed in the management of the custodial element of wardship may have been implemented in order to bind noble Catholics more closely to the crown, stemming from a potential fear that they may present an unstable element within the political nation of England as the Scottish crisis developed.<sup>631</sup>

The relationship between the Court of Wards and the Catholic gentry shows a similar degree of change. To begin with Catholic families who did not possess a knighthood and encountered wardship witnessed an increase in the fines they were expected to pay during the second period of the Personal Rule. This was also true of Catholic heirs more generally in the charges that the Court set for wardships. This alteration in the practices of the Court of Wards also manifested itself in the management of the custody of Catholic heirs. Here there was an increase in the proportion of both relatives and Catholics being included within the committees for these heirs. Even the terms of payment that were determined for the committees of Catholic wards saw change, with more lenient terms of payment being set during the second period. All of these changes can be clearly connected to the Scottish crisis because this development may have turned attention towards the crown's finances and the increase in the fines being imposed may reflect that. Furthermore the utilisation of more generous payment terms could have been an attempt to placate Catholic opinion because of the increase in the fines being set as well as also being a deceptive ploy by attempting to try and ensure that the larger wardship fines would be paid by the committees. Also, as noted above, the more benevolent line being taken in relation to the composition of the committees might be a reflection of the concerns the Court had regarding the trustworthiness of gentry Catholics as the Scottish Covenanter rebellion developed and therefore the Court of Wards may have wished to keep this social group on reasonable terms with the crown.

The consequences for Sharpe's model of the Personal Rule are quite obvious. This is because there was a large amount of change from the threshold year of 1637 onwards in the way the Court of Wards dealt with the Catholic nobility and gentry whenever members of these social groups came in contact with the Court. Therefore,

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<sup>631</sup> The term 'political nation' is intended to cover all those who were 'from yeomen upwards', in Sharp, *The Coming of the Civil War, 1603-49*, p. 16.

as the most significant event during the period of 1637-40 was possibly the emergence of the Scottish rebellion, it is logical to consider the above changes in this context. These changes represent an alteration in direction which stemmed from the way the Court of Wards, and therefore possibly the crown, chose to respond to the Scottish crisis. Consequently the overall results suggests that the Scottish Covenanter rebellion was an important and influential agent of change and that Sharpe's model of the Personal Rule provides an credible framework with which to view and understand the Personal Rule.

### **A Reflection**

Finally, this thesis has attempted to treat the issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule separately in order to ensure that the importance of these individual issues are recognised.<sup>632</sup> However, it is worthwhile briefly considering how these matters relate to one another within the context of the Caroline Court of Wards. It is of note that Cottington's appointment to the mastership of the Court occurred approximately two years before 1637, and according to Sharpe, the beginning of the second period of the Personal Rule. Therefore the greater profit the Court of Wards was producing from 1637 onwards may have been a consequence of Cottington's mastership as well as the way the Court responded to the Scottish Covenanter rebellion.<sup>633</sup> Furthermore the second phase of fiscal feudalism appeared to reach its climax during the years of 1637-40 and it is easy to link the zenith of this phase of fiscal feudalism with Cottington's mastership and the Scottish crisis.<sup>634</sup> Therefore it is possible to argue that these three issues became intertwined towards the end of the Personal Rule which in turn may have contributed towards the abolition of the Court of Wards on 24 February 1646.

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<sup>632</sup> Based on Hughes, *The Causes of the English Civil War*, p. 9.

<sup>633</sup> Based on Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93; Aylmer, *The King's Servants, The Civil Service of Charles I, 1625-42*, pp. 114-117; Cooper, 'The Political Career of Francis Cottington 1605-1652', pp. 162-210; Havran, *Caroline Courtier: The Life of Lord Cottington*, pp. 135-38; F. Pogson, 'Cottington, Francis, first Baron Cottington (1579?-1652)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/6404>, accessed 25 Aug 2011].

<sup>634</sup> Based on Table A: 'Nett Income In Selected Years' in Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 192-93.

It is also worth noting that, as mentioned earlier, utilisation of the archival material for the Court of Wards in The National Archives has in the past been very uncommon, while this thesis has also approached wardship and livery in new ways and has provided a greater depth of research than has previously been seen for the issues that form the basis for each chapter. New and interesting ways in which to understand the issues of fiscal feudalism and the level of continuity and change during the masterships of Naunton, Cottington and the Personal Rule have also been highlighted. Of course this thesis is based on a limited body of evidence and future research which uses different geographical and/or chronological parameters might throw up interesting contrasts to, or similarities with, the results this research has produced.<sup>635</sup> Nonetheless this thesis can act as a staging post for future exploration of this sixteenth and early seventeenth century institution.

It is also worth pointing out that despite the Court of Wards' generally poor image, which has been conveyed in the historiography, it was still a useful institution.<sup>636</sup> For example, this institution 'was able to play [a role] in counteracting, to some extent, the financial embarrassment of the monarchy, consequent upon the price rise and other factors', while Bell has also argued, within a judicial context which lies outside the scope of this thesis, that 'the Court seems certainly to have provided effective protection for the ward-in all matters of litigation it did a great deal to safeguard his interests, at least against third parties if not always against the crown'.<sup>637</sup> The usefulness of the Court of Wards can lead to questions such as: in relation to heirs who were minors what replaced the Court after its abolition? The answer, it appears, is that Chancery 'developed the equitable jurisdiction...over infant and guardian alike' while 'idiots and lunatics were committed to the chancellor's care-even before the act abolishing the Court of Wards had passed through Parliament'.<sup>638</sup> Therefore this points to another potentially fruitful area of research in the future, one that goes well beyond this intriguing Tudor and early Stuart institution.

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<sup>635</sup> Binns, *Yorkshire in the Civil Wars: Origins, Impact and Outcome*, p. xvi.

<sup>636</sup> See the introduction to this thesis for a survey of existing scholarly research relating to the Court of Wards.

<sup>637</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 46-112.

<sup>638</sup> Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, p. 164.



# APPENDICES

# Appendix 1

## M. J. Hawkins' Wardship Data

### **Physical description, and layout:**

M. J. Hawkins provided the author of this thesis with hand-written, tabulated, wardship data, in pencil, on A4 paper and in a landscape format. The data consists of a variety of columns which, collectively, provide a considerable amount of important information for wardship. The information relating to feodaries was provided through email communication between the author of this thesis and M. J. Hawkins.

### **Information provided:**

This thesis has made use of M. J. Hawkins's wardship data and list of feodaries. This information consists of: the date of the wardship sale, the 'name of tenant', the 'date of death', the 'ward', the 'age of [the] ward', the 'value of lands p.a.', the 'wardship and[?] mainly[?] sold to', the 'use of' the ward, the 'sum[?]' for the wardship, the fine 'to be paid (by)[?]' and the 'wardship[?] payments[?]' made.<sup>639</sup> The tabulated wardship data is divided into forty counties, which, in turn, is separated into 'unconcealed' and 'mostly concealed' wardships that were sold by the Court of Wards.<sup>640</sup> Chapters four and five in this thesis utilised tabulated data for the gentry in the counties of Yorkshire and Sussex. The tables for Yorkshire did not distinguish between wardships sold in the North, East and West Ridings of Yorkshire. Chapters two and three in this thesis utilised considerably more counties in as far as they contained members of the English and Welsh nobility, within the context of the research perimeters set out in chapters two and three. Information regarding the names of feodaries, as well as their periods in office, and other additional information where available was also provided.

### **Chronological perimeters:**

The chronological perimeters utilised by M. J. Hawkins in the construction of his wardship data appears to have been 1612-1641.

### **Original sources utilised in the compilation of M. J. Hawkins' data:**

The wardship data contains information principally derived from the 'paper extents or schedules of wards' lands showing terms of sales' in Ward Class 4, as well as

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<sup>639</sup> Information regarding the leasing of wards' lands has not been included in this account as leasing has not been included in this thesis.

<sup>640</sup> These are the terms M. J. Hawkins uses.

'feodaries' parchment surveys and paper extents or schedules of wards' lands showing terms of sales' in Ward Class 5.<sup>641</sup> Also material from Ward Class 9 was used as well. For example, probably the wardship section of the 'Receiver-General's Accounts': Series C.<sup>642</sup> The following may also have been utilised from Ward Class 9: 'Book of Surveys of the manors of Nolligrove[?], Okehampton, Weldon, Hornacott and Tavistock, co. Devon';<sup>643</sup> 'Entry Books of Indentures And Other Documents Relative To Grants Of Wardship, And To Leases Of The Lands Of Minors, Lunatics and Idiots';<sup>644</sup> 'Entry Books Of Contracts For Marriages And Leases';<sup>645</sup> 'Entry Books Of Petitions and Compositions For Wardship, Leases etc';<sup>646</sup> 'Entry Books Of Receipts For The Sale Of Wards';<sup>647</sup> 'List of Bargains (showing those where obligations for payment have been entered into)';<sup>648</sup> 'Entries Of Assignments Of Wards, Marriages And Annuities';<sup>649</sup> 'Fines of Wards, Fines of Marriages, Rates of Full Age, Fines of Liveries, Fines of Widows, Fines of Dimissions (tabulated)';<sup>650</sup> 'List of Wards, arranged chronologically under each

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<sup>641</sup> Information provided by M. J. Hawkins. 'WARD' file in The National Archives. TNA, London, Ward 4/11-18 (JI-CI); TNA, London, Ward 5/1-50 (EI-CI). Note that not all of the piece references for the above Ward 5 reference solely include counties/areas which are included in M. J. Hawkins' wardship data.

<sup>642</sup> Information provided by M. J. Hawkins. 'WARD' file in The National Archives. TNA, London, Ward 9/408, 9/413, Ward 9/414, Ward 9/417, Ward 9/422, Ward 9/426, Ward 9/430, Ward 9/431 (7 JI-17 CI); Based on Bell, *An Introduction to the History and Records of the Court of Wards and Liveries*, pp. 190-93.

<sup>643</sup> Based on conversation/s with M. J. Hawkins. Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 33[?], 3.C.12/30/27 (12 JI).

<sup>644</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 34. TNA, London, Ward 9/121-28 (4 EI-17 CI).

<sup>645</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 36. TNA, London, Ward 9/203-208 (8 JI-14 CI).

<sup>646</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 36. TNA, London, Ward 9/214-220 (1611-1645).

<sup>647</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 37. TNA, London, Ward 9/162-63 (4 JI-21 CI).

<sup>648</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 38. TNA, London, Ward 9/150 (first part of volume), (13[?] HVIII-17 JI).

<sup>649</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 38. TNA, London, Ward 9/213 (Marriages only), (1619-1640[?]).

<sup>650</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 40. TNA, London, Ward 9/200-201, Ward 9/506 (6[?] JI-10 CI).

letter of the alphabet';<sup>651</sup> 'Value of Wards' lands in co. Essex';<sup>652</sup> 'Abstract of Wards' lands in co. Chester (with details of tenants, value, livery, age of holder etc);<sup>653</sup> 'List of Bonds (notes of bonds and conditions, arranged by years with a reference number in right-hand margin)';<sup>654</sup> 'Index of Wards, Rates, Liveries Primer Seisins, (Demises and Exhibitions)'.<sup>655</sup> It can be difficult to identify which of the above entry books were utilised and included within M. J. Hawkins' wardship data, because the data does not necessarily clearly signal which entry books were used as sources. Therefore the above list attempts to identify the most likely types of entry books that M. J. Hawkins may have used when constructing his tabulated wardship data.<sup>656</sup>

The names of feodaries, their length of time in office, along with other information relating to feodaries (where available), which M. J. Hawkins provided the author of this thesis with, possibly come from the sources already noted above in Ward Classes 4 and 5. However another source is the entry book in Ward Class 9 titled: 'Feodaries' Bonds', and also, possibly, in Ward Class 9: 'Entries of Letters Patent appointing Feodaries etc'.<sup>657</sup>

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<sup>651</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 41. TNA, London, Ward 9/197 (first portion), (6[?] HVIII-19 CI).

<sup>652</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 41. TNA, London, Ward 11/16/10 (19 [?] HVIII-20 CI).

<sup>653</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 41. TNA, London, Ward 9/326 (temp.[?] EI-JI).

<sup>654</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 71. TNA, London, Ward 9/272, Ward 9/274 (13[?] JI-21 CI).

<sup>655</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', p. 73. TNA, London, Ward 9/201, Ward 11/4/9(i), Ward 9/177, Ward 9/178 (11-15 CI).

<sup>656</sup> Only TNA, London, Ward Class 9 'Entry Books Of Receipts For The Sale Of Wards', Ward 9/163 (4-21 CI) can be discerned in the Caroline sample for the counties of Yorkshire and Sussex.

<sup>657</sup> Bell, 'Guide to, and Analytical List of, Court of Wards Miscellanea', pp. 71-75. TNA, London, Ward 9/274 (1-21 CI) and Ward 9/275-76 (40 EI-21 CI). M. J. Hawkins mentioned Ward 9/274 in his correspondence with the author of this thesis.

## Appendix 2

### Dr. J. T. Cliffe's Data

#### **Physical description, and layout:**

All of the data from Dr. Cliffe which has been used in this thesis comes from handwritten information provided on A4 paper. The data tends to be set out in a list format.

#### **Information provided:**

This thesis has utilised the following information from Dr. Cliffe: 'Yorkshire Catholic Gentry, 1603-1641'; Catholics in Yorkshire who experienced wardship during the period of 1625-41; feodary certificates for Yorkshire families; and information relating to two Yorkshiremen.<sup>658</sup> The information concerning 'Yorkshire Catholic Gentry, 1603-1641' can include the surnames, the location/s of the family estate, the Yorkshire Riding that families came from, as well as if, and when, the family had moved away from Yorkshire, along with other information, where relevant, as well. The list 'covers a[?] wide spectrum. On the one hand, there were ultra-Catholic families...on the other, there were families which had a marked preference for outward conformity or which were beginning to move away from Catholicism'. Also, 'For statistical purposes...the term "Catholic" [is used] as embracing recusants, non[-]communicants and Church Papists or "schismatics" in Catholic terminology (including occasional conformists)'.<sup>659</sup>

As far as the list of Catholics in Yorkshire who experienced wardship during the period of 1625-41 is concerned, this list contains information that can include the names of the deceased and heir/s, the wardship fines imposed as well as other relevant information which can vary according to the family concerned. The data

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<sup>658</sup> Quotation marks are used to represent how Dr. J. T. Cliffe titled the information he provided.

<sup>659</sup> The 'main sources [for the list] were' Exchequer, Recusant Rolls, E.366 and E.367; Archbishopal Visitation Books and High Commission Act Books from The Borthwick Institute for Archives; North Riding and West Riding Quarter Session Records; British Library Lansdowne MSS. 153; Commonwealth Exchequer Papers, SP 28/215-Yorkshire Sequestration Accounts; Peacock, ed. *A List of the Roman Catholics in the County of York in 1604*; Foley, ed. *Records of the English Province of the Society of Jesus*; Aveling, *Post-Reformation Catholicism in East Yorkshire, 1558-1790*; Aveling, 'The Catholic Recusants of the West Riding of Yorkshire, 1558-1790', pp. 191-306; Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790*; A number of volumes of the Catholic Record Society including x and xi (records of the English College at Douai), liii (compositions for recusancy) and liv and lv (records of the English College at Rome). Commonwealth Exchequer Papers, SP 28/215-Yorkshire sequestration accounts. The quotations come from correspondence between the author of this thesis and Dr. J. T. Cliffe.

based on the feodary certificates can also include a variety of information, such as the names of the deceased and heir/s, the location of the estates, the valuation of the estates, and any other information that is considered pertinent to a particular family. Finally, information regarding William Beilby of Micklethwaite Grange and Abraham Sunderland from High Sunderland, close to Halifax, includes, amongst other things, references to family members, the location of estates, religious beliefs, and a case in Chancery.

### **Chronological perimeters:**

The list of 'Yorkshire Catholic Gentry, 1603-1641' clearly covers the period 1603-41. The information concerning Catholics in Yorkshire who experienced wardship during the period of 1625-41, and the feodary certificates for Yorkshire families, approximately encompasses the first half of the seventeenth century. The information provided for Beilby and Sunderland relates to the period of 1591-1665.

### **Original sources utilised in the compilation of Dr. J. T. Cliffe's data:**

The information concerning the 'Yorkshire Catholic Gentry, 1603-1641' comes from sources that are noted in footnote 659. The information regarding Catholics in Yorkshire who experienced wardship during the period of 1625-41 is derived from the 'Feodaries' Surveys, Yorkshire' in Ward Class 5, and 'Miscellaneous Books' in Ward Class 9.<sup>660</sup> In relation to the feodary certificates, these also originate from

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<sup>660</sup> The Constables of Newton Garth, East Riding: TNA, London, Ward Class 9, 'Entry Books of Contracts for Marriages and Leases', Ward 9/205 (14-19 JI), ff. 34-125; the Daltons of Swine, East Riding, Ward Class 5, 'Feodaries' Surveys', Ward 5/49 (EI-CI), Ward Class 9, 'Entry Books of Affidavits', Ward 9/573/549 (15-15 CI), Ward Class 9, 'Entry Books of Petitions, etc', Ward 9/219/190 (1637-1641); the Danbys of Thorpe Perrow, North Riding and Farnley, West Riding, Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, pp. 130-370 and J. T. Cliffe, 'Danby family (*per.* 1493-1667)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, May 2011 [<http://www.oxforddnb.com.ezproxy.york.ac.uk/view/article/71867>, accessed 14 Dec 2011]; the Dolmans of Badsworth, West Riding and Pocklington, East Riding, Ward Class 9, 'Entry Books of Petitions, etc', Ward 9/219/231 (1637-1641), 'S.P. 23/218/871[?]; the Frankes of Kneeton, North Riding, Cliffe, *The Yorkshire Gentry From the Reformation to the Civil War*, p. 371; the Lawsons of Brough, North Riding, Ward Class 9, 'Entry Books of Contracts for Marriages and Leases', Ward 9/208 (3-14 CI), f. 194, Ward Class 9, 'Entry Books of Affidavits', Ward 9/572/133 (12-13 CI), Ward Class 9, 'Entry Books of Decrees', Ward 9/101 (14-15 CI), f. 513, Ward Class 9, 'Entry Books of Affidavits', Ward 9/573/543 (14-15 CI); the Pudsays of Bolton Hall, Bolton by Bowland, West Riding, Ward Class 9, 'Entry Books of Petitions, etc', Ward 9/218 (1629-1632), f. 44, Ward Class 5, 'Feodaries' Surveys', Ward 5/49 (EI-CI); the Stapletons of Carlton, West Riding, Ward Class 5, 'Feodaries' Surveys', Ward 5/49 (EI-CI); the Thorpes of Danthorpe, East Riding, Ward Class 5, 'Feodaries' Surveys', Ward 5/49 (EI-CI). Ward Class 9, 'Entry Books of Contracts for Marriages and Leases', Ward 9/205 (14-19 JI), f. 113; the Vavasours of Hazlewood Castle, West Riding, Ward Class 5, 'Feodaries' Surveys', Ward 5/49 (EI-CI); the Vavasours of Willitoft, East Riding, Ward Class 5, 'Feodaries' Surveys', Ward 5/49 (EI-CI); the Yorkes of Gouthwaite Hall, West Riding, Ward Class 5, 'Feodaries' Surveys', Ward 5/49 (EI-CI), Ward Class 9, 'Entry Books of Petitions, etc', Ward

Ward Class 5.<sup>661</sup> Finally, the information regarding Beilby and Sunderland does not appear to have been accompanied with any references.

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9/219/58 (1637-1641). The quotation comes from correspondence between the author of this thesis and Dr. J. T. Cliffe.

<sup>661</sup> TNA, London, 'Feodaries' Surveys', Ward 5/49 (EI-CI); 'Feodaries' Surveys', Ward 5/27 (EI-CI).

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