

Introduction

Research projects often have very unassuming beginnings and this one is no different. Many years ago, I happened across a book by Richard Adair, titled *Courtship, Illegitimacy, and Marriage in Early Modern England*.¹ Adair predominantly dealt with the lower socio-economic classes, and I idly wondered if anyone had taken a look at illegitimacy and illicit sex among the aristocracy. What happened to noblemen and noblewomen who engaged in extramarital sexual relationships? A preliminary search came up with very little. I noted this interesting gap in the historiography and stowed it away in a folder marked “future ideas,” which I had created in a moment of temporary organizational zeal.

A couple of years later, I came upon the folder again and remembered my earlier question. As I set about exploring the topic, I soon found myself enthralled by the very palpable human drama in the stories that emerged from my research. Forbidden love, adultery, fornication, illegitimate children, jealousy and rage, acrimonious divorces, quarrels over riches and political positions: the issues differed very little from the standard fodder of the weekly scandal magazines of today, the stuff that tickles our fancy even if we often do not like to admit it. The stories do seem timeless in many ways, which is part of their appeal. However, a sexual scandal in the early modern period may have many of the same ingredients as a sexual scandal in the twenty-first century, but the contexts are very different.

Traditionally, historians have often treated the extramarital affairs of the nobility in an anecdotal fashion. For example, while discussing the career of a courtier, they liven up their account with an amusing and humanizing story of a passionate affair. In the nineteenth and early to mid-twentieth centuries, non-academics, usually women, wrote book-length studies of early modern love affairs and their consequences. The illicit love life of the nobility has been considered appropriate material for non-scholarly, popular works, produced primarily for entertainment in a narrative, “based-on-a-true-story” manner. It is worth noting that women writers are prominent in this genre of writing; it suggests that illicit sexuality (often described as passionate love affairs) traditionally has been a “female” topic of interest, probably because female popular historians had a limited range of “legitimate” subject matter with which to work.² Here, my aim is to take the cases of illicit sexual connections

1 Richard Adair, *Courtship, Illegitimacy and Marriage in Early Modern England* (Manchester: Manchester University Press, 1996).

2 For example, Lady Newdigate-Newdegate transcribed and edited the “private gossip” in letters in her husband’s family archives so that her husband might get to know the private life of his ancestors in *Gossip from a Muniment Room: Being Passages in the Lives of Anne and Mary Fytton 1574 to 1618* (London: David Nutt in the Strand, 1898). Other examples include Laura Norsworthy, *The Lady of Bleeding Heart Yard: Lady Elizabeth Hatton 1578–1646* (New York: Harcourt, Brace and Co., 1936); Violet Wilson, *Queen Elizabeth’s Maids of Honour and Ladies of the Privy Chamber* (London: John Lane the Bodley Head, 1922);

out of the realm of the purely anecdotal and instead treat the material in a more analytical and systematic manner. The stories give us a window into sixteenth and seventeenth-century noble communities in England and the ideas about sex and gender that existed there.

This foray into the world of early modern illicit sex also gives us a better understanding of the *place* of women in early modern aristocratic culture, both as individual historical subjects (considering personal circumstances) and as a social group (considering social position and status). How did gender roles and class roles intersect in cases of premarital sex? How did early modern contemporaries view the aristocratic men and women who engaged in that behavior? Historians of early modern illegitimacy, who so far have concentrated primarily on the lower social strata, have found that sexual transgressors were – not surprisingly – treated differently according to their gender. While law courts usually punished men in seventeenth-century England for the economic transgression of producing bastards or ruining (or at least lowering) a woman's chances for a successful marriage, women were largely punished for immorality.³ Unlike the lower classes, the nobility, shielded by their superior status, were rarely brought to court for sexual offenses but could instead suffer socially and politically if censored by their peers or by the royal head. Yet, in a few instances longstanding illicit affairs were socially accepted, at least among certain circles of the powerful and influential, though not necessarily applauded. This book, then, seeks to explain the circumstances – including gender expectations, social privilege, and personal situations – that either allowed for a limited acceptance or prompted condemnation of illicit relationships among the nobility.

One aspect of investigating noblewomen's place in their society involves focusing on the competing and often contradictory notions of gender that existed in the early modern society.⁴ Many of the noblemen and -women who engaged in illicit sex were

Thomas Loungeville, *The Curious Case of Lady Purbeck: A Scandal of the XVIIth Century* (London: Longmans, Green, and Co., 1909). For more recent examples of this genre, see Eleanor Brewster, *Oxford, Courtier to the Queen* (New York: Pageant Press, 1964); Sylvia Freedman *Poor Penelope: Lady Penelope Rich, and Elizabethan Woman* (Abbotbrook, Bourne End, Bucks: Kensall Press, 1983); and Anne Somerset, *Unnatural Murder: Poison at the Court of James I* (London: Weidenfeld and Nicholson, 1997).

3 See Adair, *Courtship, Illegitimacy and Marriage in Early Modern England*; Martin Ingram, *Church Courts, Sex, and Marriage in England, 1570–1640* (Cambridge: Cambridge University Press, 1987); G.R. Quaife, *Wanton Wenches and Wayward Wives: Peasants and Illicit Sex in Early Seventeenth-Century England* (New Brunswick: Rutgers University Press, 1979); Walter J. King, "Punishment for Bastardy in Early Seventeenth-Century England," *Albion* 10 (1978): 130–51. In *Women Before the Bar: Gender, Law, and Society in Connecticut 1639–1789* (Chapel Hill: University of North Carolina Press, 1996), Cornelia Hughes Dayton presents an interesting exception: in the seventeenth century, the very Puritan community of New Haven held men and women equally responsible to uphold sexual morality. This rough equality only lasted as long as the Puritan hold on the community, however.

4 Historians of gender have begun to articulate the notion of competing gender ideals when studying manhood and masculinity as well as women's gendered experiences. See Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (New York: Routledge, 1994); Merry Wiesner, Chap. 10, "Wandervogel and Women: Journeymen's Concept of Masculinity in Early Modern Germany," in *Gender, Church and*

closely connected to the court and its surrounding circles. While some critics viewed the court as the epitome of vice, others hailed it as the place of refined manners, feelings, and sentiments.⁵ The ideal of courtly love expressed in romances and poetry, as well as in manuals of courtly manners, depicted noblewomen as “queens of the heart,” who ruled over their adoring male lovers.⁶ The prescriptive sources so often cited and explored by historians of women give a very different – and more familiar – picture of the ideal woman: the authors, usually Protestant and in many cases Puritan ministers, exhorted women to be silent, obedient, chaste, and industrious.⁷ In some cases of extramarital sex among the nobility, the cuckolded husbands were often described as country bumpkins or at least uncivilized and awkward. Their adulterous wives, on the other hand, shining stars at court and in their exclusive social circles, were pitied for their marital mismatches. Yet, the nobility were often scandalized when they found out about sexual affairs among their peers. The moral outrage indicates a high degree of contradiction and confusion in both thought and behavior: images of idealized courtly love often clashed with the reality of bastard births and property disputes. Thus, the incidents of the sexual indiscretions of the nobility show us not only the differences and contradictions between secular and religious gendered ideals, but also point to the manner in which the nobility tried to navigate the tensions between them.

In conjunction with competing notions of gender, the question of how the nobility perceived female honor is also important. Commonly, historians have equated female honor with chastity. In other words, an unchaste woman could not be honorable, and once a woman had lost her sexual virtue she could never regain her honor. Female

State in Early Modern Germany (New York: Longman, 1998); Alexandra Shepard, “Manhood, Credit, and Patriarchy in Early Modern England c. 1580–1640,” *Past and Present* 167 (2000): 73–106 and *Meanings of Manhood in Early Modern England* (New York: Oxford University Press, 2003); Susan Amussen, “‘The Part of a Christian Man’: The Cultural Politics of Manhood in Early Modern England,” in Susan Amussen and Mark Kishlansky, eds., *Political Culture and Cultural Politics in Early Modern England* (Manchester: Manchester University Press, 1995).

5 Issues of religion certainly played into court criticism. In Jacobean England, protestant puritans often criticized the court because they associated it either with Catholicism directly or with vices they associated with Catholicism, such as excessive vanity, display, and “foreignness.” Bellany, *The Politics of Court Scandal in Early Modern England: News Culture and the Overbury Affair, 1603–1660* (New York: Cambridge University Press, 2002); Anne Rosalind Jones and Peter Stallybrass, *Renaissance Clothing and the Materials of Memory* (New York: Cambridge University Press, 2000), chap. 3.

6 The most prominent and popular work of courtly manners was of course Baldassare Castiglione’s *Book of the Courtier*, which was available in the English translation by Sir Thomas Hoby after 1561.

7 Excellent examples of prescriptive sources are William Gouge, *Domestical Duties; Eight Treatises* (London, 1622); *Certain Sermons and Homilies Appointed to be Read in Churches in the Times of Queen Elizabeth I, 1574–1571* (Gainesville: Scholar’s Facsimiles and Reprints, 1968); Elizabeth Jocelyn, *The Mothers Legacie to her Unborne Childe* (London: 1635); Barnabe Rich, *The Excellency of Good Women* (London: 1613), and *My Ladies Looking Glasse* (London: 1616); Robert Snawsel, *A Looking-Glasse for Married Folkes* (London: 1631); William Whateley, *A Bride-Bush* (London: 1619).

chastity was also closely related to male honor, since control of female sexuality was as crucial for an honorable patriarch as was his credibility in politics and business.⁸ However, scholars have begun to question the validity of simply equating chastity with female honor and have turned to a more complex view of honor that is closer to the “traditional” male norm in that it takes into account social position as well, so that in effect the social and moral status of an individual were not necessarily identical. Noblewomen, along with the men in their families, inhabited the top rung of the social ladder in the early modern period, and that position conferred honor in and of itself. As members of the elite, noblewomen therefore had a greater store of honor compared to commoners, which could cushion their reputation to some extent, even if they got involved in dishonorable affairs. In other words, an unchaste noblewoman was still noble; she still had credit as a member of the social elite, even though her illicit sexual activity might have damaged her reputation to some degree.⁹ Chapter five explores this revised view of female honor in some depth.

The chronological scope of this book spans from the latter half of the sixteenth century to the first few decades of the seventeenth century, roughly the reigns of Queen Elizabeth I (1558–1603) and James I (1603–1625). One of the cases, the topic of chapter five, stretches into the 1640s. This particular period presents a unique opportunity to compare aristocratic sexual culture under the reign of the unmarried Queen Elizabeth and the married King James. Illicit sex was very risky during Elizabeth’s reign, since the queen punished offenders severely, while it usually went unpunished during James’s reign. At the court of Elizabeth, male courtiers adopted the role of lover who served the queen of their heart, languishing at a distance from their beloved when they were in disfavor or had to leave the court. While the game worked well when the queen was young, the discourse of love seemed increasingly hollow as she aged. In addition, Elizabethan male courtiers often found it necessary to hide sexual relationships from the queen, since they could not present themselves as lovers of the queen if it was widely known (or known to Elizabeth) that their primary affections were reserved for someone else. Female courtiers also faced

8 See for example Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford: Oxford University Press, 1996), 105–38; Anthony Fletcher, *Gender, Sex and Subordination in England 1500–1800* (New Haven: Yale University Press, 1995), chap. 6 and 7; Malcolm Smuts, *Culture and Power in England 1585–1685* (New York: St. Martin’s Press, 1999), 8; Amussen, *An Ordered Society: Gender and Class in Early Modern England* (New York: Basil Blackwell, 1988), 104.

9 Faramerz Dabhoiwala, “The Construction of Honour, Reputation and Status in Late Seventeenth- and Early Eighteenth-Century England,” *Transactions of the Royal Historical Society* 6th series (1996): 201–13; Garthine Walker, “Expanding the Boundaries of Female Honour in Early Modern England,” *Transactions of the Royal Historical Society* 6th series (1996): 235–45; David Turner, “‘Nothing Is So Secret But Shall Be Revealed.’ The Scandalous Life of Robert Foulkes,” in Tim Hitchcock and Michele Cohen, eds., *English Masculinities 1660–1800* (New York: Longman, 1999). Studying late Renaissance Venice – traditionally viewed as an honor/shame society – Guido Ruggiero suggests that sexuality did not exhaust a woman’s identity, which included social and economical components as well. Ruggiero, *Binding Passions: Tales of Magic, Marriage, and Power at the End of the Renaissance* (New York: Oxford University Press, 1993), 68–9.

a dilemma: the queen considered herself the guardian of her maids of honor and disliked any sexual immorality on their part since it reflected badly on her as their keeper. Moreover, any stain on the reputation of the maids of honor, who all lived in close proximity to the royal person, also affected Elizabeth's own sexual reputation. At times, Elizabeth also opposed the marriage of her maids of honor if the union did not suit her political or personal purposes. On the other hand, the nobility expected female courtiers to marry according to traditions. Secret marriages were thus fairly common among the court nobility.¹⁰

In contrast to Elizabeth's persistent virginity, her Scottish relative James I brought both a queen, Anna of Denmark, and a young son and heir, Prince Henry, when he traveled south to take his place on the English throne in 1603.¹¹ The presence of a queen expanded the number of positions available around the royal persons, since she commanded a separate household. The queen's household was especially important for ambitious noblewomen, since the queen needed female attendants and also insisted on choosing them herself rather than accepting the group of matrons that the English Privy Council had appointed.¹² The change in the gender and marital status of the English ruler had important consequences for both male and female courtiers: the maids of honor who served the new queen lost much of their political and symbolic power, the male courtiers no longer had to hide their relationships with women from the monarch, and illicit sex was generally not punished by King James as it had been by the unmarried Elizabeth. Only when illicit sex was coupled with more severe crimes, such as murder, fraud, slander, and illegal marriages, did James react.

As mentioned earlier, not many scholars have studied illicit sex and the Elizabethan and Jacobean nobility. In general, historians have focused on the late seventeenth and the eighteenth centuries when studying early modern aristocratic sexual behavior. For example, the lax sexual attitudes at the Restoration court of Charles II (1660–1685), where the king led the way by openly displaying his relationships with his mistresses, has attracted some attention.¹³ The late eighteenth century, when public discussion about alleged aristocratic propensity for adultery abounded, has also attracted scholarly attention.¹⁴ Interestingly, many works on early

10 Paul Hammer, "Sex and the Virgin Queen: Aristocratic Concupiscence and the Court of Elizabeth I," *Sixteenth Century Journal* 31 (2000): 77–97; Carole Levin, *The Heart and Stomach of a King: Elizabeth I and the Politics of Sex and Power* (Philadelphia: University of Pennsylvania Press, 1994); Susan Doran, *Monarchy and Matrimony: The Courtships of Elizabeth I* (New York: Routledge, 1996).

11 The other royal children, Charles (the ill-fated Charles I) and Elizabeth, followed later.

12 See Leeds Barroll, *Anna of Denmark, Queen of England: A Cultural Biography* (Philadelphia: University of Pennsylvania Press, 2001).

13 See for example Lawrence Stone, *Road to Divorce: England 1530–1987* (Oxford: Oxford University Press, 1990); Harold Weber, *The Restoration Rake-Hero: Transformations in Sexual Understanding in the Seventeenth Century* (Madison: University of Wisconsin Press, 1986); Ian Frederick Moulton, *Before Pornography: Erotic Writing in Early Modern England* (Oxford: Oxford University Press, 2000).

14 Stone, *Road to Divorce*; idem, *Broken Lives: Separation and Divorce in England, 1660–1857* (Oxford: Oxford University Press, 1993); Donna T. Andrew, "'Adultery a-la-mode': Privilege, the Law and Attitudes to Adultery 1770–1809," *History* 72 (1997): 5–23;

modern sexuality in general (not focused specifically on the nobility) use the mid-to-late seventeenth century as a starting point, most commonly because historians view the long eighteenth century as an era of significant change in ideas about gender and sexuality (gender becomes naturalized opposites rather than a sliding scale, and sexuality becomes identity rather than acts).¹⁵ Yet although the court of James I has often been described as scandalous, especially in comparison with the Elizabethan court, no detailed study of the sexual behavior of the elite which congregated in and around that court exists to support that argument.¹⁶ Rather, the scholarship on the courts of Elizabeth and James has focused more either on the political aspects of the court or on productions of literature, art, theater, and other entertainment, as well as noble patronage of those art forms.¹⁷ Linda Levy Peck and Alastair Bellany stand out as exceptions: Peck has studied the personal patronage networks at the early Stuart court, and Bellany has outlined the connections between court scandal and high politics in his study on the political implications of the Overbury murder.¹⁸

Randolph Trumbach, *Sex and the Gender Revolution: Vol. I, Heterosexuality and the Third Gender in Enlightenment London* (Chicago: University of Chicago Press, 1998); Amanda Foreman, *Georgiana, Duchess of Devonshire* (London: Harper Collins, 1998).

15 See for example Roy Porter and Lesley Hall, *The Facts of Life: The Creation of Sexual Knowledge in Britain, 1650–1950* (New Haven: Yale University Press, 1995); Hitchcock, *English Sexualities, 1700–1800* (New York: St. Martin's Press, 1997); David Turner, *Fashioning Adultery: Gender, Sex and Civility in England, 1660–1800* (New York: Cambridge University Press, 2002); Trumbach, *Sex and the Gender Revolution*.

16 When discussing the scandalous reputation of the Jacobean court, historians like to recount the king's intense and openly displayed affection for his male favorites as well as the incident of the drunken and debauched celebrations and entertainments held in the honor of the visit of the king of Denmark in 1606. See for example David Bergeron, *Royal Family, Royal Lovers: King James of England and Scotland* (Columbia: University of Missouri Press, 1991); Antonia Fraser, *King James I of England* (New York: Alfred Knopf, 1975). Some historians argue that the sordid Overbury affair is the scandal that "defined" James's reign. People were horrified at the 1613 poisoning of Sir Thomas Overbury by the king's favorite, Robert Carr, and his wife, Frances Howard, and outraged when the favorites were pardoned while their lower-class accessories were executed for their crime. Bellany, *The Politics of Court Scandal*; Jones and Stallybrass, *Renaissance Clothing and the Materials of Memory*; David Lindley, *The Trials of Frances Howard: Fact and Fiction at the Court of King James* (New York: Routledge, 1993).

17 See David Starkey, "Court, Council, and Nobility in Tudor England," and Simon Adams, "Favourites and Factions at the Elizabethan Court," in Ronald G. Asch and Adolf M. Birke eds., *Princes, Patronage, and the Nobility: The Court at the Beginning of the Modern Age c. 1450–1650* (London: The German Historical Institute, London and Oxford University Press, 1991); John Guy, ed., *The Reign of Elizabeth I: Court and Culture in the Last Decade* (Cambridge: Cambridge University Press, 1995); Malcolm Smuts, *Court Culture and the Origins of a Royalist Tradition in Early Stuart England* (Philadelphia: University of Pennsylvania Press, 1987); David Loades, *The Tudor Court* (London: B.T. Batsford, 1986); Eveline Cruickshanks, ed., *The Stuart Courts* (Thrupp: Sutton Publishing, 2000).

18 Linda Levy Peck, *Court Patronage and Corruption in Early Stuart England* (Boston: Unwin Hyman, 1990); Bellany, *Politics of Court Scandal*. For a study of the social and cultural workings of the French court of Louis XIV, see Emmanuel Le Roy Ladurie, *Saint-Simon, and the Court of Louis XIV* (Chicago: University of Chicago Press, 2001).

If the personal and human aspects of the court have not received much scholarly attention, the history of sexuality as a whole, and illicit sexuality in particular, has certainly developed and expanded over the last couple of decades, bringing a previously marginalized field into the mainstream of historical study. Several ways of defining illicit sexuality exist, of course: this study does not treat many sexual practices which lay outside the realm of morally and legally acceptable behavior in the early modern period, such as sodomy, homosexuality, prostitution, masturbation, and bestiality.¹⁹ For the purpose of furthering our understanding of the dynamics between men and women in aristocratic society, here we deal with cases of heterosexual extramarital sex: fornication, adultery, and bastardy.²⁰ It is useful to include all three of these categories because they are in effect terms that describe the difference in degrees of extramarital sexual offenses: they indicate the marital status of the persons involved and, in the case of bastardy, the physical results of the affair.

Personal connections were of utmost importance for people of all social strata in early modern society and especially so for the elite. As Barbara Harris has put it: Tudor government was “at once personal, familial, feudal, and traditional; *and* bureaucratic, monarchical, centralizing, and innovative.”²¹ The centralizing aspect of the Tudor monarchy ensured that the aristocracy relied on favor to come from the crown, which in turn made access to the royal person – or the people surrounding the royal person – crucial for political, social, and financial success. Although English noblewomen were not public office holders (they could of course occupy positions within households as personal attendants), they nonetheless played a crucial role in Tudor and Stuart politics through their participation in the creation of alliances, gift

19 The history of homosexuality has become a field in itself; for the early modern period: see Alan Bray, *Homosexuality in Renaissance England* (London: Gay Men’s Press, 1988); Jonathan Goldberg *Queering the Renaissance* (Durham: Duke University Press, 1994); Michael Roche, *Forbidden Friendships: Homosexuality and Male Culture in Renaissance Florence* (New York: Oxford University Press, 1996); Hitchcock, *English Sexualities*. For scholarship on prostitution, see for example Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval England* (New York: Oxford University Press, 1996); Lyndal Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (New York: Clarendon Press, 1989); Leah Lydia Otis, *Prostitution in Medieval Society: The History of an Institution in Languedoc* (Chicago: University of Chicago Press, 1985); Jacques Rossiaud, *Medieval Prostitution* (Oxford: Basil Blackwell, 1988).

20 A note on definition of terms: by “sexuality,” I mean sexual behavior as well as the perceptions of, and attitudes to, such behavior. I am *not* using “sexuality” in the modern sense of a marker of identity. For a discussion of the relatively recent development of “sexuality” as identity, influenced by Michel Foucault’s *The History of Sexuality*, trans. Robert Hurley (New York: Vintage Books, 1990), see David Halperin, “Is There a History of Sexuality?” in *Lesbian and Gay Studies Reader*, eds. Henry Abelove, Michele Aina Barale, and Halperin (New York: Routledge, 1993). Furthermore, I use the term “extramarital” as a shorthand term to discuss *all* sexual encounters taking place outside of marriage, including pre-marital sex.

21 Barbara Harris, “The View from My Lady’s Chamber”: New Perspectives on the Early Tudor Monarchy,” *Huntington Library Quarterly* 60.3 (1997): 215.

giving, political and financial suits, and as holders and carriers of property.²² In light of these aspects of early modern society, it becomes clear that personal connections of any kind, even illicit connections, played an important part in the fortunes or ruins of noble families. Affairs of the heart and body could be high politics indeed.

Since sexual sins usually fell under the jurisdiction of ecclesiastical courts (see section below), historians studying illicit sex have relied heavily on legal records as their primary sources, specifically the records of the church courts.²³ However, nobles were not subject to punishments for illicit sex in these courts, which means that legal sources alone are not enough in order to understand the consequences, attitudes, and responses to illicit sex among the elite. The main primary sources for this study consist of collections of family papers, primarily letters written and circulated among a rather small number of the elite. For example, I have used the collections of correspondence of the Sidney, Cecil, Bacon, Dudley, Devereux, and Talbot families extensively. In addition, John Chamberlain's voluminous correspondence, covering the years 1597–1626 is an extremely informative source.²⁴

I have also relied on a variety of other sources. The book is about the elite of the society, and state papers contain much information about the lives of the high nobility. For example, domestic state papers deal with the everyday business of government, which includes subjects as varied as news reports and attempts to mediate between families in dispute. Foreign state papers include reports from ambassadors who were astute observers of the actions at and around the court. Legal records are also helpful in cases where illicit sex led to marital, property, or illegitimacy disputes. Unlike the expert works of Martin Ingram and Laura Gowing, who have studied the

22 Barbara Harris, "Women and Politics in Early Tudor England," *The Historical Journal* (June 1990): 259–81. Harris is the leading historian of early Tudor noblewomen, and her most recent work is *English Aristocratic Women, 1450–1550: Marriage and Family, Property and Careers* (Oxford: Oxford University Press, 2002). See also Peck, *Court Patronage and Corruption*, 68–74; Diane O'Hara, *Courtship and Constraint: Rethinking the Making of Marriage in Tudor England* (Manchester: Manchester University Press, 2000); Stone, *The Crisis of the Aristocracy 1558–1641* (Oxford: Clarendon Press, 1965); Anthony Fletcher, *Gender, Sex and Subordination in England 1500–1800* (New Haven: Yale University Press, 1995); Sara Mendelson and Patricia Crawford, *Women in Early Modern England, 1550–1720* (London: UCL Press, 1998). For studies of the formal and informal power of royal women and noblewomen in other countries, see for example Vincent J. Pitts, *La Grande Mademoiselle at the Court of France, 1627–1693* (Baltimore: John Hopkins University Press, 1998); Magdalena Sanchez, *The Empress, The Queen, and the Nun: Women and Power at the Court of Philip III of Spain* (Baltimore: John Hopkins University Press, 1998); Stanley Chojnacki, *Women and Men in Renaissance Venice: Twelve Essays on Patrician Society* (Baltimore: John Hopkins University Press, 2000).

23 See for example Gowing, *Domestic Dangers*; Ingram, *Church Courts, Sex and Marriage*; Quaife, *Wanton Wenches and Wayward Wives*.

24 These collections have been printed and calendared by the Historical Manuscript Commission (hereafter HMC). I have also used microfilmed versions of the Bacon, Talbot, Dudley, and Devereux MS. The entire Chamberlain collection (part of the State Papers, originals at the Public Record Office in London) has been edited and printed. Norman Egbert McClure, ed., *The Letters of John Chamberlain* (Philadelphia: The American Philosophical Society, 1939).

ecclesiastical courts of Wiltshire and London respectively, this book does not focus specifically on one particular judicial court or a chronological series of records.²⁵ The particularities of individual cases have led me to the appropriate legal documents in the appropriate courts: cases of legal separation are to be found in the ecclesiastical courts, for example. Other disputes of the high nobility sparked by the consequences of illicit relationships were sometimes finally resolved in the Court of Star Chamber, which tried criminal cases. In addition, I also rely on various literary sources, such as prescriptive manuals, love sonnets, satirical verse, and prose romances.

Since the sources do not allow for any precision of numbers, a quantitative survey of the instances of illicit sexuality in the Tudor and early Stuart nobility is impossible. Participants in illicit sex usually attempted to hide their acts from their contemporaries, which makes it even more difficult for historians to find the sources from a distance of some four hundred years. Hence I employ the method of case studies, focusing primarily on the few rather well documented cases.

The next three sections of this introductory chapter describe the background for these affairs: the nature of the English nobility, the early modern ideas and ideals about sex, gender, and morality, and lastly the legal aspects of illicit sex in the sixteenth and early seventeenth centuries.

The Nobility

The subjects in this book were members of the English social and political elite: the nobility. Technically, the Elizabethan and early Stuart nobility consisted of a relatively small number of titled men (barons, viscounts, earls, marquises, and dukes, in order of rising status). When Elizabeth came to power in 1558, the total number of male peers was around sixty: at the end of James's reign in 1625, the number had doubled.²⁶ Most of the increase occurred in James's reign. It was caused by a combination of royal generosity and financial troubles: King James liked to reward his favorites with titles, and he also tried to solve his dire financial situation by selling titles to those willing to pay for them. However, the titled men and their families were only the very top layer of the English society. Just below them on the social ladder were the gentry families, where the male head of the household often was a knight or esquire. Historians are divided when it comes to exact numbers of gentry families, but in the sixteenth and seventeenth century, several thousands of families were considered gentry.²⁷ (Gentry identity did not rely on titles, but rather mostly depended on the ability to live a noble lifestyle, with all that entailed: leisure, landed property, display of wealth, political influence, military or bureaucratic royal service, and so forth.) Lawrence Stone has estimated that of those thousands, there was a significant top layer of about five hundred important, wealthy, and influential gentry families. This top part of the gentry and the titled nobility together (roughly

²⁵ Gowing, *Domestic Dangers*; Ingram, *Church Courts, Sex and Marriage*.

²⁶ Stone, *The Crisis of the Aristocracy*, 758.

²⁷ Dewald estimates that there were about 3000 gentry families in 1300, and that the number had risen to almost 15000 families in 1700. Jonathan Dewald, *The European Nobility, 1400–1800* (New York: Cambridge University Press, 1996), 23–5.

six hundred families) formed the elite of the English society, a very small part of the total population of between three to five million during the period 1558–1630.²⁸

Although the ideology of nobility included purity of blood and ancient descent from the old warrior class, the English nobility was in fact relatively open. Old noble families died out naturally (primogeniture made this especially prominent in England), and other families lost their titles because of treason or other severe crimes. Simultaneously, the nobility was constantly replenished with the creation of new titles, or the reviving of old ones, so that the number of peers stayed rather constant throughout the sixteenth century. The sovereigns lifted up prominent gentry families to the baronage, and sometimes rewarded younger sons of peers with a title of their own, since their older brothers would inherit their fathers' title.

Not only were my subjects nobility, but they also moved in the highest circles in and around the royal courts. Many of the men were part of the most favored group around the sovereigns, such as the earl of Leicester, the earl of Essex, the earl of Pembroke, and the earl of Somerset. Examples of noblewomen include Lady Douglass Sheffield, the countess of Derby, Lady Penelope Rich, Lady Mary Wroth, the countess of Essex, and the viscountess Purbeck. Not all of the people you will hear about were titled, but most commonly, at least one of the partners in the affairs were titled at some point in their lives *or* were members of a titled family. For example, Sir Robert Howard, who had an affair with Frances Villiers, viscountess Purbeck, in the 1620s, was the younger son of the earl of Suffolk and never received a title himself. His mistress, Frances Villiers, daughter of Lady Elizabeth Hatton and Sir Edward Coke, became a viscountess when her husband, Sir John Villiers, was raised to the peerage with the help of his brother, the king's favorite George Villiers, then earl of Buckingham.

Furthermore, since the elite was so small, it was closely interconnected by marriage and other kinship ties. Most of the English elite either knew each other personally or were familiar with each other through common relatives and friends, as well as other personal ties, including those created by instances of illicit sex. For example, Mary Wroth, who had two illegitimate children with her first cousin and lover William Herbert, earl of Pembroke, was the earl of Leicester's great niece. In turn, the earl of Leicester, who himself had illicit affairs, was the stepfather of Robert Devereux, earl of Essex, and his sister Penelope Rich. Essex had several affairs, although he was married, and his sister Penelope's adulterous longtime relationship with Charles Blount is discussed in some detail in chapter three. Furthermore, Essex's legitimate son married Frances Howard, who in turn began an illicit relationship with Robert Carr, later earl of Somerset and the king's favorite. The connections can be recounted almost endlessly and they give the impression of a small and intensely personal aristocratic community. The genealogies in the appendix illustrate this closeness of the elite families further.

28 In 1561, the population of England and Wales stood at 3,194,000, and in 1631, it had increased to 5,236,000. E.A. Wrigley and R.S. Schofield, *The Population History of England 1541–1871* (Cambridge: Harvard University, 1981), 528.

Sex, Gender, and Morality in the Early Modern Period

One of the most prevailing sets of gender ideals throughout the early modern period mirrored the overall sociopolitical ideal of a society ordered in a strict hierarchy: as monarchs and masters ruled over subjects and servants, men ruled over women.²⁹ The early modern society was definitely a patriarchy, with social, political, and legal restrictions on women and privileges for men, which ensured a male dominated society. Consequently, the ideal woman as portrayed by the prescriptive literature produced in the sixteenth and seventeenth centuries readily accepted the authority of her husband and her own inferior status, obeying him in everything. She spoke rarely, but when she did, it was in a calm, reverent, and humble manner. She remained a virgin until her wedding-day, and thereafter, she limited her sexual favors to her husband. Conversely, the ideal man provided for and ruled his wife and family in a strict but fair and reasonable manner, corrected his spouse if she made mistakes or acted wrongly, and also remained faithful to her sexually.³⁰

Naturally, the reality did not always reflect the ideals, which historians of gender have aptly illustrated, especially by mining court documents and other related sources. Husbands sometimes abused their wives, drank too much, and took mistresses or resorted to prostitutes. Likewise, wives sometimes refused to be silent, tried to control their husbands, and committed adultery.³¹ This state of affairs is partly why early modern moralists found their instructive texts so necessary: the prescriptive literature is peppered with admonitions to the readers to take the advice seriously. Indeed, during the Protestant Reformation of the sixteenth and seventeenth centuries, one of the main projects for many reformers was to create stable, godly households, ruled by equally stable and godly patriarchs. Some historians have argued that this project set off a crisis in gender relations.³² While the term “crisis” is not warranted,

29 For good overviews, see for example Amussen, *An Ordered Society*; Fletcher, *Gender, Sex, and Subordination*; Merry Wiesner, *Women and Gender in Early Modern Europe* (New York: Cambridge University Press, 1993).

30 See for example Gouge, *Domestical Duties*; Rich, *The Excellency of Good Women and My Ladies Looking Glasse*; Snawsel, *A Looking-Glasse for Married Folkes*; Whateley, *A Bride-Bush*.

31 See for example Gowing, *Domestic Dangers*; Ingram, *Church Courts, Sex, and Marriage*, Quaipe, *Wanton Wenches and Wayward Wives*; Tim Stretton, *Women Waging Law in Elizabethan England* (New York: Cambridge University Press, 1998); Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (New York: Cambridge University Press, 2003); Turner, *Fashioning Adultery*; Ruggiero, *Binding Passions*; Roper, *The Holy Household and Oedipus and the Devil*, and many others.

32 Historians who argue for a “crisis” in gender relations include David Underdown, “The Taming of the Scold: The Enforcement of Patriarchal Authority in Early Modern England,” in Anthony Fletcher and John Stevenson, eds., *Order and Disorder in Early Modern England*, (New York: Cambridge University Press, 1985); Fletcher, *Gender, Sex, and Subordination*; Mark Breitenberg, *Anxious Masculinity in Early Modern England* (New York: Cambridge University Press, 1996). Historians who argue against the “crisis” concept include Gowing, *Domestic Dangers*, 28–9; Roper, *Oedipus and the Devil*, 37–48; Ingram, “Scolding Women Cucked or Washed: A Crisis in Gender Relations in Early Modern England?” in Jennifer Kermode and Garthine Walker, eds., *Women, Crime, and the Courts in Early Modern England* (Chapel Hill: University of North Carolina Press, 1994).

primarily because it implies that there was a resolution to the problem – which emphatically there was not – yet it cannot be disputed that the sixteenth and early seventeenth centuries witnessed a heightened, at times very shrill, discourse about the nature of men and women and their appropriate gender roles.³³

While the gender ideal promoted by the religious moralists resonated deeply in early modern society, it was not the only ideal in operation.³⁴ Recently, scholars have begun to note that there were indeed competing notions of gender and alternative gender ideals. Historians studying women, such as Natalie Zemon Davies, Barbara Harris, Lyndal Roper, Judith Bennett, and Merry Wiesner to mention only a few, have pointed to the varying experiences and roles of women in different social, religious, and economic positions.³⁵ The developing field of the history of masculinity has been especially attentive to the different gender ideals. For example, Ruth Karras has identified three different manly ideals in the late medieval period (the knight, the scholar, and the craftsman), each with their own set of norms for what constituted a man. Merry Wiesner has investigated the alternative masculine role of apprentices in early modern Germany, where qualities such as geographic mobility were desirable for these men. Likewise, Stanley Chojnacki has found that the unmarried men of the Venetian aristocracy developed a “subaltern” masculine culture apart from their married brothers and fathers, and Alexandra Shepard’s research focused on early modern England has suggested that several different masculine ideals (the orderly and reasonable patriarch, the violent and sociable drinker, et cetera) were in operation simultaneously, across social class boundaries. Similarly, Susan Amussen has argued that ideals of manhood were context specific.³⁶

33 In England, this discourse took the shape of a flurry of misogynistic pamphlets and proto-feminist responses in the early seventeenth century. See for example Joy Wiltenburg, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville: University Press of Virginia, 1992); Diane Purkiss, “Material Girls: The Seventeenth-Century Woman Debate,” in Clare Brant and Diane Purkiss, eds., *Women, Texts, and Histories 1575–1760* (London: Routledge, 1992). At the same time, the clergy also attacked what they perceived as topsy-turvy gender relations from the pulpits, admonishing women for their excessive apparel and especially for the fashion of wearing male clothing.

34 Davies argues that the marriage advice of reformers differed from their medieval counterparts in only two areas: reorienting marriage as the godly state in opposition to holy virginity, and the possibility of divorce and remarriage. Kathleen M. Davies, “Continuity and Change in Literary Advice of Marriage,” in R.B. Outhwaite, ed., *Marriage and Society: Studies in the Social History of Marriage* (New York: St. Martin’s Press, 1982).

35 Natalie Zemon Davis, *Women on the Margins: Three Seventeenth Century Lives* (Cambridge: Harvard University Press, 1995); Harris, *English Aristocratic Women*; Roper, *The Holy Household*, and *Oedipus and the Devil*; Judith Bennett, *Ale, Beer, and Brewsters in England: Women’s Work in a Changing World, 1300–1600* (New York: Oxford University Press, 1996).

36 Ruth Karras, *From Boys to Men: Formations of Masculinity in Late Medieval Europe* (Philadelphia: University of Pennsylvania Press, 2003); Wiesner, *Gender, Church, and State in Early Modern Germany*; Chojnacki, *Women and Men in Renaissance Venice*; Shepard, “Manhood, Credit, and Patriarchy,” and *Meanings of Manhood*; Amussen, “The Part of a Christian Man.”

This book explores this notion of competing gender ideals further by looking specifically at what I will term the courtly love ideal. In this alternative ideal, which was especially prominent in the culture of the elite, women momentarily were the rulers over their male lovers, rather than vice versa. Moreover, in the courtly love ideal, which intersected so closely with notions of a privileged class, the attractive feminine qualities included beauty, bravery, charm, intelligence, wit, and ability to command. Clearly, early modern men and women sometimes found it difficult to reconcile the image of the ideal “courtly” woman (whether actually at a royal court or simply part of a noble circle) who inspired romantic, passionate love with the more overtly religious ideal of a silent, obedient, and chaste woman, who inspired a spiritual love. In short, we are not just concerned with the medieval-renaissance literary ideal of courtly love, but more importantly with how ideas about what constituted the ideal noblewomen played out in practice. How did nobles, both men and women, perceive the ideals of womanhood, especially in the context of illicit sex and love, and why did they find certain women praiseworthy or detestable?

In order to understand the ideas about gender and sexual morality, it is also important to have a grasp of the early modern general ideas about sex and sexual differences. Throughout the middle ages and the period of study here, one of the prominent sexual paradigms was based on the one sex model, which in turn built on the theory of the four bodily humors. Precarious bodily health was based on the balance of the four humors: blood, choler, melancholy, and phlegm. These fluids in turn had different properties, and the make up of the bodily fluids determined if a person was male or female: women’s bodies were dominated by cold and moistness, whereas male bodies were dominated by heat and dryness. Men’s physical constitution ensured that their genitals were visible outside the body, whereas female bodies did not generate enough heat and their genitals, imagined as male genitalia “turned inside out,” were thus encapsulated inside the body. Furthermore, men’s bodies made them capable of more reasoned thought, whereas women’s constitutions suggested that they were more “carnal,” and therefore more likely to give in to the temptations of the flesh. In contrast to the familiar nineteenth and twentieth century views of the man as the most sexually active gender, women were thought to be more sexually rapacious than men in the sixteenth and early seventeenth centuries.³⁷

Throughout the early modern period, the primary moral code was based on the Bible. According to early modern Christian traditions, *all* sexual activity outside of marriage was illicit.³⁸ Ministers and religious moralists argued that the Bible clearly denounced adultery and fornication, those “filthy” and “stinking” sins, and that it was the duty of every Christian to avoid such abominations and to correct them in others.

37 See Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge: Harvard University Press, 1990); Fletcher, *Gender, Sex, and Subordination*, esp. chapters 2–4.

38 However, marriage was not a ticket to unlimited sex with the spouse: there were also regulations within matrimony. In short, according to the church, spouses should only have sex often enough to have children and to keep their fleshly lusts under control: non-procreative sex (mutual masturbation, oral sex, and so on) was also prohibited, although there were some exceptions.

According to the moralists, adultery and fornication also created many social ills: good reputations were lost, as were goods and lands. Furthermore, bastards were born and the “publique and common weal” thus “impouerished,” marriages destroyed, “maidens deflowered, and widows defiled.”³⁹

As with all prescriptive ideals, whether religious or secular, early modern people did not necessarily follow the restrictive rules set down in the Bible and explicated by moralists. In early modern England, people also widely believed that the Scriptural condemnations of sexual transgressions were too harsh and that in fact sexual offenses were not that grave. For example, although rates of bridal pregnancy varied from place to place, about one in every five brides was pregnant at the time of marriage in Elizabethan England.⁴⁰ Moralists often complained about the laxity of their flocks, among whom sexual sins were “counted no sinne at all, but rather a pastime, a dalliance, and but a touch of youth” which was “not rebuked, but winked at: not punished, but laughed at.”⁴¹ Indeed, the church put in a notable effort to deal with sexual sin. Martin Ingram argues that during the period between 1570 and 1640, it became more common for churchwardens to present cases of prenuptial fornication and bridal pregnancy to the church courts. In addition, the sexual morality of the established householders in the communities tended to move in the same direction, so that it became increasingly less accepted to have sex before marriage.⁴²

Many moralists held that chastity (meaning sexual faithfulness to the spouse in this context) was the “principal duty” of both husband and wife and that adultery by either spouse constituted a “breach of wedlocke” and a sin against God.⁴³ In reality, the adultery of the wife was usually regarded as more serious than adultery of the husband, because the social impact was greater when a wife strayed: adulterous wives may bring illegitimate children into the world, break up the family, and bring shame to themselves and their husbands. Laura Gowing, who has studied the church court records in early modern London, finds that while husbands frequently cited the wife’s adultery as a cause for divorce, wives rarely accused their husbands of infidelity, not because their husbands were not having illicit sex, but because male sexual sins were not considered sufficient cause to grant a divorce.⁴⁴

The authors who produced these religious moral instructions were commonly of a Puritan leaning, but the Anglican Church also wanted to ensure that the general populace got a regular dose of moral admonitions. The church provided finished and approved sermons, such as the collection in the work *Certain Sermons and Homilies Appointed to Be Read in Churches* (published in eleven editions throughout the

39 *Sermon Against Whoredom*, 83–4.

40 Ingram, *Church Courts, Sex and Marriage*, 219–37. On the higher rate of bridal pregnancy in the northwestern region of England, see Adair, *Courtship, Illegitimacy and Marriage*, 103–9.

41 *Sermon against Whoredom*, 78–9. See also Gouge, *Domestical Duties*, 216–9; Whateley, *A Bride-Bush*, 2–5; Snawsel, *A Looking-Glasse for Married Folkes*, 75.

42 Ingram, *Church Courts, Sex and Marriage*, 219–37.

43 Gouge, *Domestical Duties*, 216–18; Whatley, *A Bride-Bush*, 2–5.

44 Gowing, *Domestic Dangers*, 219–31. See also Ingram, *Church Courts, Sex and Marriage*, 182–3.

Elizabethan period), which included sermons that denounced illicit sex.⁴⁵ However, the social and political elite that frequented the royal courts do not appear to have received the same admonitions from the court pulpits. Peter McCullough has studied Elizabethan and Jacobean court sermons and has created an impressive calendar of the sermons that the royals and their courtiers attended in the two reigns. In this calendar, only one sermon directly approaches the subject of sexual sin. Courtiers were sometimes reminded of the dangers of excess of apparel and other “courtly vanities,” but one can find a marked lack of express admonitions against adultery and fornication.⁴⁶ This silence on sexual matters becomes especially telling when we consider that the clergymen who delivered the court sermons did not shy away from other sensitive and highly political issues, such as Elizabeth’s marriage, the fate of Mary Queen of Scots, the danger of royal favorites, and controversial points of doctrine.⁴⁷ It suggests that the nobility, in addition to their social and legal privileges discussed in the next section, were *morally* privileged as well: it was not thought appropriate for monarch and courtiers to be told that adultery and fornication were serious sins.

The Legal Landscape

When surveying the early modern legal landscape, it is important to realize that the law was not an objective and static “background” against which the lived experiences of illicit sex can be compared. Rather, it was contentious and often reinterpreted, an ongoing “cultural dialect,” especially since English common law was built on precedence rather than a set law code.⁴⁸ The meaning and purpose of the law was worked out in the process of law, and in general, early modern English society was very litigious, where people of most classes availed themselves of the wide array of law courts. Fornication, adultery, and illegitimacy were legally punishable acts throughout the early modern period. However, the early modern laws on sex and reproduction were often vague, contradictory, and elastic, especially since it was not always clear who had jurisdiction over these offenses.

Before looking at the laws dealing with sex *outside* of marriage, it is useful to consider briefly the early modern laws on marriage. Throughout most of the early modern period, English civil law only required a verbal expression of consent of both parties, spoken in the present tense (*per verba de praesenti*), in order for

45 The 1562 preface included a commandment from the queen to “all Parsons, Vicars, Curates, and all others having spiritual cure” to “read and declare unto their parishioners plainly and distinctly one of the said Homilies” on every Sunday with the exception of those days when a special sermon was scheduled. *Certain Sermons and Homilies*, preface.

46 Peter McCullough, *Sermons at Court: Politics and Religion in Elizabethan and Jacobean Preaching* (New York: Cambridge University Press, 1998).

47 *Ibid.*, intro.

48 Herrup argues that the enforcement of law is “a forum of cultural interaction.” Cynthia Herrup, *A House in Gross Disorder: Sex, Law and the Second Earl of Castlehaven* (New York: Oxford University Press, 2001), 6–7. See also Walker, *Crime, Gender and Social Order*, 7; Stretton, *Women Waging Law in Elizabethan England*, 4–5.

a marriage to be valid. For example, the medieval tradition of spousals – which lived on in the northwestern parts of England in the early modern period – could be interpreted as a valid marriage. (A spousal was a ceremony in which a couple pronounced their intentions to be husband and wife, usually in front of family and witnesses, and exchanged gifts, such as rings.)⁴⁹ If the couple used future tense (*per verba de futuro*), the consent was rather a promise of marriage and did not constitute a marriage in itself. Consummation was an important part of sealing the marriage, but according to Thomas Ridley's *A View of the Civile and Ecclesiastical Law* (1676), it was not necessary for the validity, and neither was exchange of gifts or payment of a dowry.⁵⁰ However, these were areas of great contention: women who sued men for breach of promise or abandonment often pointed to gift exchanges and sexual intercourse as proof of their marriage or promised marriage.⁵¹ The importance of consummation was definitely a contested area. King James, who attempted to clarify the laws on marriage, argued in 1613 that an unconsummated marriage was invalid. On the continent, the Council of Trent (1563) reformed marriage law, strengthening the power of the Catholic Church by requiring that a wedding had to be performed in public before a priest. In contrast, the civil law in England did not change until the passage of Lord Hardwick's Marriage Act in 1753, when a valid marriage required a church ceremony after due publications of banns and a marriage license.⁵² Theoretically, consent alone continued to be the only requirement for a legal marriage throughout the early modern period.

In practice, however, the Tudor and Stuart church had managed to override the civil law by enforcing their role in the ceremonies of marriage (with encouragement from the monarchs, the heads of the Anglican church). In some parts of the country, couples still used spousals as the sole marital ceremony, but increasingly, "when most people of whatever social rank thought and spoke of 'marriage,' they usually meant marriage in church."⁵³ Of course, many desired the Christian sanctification

49 Adair, *Courtship, Illegitimacy, and Marriage*, 226–7.

50 Thomas Ridley, *A View of the Civile and Ecclesiastical Law: and Wherein the Practice of them is Streitened and May be Relieved Within this Land* (Oxford: 4th ed., 1676), 72.

51 See for example Gowing, *Domestic Dangers*, 139–79.

52 The act also required that persons under twenty-one years of age had to have the consent of parents or guardians; it was designed to put an end to clandestine marriages. Reginald Haw, *The State of Matrimony: An Investigation of the Relationship between Ecclesiastical and Civil Marriage in England after the Reformation, with a Consideration of the Laws Relating Thereto* (London: S.P.C.K., 1950), 150.

53 Ingram, *Church Courts, Sex and Marriage*, 132. In the second part of Mary Wroth's romance *The Countess of Montgomery's Urania*, the two main characters perform what appears to be a spousal ceremony. The two lovers tie "the knott never to bee untied," and the author explains that it was "nott as an absolute marriage though as perfect as that, being onely an outward serimony of the church, this as absolute before God and as fast a tiing, for such a contract can nott bee broken by any lawe whatsoever." Wroth thus conveys the idea that spousals were promises before God, but since they were not performed in church, they were perceived as less "absolute," i. e. less legally binding than a church wedding. This is especially interesting considering that the two lovers both went on to marry others even after this ceremony. Mary Wroth, *Second Part of the Countess of Montgomery's Urania*, Josephine Roberts, Suzanne Gossett, and Janel Mueller, eds. (Tempe, AZ: Renaissance English Text Society in conjunction with Arizona Center for Medieval and Renaissance Studies, 1999), 45.

of their marriage in church, but a church wedding served more practical purposes as well. For example, sixteenth-century lawyers began to insist that certain property rights hinged on the production of evidence of a church wedding. Should the union ever be questioned, a church wedding thus presented more solid proof of marriage than a spousal, a consideration that was important for property holders.⁵⁴ Unions within the aristocracy, especially during Elizabeth's reign, were much more secure if their wedding was public and had the royal blessing. Noblemen and women who contracted secret or clandestine marriages displeasing to Elizabeth often found themselves either declared unmarried or banned from court, cut off from royal favor.⁵⁵ According to Ridley, nobles marrying were required to have a bishop or a minister perform the service, to have at least three witnesses, and "have a remembrance thereof be left in writing, and kept with the Monuments of the Church."⁵⁶

The conflict between law and practice created problems that were especially visible in the cases tried in ecclesiastical courts, where people sued for breach of contract of marriage. Even though civil law upheld consent alone, the church courts found it difficult – and disrupting – to enforce what often amounted to one person's word that there had been *verba de praesenti* when the other was adamant that it merely had been a promise of marriage in the future, but that he or she had now changed their mind.⁵⁷

If the creation of marriage was fraught with uncertainty, its dissolution could be just as complicated. In theory, marriage was a permanent bond that only could be severed by the death of a spouse. In practice, marriages sometimes did not work out. In cases of adultery or extreme cruelty, it was possible to obtain a divorce through the ecclesiastical courts. However, the divorce only constituted a separation from bed and board (*divortium a mensa et thoro*) and did not allow either of the parties to remarry during the lifetime of the other spouse.⁵⁸ There seems to have been some confusion about remarriage in the latter part of the sixteenth century: some interpreted the divorce as a complete dissolution of the marriage and thus believed that remarriage was legal; others argued that the innocent party should be allowed to remarry. The church canons of 1598 (which were promulgated by a council of prominent churchmen appointed by the monarch) were designed to clarify the situation and stated that "there shall be a warning and prohibition that the parties so separated [from bed and board] shall live chastely, neither shall they contract another marriage while the other party is alive."⁵⁹ The issue re-emerged again in

54 Ingram, *Church Courts, Sex and Marriage*, 132.

55 For example, Catherine Grey and Hertford and also Catherine's sister Mary Grey, who secretly married a commoner, a Lt. Keyes, and was consequently imprisoned. Robert Dudley, the Earl of Leicester, Elizabeth's longstanding favorite, secretly married Lettice Knollys in 1578, after he had given up all hope of marrying Elizabeth herself. Elizabeth was furious when she found out about the marriage, and Dudley was exiled from the court for a time.

56 Ridley, *A View of the Civile and Ecclesiastical Law*, 77.

57 See chapter 5, "The Economy of Courtships," in Gowing, *Domestic Dangers*. See also Ingram, *Church Courts, Sex and Marriage*, 189–218.

58 Haw, *The State of Matrimony*, 43.

59 The Canons of 1598, in Gerald Bray, ed., *The Anglican Canons, 1529–1947* (Woodbridge: Boydell Press, Church of England Record Society, 1998), 243.

the Canons of 1604, when the separated parties also were required to give “good and sufficient caution and security into the court” that they would not remarry.⁶⁰ The clarifications of the Canons notwithstanding, remarriage after a separation from bed and board continued to be a contested issue, especially since other Protestant countries allowed complete divorces.⁶¹ A law of 1604 declaring bigamy a felony added to the general confusion. The law stipulated that the death penalty for the crime of bigamy did not apply in cases where one of the parties had been divorced. In other words, the Parliamentary lawmakers were not prepared to declare with certainty that a marriage after divorce was illegal.⁶² Private separation agreements were not acceptable to the church or the courts, but were doubtless a rather common way to dissolve the relationship, especially for the upper classes who had more than one place of residence.⁶³

Unlike a divorce from bed and board, an annulment completely dissolved the marriage and left both parties able to marry again. An annulment in essence declared a marriage invalid: for whatever reason, the parties had been unable to create a marriage bond and there was therefore nothing to dissolve. The church courts could declare a marriage annulled if it could be proven that one or both parties were under-age, suffered from permanent frigidity or impotence, had a prior contract with another person, or if the spouses were related within prohibited degrees.⁶⁴ Since an annulment allowed remarriage, some preferred it before the vagaries of divorce. Henry VIII, in his desperate attempts to produce heirs, certainly found annulment a convenient way to rid him of the – in his eyes – unattractive Anne of Cleves.⁶⁵

60 The Canons of 1604, *ibid.*, 407.

61 In fact, England was the only Protestant country that did not allow full divorce. The great reformers on the continent, such as Calvin, Luther, and Zwingli, argued that marriage could be dissolved since it was not a sacrament. Furthermore, if parties were not allowed to remarry, the chances that they would sin were too great. Stone, *Road to Divorce*, 301. See also Robert M. Kingdon, *Adultery and Divorce in Calvin's Geneva* (Cambridge: Harvard University Press, 1995) on the reformer's stance on divorce.

62 *Statutes of the Realm*, (London: Dawson, 1817; reprint, 1963), v. 4, 1028 (1 James I, c. 11, 12).

63 There are several examples of aristocratic couples who separated in the period 1560 to 1630, both temporarily and permanently: the earl and countess of Shrewsbury, the Lord and Lady Norreys, Lady Hatton and her husband Sir Edward Coke, the earl and countess of Oxford, the earl and countess of Cumberland, and the earl and countess of Northumberland. Robert Snawsel, in his *A Looking-Glasse for Married Folkes* (London, 1631), suggests that private separations were not uncommon. He admonished an unhappy wife: “You must not thinke to be separated from him, as a great many doo, if so bee they cannot agree upon everything, then straight nothing but separation.” Furthermore, “consider with yourself how frivolous a thing it is for a woman to be divorced from her husband with so many inconveniences follow of it.” Snawsel, *A Looking-Glasse for Married Folkes*, 77. A sermon on whoredom also complained about “the divorces that are nowadays so commonly accustomed and used by men's private authority.” *Sermon Against Whoredom*, 87.

64 Haw, *The State of Matrimony*, 94–5.

65 His marriages to Catherine of Aragon and Anne Boleyn were also annulled, but in those dissolutions there were many different aspects at stake, whereas the Cleves annulment was simply a way to get rid of an unwanted wife.

Fornication, adultery, and bastard-bearing and -begetting were all closely related sexual sins: they were therefore often lumped together in the legal language as “incontinencie” and also punished similarly. Bastardy was considered the most problematic of the three, since illegitimate offspring usually had direct economic and legal consequences. In theory, sexual offenses fell under the jurisdiction of the ecclesiastical courts. The churchwardens were responsible for presenting parishioners who partook in lewd behavior and any “uncleanness and wickedness of life,” which included offenses such as fornication, adultery, incest, bridal pregnancy, and bastardy, to the ecclesiastical courts.⁶⁶ Historian Martin Ingram aptly argues that the churchwardens were by no means a spying “sex-police” who actively went looking for sexual offenses, but rather merely presented the most “notorious cases” with ample evidence and those “which most respectable householders would have regarded as worthy of discipline.”⁶⁷ The church courts were not allowed to mete out corporal punishment, but instead focused on having offenders admit their offense and give public penance. The penitent would wear a white sheet and confess his or her sins in front of the community, either in church or on market day or in some cases both.⁶⁸ After penance, the offender could be reintegrated into the community of Christians, at least theoretically.

Sexual offenses could also be punished under secular law: fornication, adultery and bastardy could all be prosecuted under the heading of breaking the peace. According to Keith Thomas, the secular jurisdiction “usually rested on local custom, but was occasionally recognized by royal charter, as at Boston, where Elizabeth I gave the mayor and burgesses authority to punish whoremongers, panders, and ‘all others whatsoever living lasciviously and incontinently.’”⁶⁹ Furthermore, a 1576 statute left to the discretion of the justices of the peace (JPs) the punishment of parents of bastard children, as well as created measures to provide for the illegitimate offspring.⁷⁰ The statute was part of the Elizabethan Poor Laws, designed to keep parishes from having to pay for poor bastard children, so that they could instead focus their attentions on the “Relief of the impotente and aged true Poore.” The most common punishments for sexual offenses were stocking or whipping, but the JPs could also imprison persons who defaulted on payments when they had been ordered by the court to maintain an illegitimate child.⁷¹ James reenacted the Elizabethan poor laws in 1603, and in 1609, a new, harsher, statute required “every lewde Woman”

66 Canon 109 of the 1604 Canons, which was a reiteration of the 1598 Canons. Bray, *Anglican Canons*, 409.

67 Ingram, *Church Courts, Sex and Marriage*, 279. Ingram is here arguing against Lawrence Stone, who interprets the church court’s activity as proof of the non-existence of privacy in the early modern period. See Stone, *The Family, Sex and Marriage in England 1500–1800* (New York: Harper and Row, 1977), 144–5.

68 Ingram, *Church Courts, Sex and Marriage*, 280; Quaife, *Wanton Wenches and Wayward Wives*, chap. 5.

69 Keith Thomas, “Puritans and Adultery: The Act of 1650 Reconsidered,” in D.H. Pennington and Keith Thomas, eds., *Puritans and Revolutionaries: Essays in Seventeenth-Century History Presented to Christopher Hill* (Oxford: Clarendon Press, 1978), 266.

70 *The Statutes of the Realm*, v. 4, part 1, 610 (18 Eliz. 1, c. 3).

71 *Ibid.*

who had bastards for whom the parish was paying to be sent to “the Houses of Correccion” for the period of one year. Even if the parish did not provide for the child, the JPs still had considerable leeway in the decision if and how to punish the parents.⁷²

Although cases of illicit sex could be presented to both secular and ecclesiastical courts, no comprehensive study exists that shows whether or not it was common for offenders to come in front of both courts for the same crime. The overlapping jurisdictions do not appear to have caused any major contention between the JPs and the ecclesiastical judges. G.R. Quaife argues that the two authorities even worked together in some instances, sending one party – usually the man – to the ecclesiastical court for punishment when he refused to admit guilt in the secular court.⁷³ Keith Thomas has found some evidence to the contrary, where ecclesiastics complained that overzealous JPs were infringing on their jurisdiction.⁷⁴ Conflict and cooperation probably differed from locale to locale, and perhaps depended on the personalities of the persons in the powerful judicial positions.

In regard to illegitimacy, further complications abounded: church and civil law did not agree on the very definition of illegitimacy. Civil law considered all those children born to a woman and man who were not lawfully married to each other as illegitimate and all parents of illegitimate children could be subject to secular punishment. By contrast, the church made a distinction between “general bastardy” and “special bastardy.” When the parents did not marry after the birth of the child, the church termed it general bastardy. However, if the parents did marry – it did not matter if they were contracted or not at the time of the birth of their child – the church considered these instances to be special bastardy. The church and the ecclesiastical courts viewed children born to parents who eventually married as legitimate from the time of marriage. However, the parents might be presented in front of the church court and punished for their sexual offense of prenuptial fornication.⁷⁵

There were further complications, and they all seem to point to the wish to term the child legitimate if at all possible, since doing so upheld the secure transfer of property and minimized social upheaval. For example, if a married couple had a child and it was then discovered that their marriage was invalid for whatever reason (such as pre-contract or consanguinity, or even bigamy), as long as at least one of the partners had entered into the marriage without knowledge of the problem, the child was considered legitimate. Furthermore, if a married woman had a child even though her husband was long absent, chances were good that the child could still be considered legitimate. Some went so far as to state that the child was legitimate “as long as the father was alive and in England.”⁷⁶ Likewise, a widow who gave birth to

72 Ibid., v. 4, part 2, 1161 (7 James 1, c. 4). See also King, “Punishment for Bastardy,” 132–4.

73 Quaife, *Wanton Wenches and Wayward Wives*, 221. Ingram also judges that “the church courts’ jurisdiction over sexual offenses had suffered little encroachment from the temporal courts.” Ingram, *Church Courts, Sex and Marriage*, 238–9.

74 Thomas, “Puritans and Adultery,” 266–7.

75 Richard Burns, *Ecclesiastical Law* (London: Strahan and Woodfall, 1788), v. 1, 117–19.

76 Ibid., 110.

a child could claim that her dead husband was the father as long as it was born within eleven months of the death.⁷⁷

Most historians of illegitimacy agree that the primary concern of JPs and church courts was the financial settlement for the provision of the child.⁷⁸ Walter King argues that the laws and their implementation definitely were geared towards controlling “pauper bastardy” rather than “bastardy per se,” an argument that is certainly supported by the fact that the problem of bastardy was addressed in the Elizabethan Poor Laws.⁷⁹ The primary financial responsibility for maintaining bastards fell on parents and on the immediate families of parents. If a person or persons had aided or abetted parents of illegitimate children, or helped or encouraged one party to flee and leave the other with the sole responsibility for the child, they could be made responsible for the maintenance as well. If none of these options existed, the parish would be required to maintain the illegitimate child. Since it was the parish in which the child was either born or conceived that became responsible for its welfare, authorities actively discouraged people from taking in a pregnant woman from the outside.⁸⁰

Even though the punishment of bastardy appears to have been based primarily on economic concerns, no easy separation between economy and morality existed in early modern England. Elizabethans commonly linked economic failures and crises to the moral ills of greed, overspending, and social climbing, primarily because they did not fully grasp the workings of inflation on the economy.⁸¹ When poor bastard-bearers and begetters threatened the economic well being of the parish, they were likewise viewed as behaving in an immoral way, disrupting and creating hardship for the community.⁸²

Apart from the economic emphasis on punishments for bastardy, historian Walter King also suggests that men and women were punished differently for bastardy in his study of Lancashire, Somerset, Warwickshire, and Hertfordshire. Secular and ecclesiastical courts tended to punish women more on moral grounds for their sexual transgression, whereas they punished men “for failing to provide sureties to free parishes of the cost of maintaining the children.”⁸³ This discrepancy is of course obvious in the 1609 law that requires only mothers to be incarcerated. The logic

77 Ridley, *A View of the Civile and Ecclesiastical Law*, 72.

78 See Ingram, *Church Courts, Sex and Marriage*, 261–4, 276; Quaife, *Wanton Wenches and Wayward Wives*, 225–42. See also Karla Oosterveen, Richard Smith, and Susan Stewart “Family Reconstitution and the Study of Bastardy: Evidence from Certain English Parishes,” in *Bastardy and its Comparative History* (Cambridge: Harvard University Press, 1980), Oosterveen, Smith, and Stewart, eds., 111–13; David Levine and Keith Wrightson, “The Social Context of Illegitimacy in Early Modern England,” in *Bastardy and Comparative History*, 162; Alan MacFarlane, “Illegitimacy and Illegitimates in English History,” in *Bastardy and Comparative History*, 73–4.

79 King, “Punishment for Bastardy,” 131.

80 *Ibid.*, 131–2. See also Quaife, *Wanton Wenches and Wayward Wives*, 212–15.

81 Norman Jones, *The Birth of the Elizabethan Age: England in the 1560s* (Cambridge: Blackwell, 1993), chapter 10.

82 Ingram, *Church Courts, Sex, and Marriage*, 160.

83 King, “Punishment for Bastardy,” 140.

behind the law was that it would act as a deterrent for women, but that it was not good policy to incarcerate men, since they could not earn money to provide for the child if they were imprisoned. (Even among the imprisoned women, the authorities sometimes found it prudent to shorten the term, so that the women could take care of their illegitimate children.) Before the 1609 provision to send offenders to the house of correction, King argues, the rate of punishment (whipping or stocking) was roughly even for both men and women. When the punishment changed to incarceration, an overwhelming majority of those punished were women. Quaife, who also studies the actions of the secular courts, finds that in Somerset corporal punishments in both periods were most commonly inflicted upon the woman, whereas the man might be ordered to pay maintenance, but was only rarely whipped. (This is in accord with King's statistics on Somerset.) The punishments were performed on the busiest hour of market day, and the woman was usually required to strip to the waist and then be whipped through the streets of the town or village. The specificity of time and place was intended to inflict maximum public humiliation and thus both punish the offender and deter others from falling into sin as well.⁸⁴ In other words, mothers of bastard children carried the brunt of the moral and social stigma, whereas fathers escaped the social stigma but were responsible for the economic problems caused by their actions.

Indeed, the morality of the members of the community was important for the well being of the community as a whole. If immoral and sinful behavior such as fornication and adultery was allowed to go unchecked and unpunished, some, especially ministers, pointed out that divine punishment of all would surely follow.⁸⁵ However, the religious notion that all, regardless of social status or gender, were spiritually equal before God conflicted with the moral privilege accorded to the nobility. While commoners could be brought to perform public penance for their sexual sins in order to cleanse their local community, the nobility could not be brought to answer for their sexual sins in such a public manner.

The Elizabethan and early Stuart period witnessed an ongoing debate about what constituted the proper punishment of adultery and fornication. Many thought that the ecclesiastical penance was too lenient. Some argued that adultery was a grave kind of theft and should be punished as harshly: with death. Ecclesiastics, especially of a Puritan persuasion, argued that the Bible clearly prescribed the death penalty for adultery.⁸⁶ The authors of the *Reformatio Legum Ecclesiasticarum* (1552) wanted the adulterer to suffer perpetual imprisonment or exile, forfeiture of all property rights gained by marriage, and if by the husband, half of all his goods went to the wife.⁸⁷ The reform attempts were unsuccessful: the intervening period of the reign of Catholic queen Mary initially hindered further reform. When Elizabeth came to

84 Quaife, *Wanton Wenches and Wayward Wives*, 216–20.

85 Thomas, "Puritans and Adultery," 263.

86 Adultery was punishable with death in reformed Geneva, although the death sentence was not applied very often. Kingdon, *Adultery and Divorce in Calvin's Geneva*, 116–42.

87 Edward Cardwell, ed., *The Reformation of the Ecclesiastical Laws as Attempted in the Reigns of King Henry VIII, King Edward VI, and Queen Elizabeth* (Oxford: Oxford University Press, 1850), 49–58.

the throne, her relatively conservative religious settlement would not accept the reformers' more radical suggestions, especially since the *Reformatio* was a "package deal" which looked to the entire role and nature of church law, not just sexual morality. The Convocation of 1563 also proposed "sharper laws" for adultery, fornication, and incest, but they came to naught as well.⁸⁸ The question of the *Reformatio* was briefly brought up again in the Parliament of 1571, but the committee established to examine the issues "fell rather upon examining other matters of religion already established, which gave the queen great offence."⁸⁹

Some wanted to change civil law as well. Throughout the sixteenth and early seventeenth century, many bills were introduced into the Parliament to make the punishment for adultery stricter, but up until 1650, they all failed. In 1534, 1549, 1576, 1601, 1614, 1621, 1626, and 1628, various members of parliament introduced bills which all required a more severe punishment for adultery. The suggestions ranged from allowing the innocent party to remarry, to a guilty wife losing her right to dower or jointure, a guilty husband losing his right to his wife's lands, and fines and whipping.⁹⁰ The fact that the bills did not pass suggests a reluctance to make adultery and fornication a criminal offense in the civil courts. In theory, people agreed that fornication and especially adultery needed to be punished more severely, but in practice, the bills failed because there was no agreement on what constituted an appropriate punishment. Furthermore, questions of jurisdiction and privilege often presented a stumble block. For example, in 1601, a bill was read that provided that adulterers should lose their "tenancy in dower" (if a woman) and "tenancy by courtesie" (if a man), but the members of the houses rejected it because they did not wish to have ecclesiastical judges decide on "Lay-mens inheritances."⁹¹ The reluctance and disagreements also suggests that the privileged men who sat in the houses of parliament did not wish to pass laws that might affect them or their families negatively.

In 1650, when Puritans were in power in the Parliament and King Charles was dead, a new act made fornication and adultery felonies. The act had taken ten years to pass and was part of a larger Puritan agenda to create a godly government where secular courts could punish moral sins, which also included swearing and drunkenness. Fornication was punished with three months in jail and adultery brought death to the convicted offender. Even though ministers who proponed the death penalty for adultery argued that adultery in the husband and adultery in the wife was equally reprehensible, the act defined adultery as adultery of the wife and her lover. Adultery of the husband was punished as fornication (unless the woman with whom he had sex was married, in which case he was guilty of adultery as well).

88 Thomas, "Puritans and Adultery," 264.

89 Cardwell, *The Reformation of the Ecclesiastical Laws*, iii-v.

90 Simonds D'Ewes, *A Compleat Journal of the Votes, Speeches and Debates, both of the House of Lords and House of Commons throughout the Whole Reign of Queen Elizabeth, of Glorious Memory* (Wilmington, Del.: Scholarly Resources, 1974), 641; Robert Johnson and Maija Jansson Cole, eds., *Proceedings in Parliament 1628* (New Haven: Yale University Press, 1977), v. 2, 323, 329, 330-2, v. 3, 22, 26, 30, 34, 37; Thomas, "Puritans and Adultery," 273.

91 D'Ewes, *A Compleat Journal*, 641.

The act of 1650 was only in effect for about a decade and the burden of proof so heavy that it was only rarely enforced. In the larger scope of legal punishments for illicit sex during the early modern period, the act of 1650 was an anomaly.

In the cases of noble illicit sex that I have come across during the course of my research, only one instance of adultery led to prosecution in the ecclesiastical court of High Commission. As a rule, churchwardens did not present the nobility in ecclesiastical courts, and JPs did not prosecute them for adultery or fornication. Instead, their sexual offenses were usually punished directly by the monarch, usually by imprisonment, banishment from court, or simply fall from royal favor. The ecclesiastical punishment of penance was largely viewed as inappropriate for persons of high standing: a nobleman or noblewoman should not be on public display and shamed in such a manner. For example, in the bill of 1628, the noble privilege was clearly stated: the suggested penalty for fornication and adultery was whipping, but “those of noble or gentle blood” were to pay a rather hefty fine instead (one hundred marks for adultery and fifty pounds for fornication).⁹²

Furthermore, people who could afford to take care of their illegitimate offspring were less likely to be punished, at least in the secular courts. The nobility, who enjoyed high social status and wealth, in essence stood above the laws that ruled the lower classes.⁹³ The legal prohibition that concerned the illegitimate children of the aristocracy was that of exclusion from title and inheritance. According to both civil and ecclesiastical law, a bastard could not inherit from his parents “in Goods or Lands, unless there be some other collateral provision made for the same, for that all such laws and statutes as are made to any of these purposes, were intended to the benefit of such as are legitimate.”⁹⁴ In reality, illegitimate children did often inherit after their parents, but it required specific stipulation in wills and in some cases some very imaginative and astute legal wrangling.⁹⁵ The sixteenth-century moralist John Ferne also outlined other prohibitions that concerned the illegitimate child: they could not serve as notaries, or registrars to any court or judge, they were not “competent witness[es]” in a lawsuit, and in addition to not being able to reach the degree of doctor at the university, they could not perform “anye spirituall

92 The fines rose for repeat offenders: 200 marks for the second offense, 300 marks for the third, and so on. Johnson and Jansson, *Proceedings in Parliament 1628*, v. 2, 329.

93 Gary Waller, *The Sidney Family Romance: Mary Wroth, William Herbert, and the Early Modern Construction of Gender* (Detroit: Wayne University Press, 1993), 125–6.

94 Ridley, *A View to Civile and Ecclesiastical Law*, 352–3. See also John Ferne, *The Blazon Of Gentry* (London: 1586), 279; and Stone, *Family, Sex, and Marriage*, 30.

95 For example, Sir Robert Dudley, illegitimate son of the earl of Leicester and Douglass Lady Sheffield, was mentioned in the wills of both his parents. PRO Probate 11.113.29; John Temple Leader, *Life of Sir Robert Dudley, Earl of Warwick and Duke of Northumberland* (Florence: G. Barbera, 1895), appendix I, 159–66. Sir Walter Raleigh made provisions in his will for his illegitimate daughter in Ireland. Agnes Latham and Joyce Youings, eds., *The Letters of Sir Walter Raleigh* (Exeter: University of Exeter Press, 1999), appendix 2, 381–6. The earl of Essex made provisions for his illegitimate son Walter in an indenture of property. PRO SP 12/253/36. The earl of Devonshire went to great lengths to bypass his common law heir to ensure that his illegitimate children with Penelope Rich received the lion’s share of his wealth. PRO Probate 11.108.51.

office in the Church.”⁹⁶ Ferne also claimed that bastards were not supposed to take the family name of their fathers or use the father’s coat or arms. However, he reluctantly admitted that the custom of allowing bastards to bear the coat of arms of their fathers, albeit with a mark of difference indicating their illegitimate birth, was rather common.⁹⁷ Furthermore, against the prescriptions of Ferne, many illegitimate children appear to have used their fathers’ last name.⁹⁸ An illegitimate aristocratic child in a sense defeated the most important purpose of noble children: to occasion the transfer of property and title. For example, William Herbert, whose legitimate children died in infancy, left his estate to his brother rather than to his illegitimate son.⁹⁹ Simultaneously, aristocratic bastard children had a social advantage because of their parentage. Paradoxically, the noble ideal that emphasized the importance of noble ancestry and bloodlines and thus laid the foundation for the legal restrictions also allowed illegitimate children to become part of noble society, since they shared the noble blood.

96 Ferne, *The Blazon of Gentry*, 283.

97 *Ibid.*, 283, 288.

98 For example, William Herbert used the last name of his father and namesake, William Herbert, earl of Pembroke. So did Walter Devereux, illegitimate son of Robert Devereux, earl of Essex, and Robert Dudley, illegitimate son of Robert Dudley, earl of Leicester, and Mountjoy Blount, illegitimate son of Charles Blount, earl of Devonshire.

99 Josephine Roberts, intro and ed., *The Poems of Lady Mary Wroth* (Baton Rouge: Louisiana State University Press, 1983), 25.