

# A REINTERPRETATION OF LADY ANNE CLIFFORD: FROM IDEALIZED GENDER WARRIOR TO EXCEPTIONAL LITERARY BUREAUCRAT

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Lady Anne Clifford finally had the time to sit down and record the events of her day. She opened her diary to the next blank page and put quill to paper.

*Saturday, 18<sup>th</sup> January, 1617*

*...My Lord & I... [were] brought into the King being in the drawing Chamber ...[we] kneeled by his chair side when he perswaded us both to peace & to put the matter wholly into his hands, which my Lord consented to; but I beseech'd His Majesty to pardon me for that I wou'd never part with Westmorland while I lived upon any Condition Whatsoever. sometimes he used fair means & perswasions, & sometimes fowle means but I was resolved before so as nothing wou'd move me.<sup>1</sup>*

Did Lady Anne make a mistake on her decision? Should she have accepted the Award offered by the King, thereby putting the whole matter to rest, or should she continue to fight for an outcome she prefers? After all, she would never give up her lands; they were her ancestors', her father's, and now rightfully hers.

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<sup>1</sup> Anne Clifford, *The Diary of Anne Clifford 1616–1619*, ed. Katherine Acheson (New York: Garland Publishing, Inc.), 66.  
**Note:** “Lord” refers to Anne’s husband, Richard Sackville.

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## Introduction

Women throughout history have always been studied as daughters, mothers, wives, and widows, their gender seen as an inherent aspect of their personhood. Every time a woman was characterized for her achievements or abilities, it was done primarily through the lens of gender—the very achievements she was recognized for were of an exceptional nature simply because they were performed by a woman—and this consequently, although unintentionally, diminished the value and worth of each independent accomplishment. One of these exemplary women is Lady Anne Clifford, Countess of Dorset, Pembroke, and Montgomery, and the focus of this paper. Clifford is predominantly recognized for the long and arduous legal battles she fought in court and against King James I in an attempt to rightfully gain her inheritances—her share of the properties, estates, and titles left behind after her father's death. Although her father had willed her a relatively small sum of money for a marriage portion, he left the entirety of his estates and its titles to his younger brother, her uncle. Anne believed that since she was the rightful heir and sole child of her father, she should have come into possession of these lands after he died.

Since a more focused study on Lady Anne began in the early 1990s, historians have been swift to jump onto the gender-argument bandwagon, crediting Anne with pursuing an exceptional feat. She fought for property as a woman in a society that favored men legally, especially within the area of property, inheritances, heirs, and family lineages. Anne was immediately labelled a proto-feminist and gender warrior since she chose to resist a society that restricted her ability to inherit and hold property solely because of her position as a woman. She was also deemed an ideal example of the types of achievements women of her time could accomplish despite their gendered, and therefore synonymously passive, role within society. This essay will illustrate that such an approach is misogynistic in itself. It diminishes the value of Anne's, or any other woman's, singular achievements by weighing its worth exclusively through the fact that these accomplishments were done by a person despite the gender limitations imposed by society. Many women, especially those of an aristocratic stature, were not helpless or subordinate during the early modern period of England, but rather powerful and influential landowners who received, held, and transferred lands and properties far more commonly than was assumed. This essay proposes that Lady Anne Clifford was exceptional in a distinctive way. She was a literary bureaucrat, a woman who chose to compile and publish a large number of personal and official documents in an attempt to record the events and struggles of her life. In fact, it is principally for this reason that feminist and gender historians and scholars have been able to learn so much about Anne in the first place, and ironically, to justify the arguments they have created in regards to her. It is only unfortunate that in Anne's attempts to leave behind her own sources for the future, she has been subjected to a narrowed assessment of understanding, the value of her accomplishments misinterpreted, and the truth of her story inaccurately studied for decades.

Lady Anne was not an exceptional individual when it came to legal disputes surrounding property, or as a person who chose to devote her life to fighting for what she believed was right despite the shortcomings her gender implied. In this context, she was certainly not an example of female remarkability whose accomplishments as an emerging gender warrior need, or even should, be celebrated. In fact, several records provide examples of many other women who pursued similar, if not the same, legal disputes as Anne, and in doing so, can no longer place Anne at the forefront of resistance and innovation for women's legal rights. One of the most prominent examples of precedent for Anne's case is Lady Mary Fane (*née* Neville), a distant and earlier relative of Anne herself, who similarly fought against both her uncle and male cousin for a barony inheritance from her father.<sup>2</sup>

This paper will draw from Clifford's own diary and published works among other primary sources to prove that what Lady Anne is known for was not that uncommon at all. Many women were heirs, usually because they were the sole child to their father's property and wealth, and similarly to Anne, many of them were passed over for younger male siblings or other male relatives in the family. Most significantly, a number of these women, not just Anne, who found themselves in this circumstance also fought for their inheritance by law. This argument will be further supported by examples and quantitative data from more contemporary scholarship, such as Eileen Spring's *Law, Land, and Family*, and Amy Louise Erickson's *Women and Property in Early Modern England*. Additionally, this essay will be in conversation with secondary sources that do perpetuate Lady Anne's position

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2 See Appendix I: Extended Family Tree of Lady Anne Clifford.

as a gender warrior, and as a woman who not only engaged in legal battles because she believed she was entitled to what was at stake, but who was also then praised for such actions because of her gender designation.

Finally, this essay will endeavor to propose what the consequences of this study of Lady Anne Clifford entails. Through the evidence that will be examined, along with support and dialogue from contemporary gender historians such as Helen Smith, Katherine Larson, and Marion Wynne-Davies, there is a greater assessment to be made for the future direction this field may follow. Realizing that Clifford is only one example of hundreds, and maybe even thousands, of women who were all heavily involved in society in some way leaves one wondering if there is anything to be said about exceptional women at all, or at least for a relationship between “exceptionality” and the construct of gender, and the consequences of such a connection in historical study. Of course, while this does not diminish the individual achievements of each woman, it does champion a new perspective for study. The fact that so many women could and did do things that have for centuries been attributed to an extraordinary handful only proves that the study of women as a social distinction may not be such an effective notion to begin with. Taking individuals out of history, grouping them under “women,” and then attempting to reposition them back within the historical narrative will always leave them somewhat disconnected and the general picture incomplete. Rather, this field of history must integrate women from the beginning, giving them equal study and thus ensuring that they are not viewed solely through, or because of, their gender.

## Historiography

The historiography surrounding Lady Anne Clifford has been long and varied. Due to readily accessible sources such as Anne’s own diary, for decades, historians have revisited her life and her struggles, attempting to uncover some new truth or intending to reinterpret her historical narrative. Anne’s diary was first brought to the awareness of twentieth century readers by Vita Sackville-West, who, as it turns out, descended from Anne’s husband’s brother, Edward Sackville. Sackville-West published an edition of Anne’s diary with a long preface (in 1923), and from this moment on presented Anne as a role model figure, finding solace in Anne’s past experiences since she too was similarly disposed of her own property inheritance, Knole House.<sup>3</sup>

However, Anne’s position in gender history and literature became especially prominent in the late 1980s and early 1990s, when feminist scholars of early modern England turned to studying Clifford as a proto-feminist figure. One of the first introductions of Anne into academic study was by Renaissance scholar Barbara Kiefer Lewalski in *Writing Women in Jacobean England*. In her fifth chapter titled “Claiming Patrimony and Constructing a Self: Anne Clifford and Her *Diary*,” Lewalski discusses the extent to which Lady Anne, along with her mother Margaret Clifford, “contested Jacobean patriarchal ideology” of the time, going so far as to assert that Anne believed her goals “against the many earthly patriarchs who oppressed them” were divinely supported and justified.<sup>4</sup> In another article titled “Re-writing Patriarchy and Patronage” published in *Patronage, Politics, and Literary Traditions in England, 1558–1658*, Lewalski argues that both Anne and Margaret set “themselves against the entire Jacobean patriarchy: male relatives, their husbands, court society, the Archbishop of Canterbury, and King James himself.”<sup>5</sup> She substantially and directly states that Anne’s diary “offer[ed] a proto-feminist challenge to ideologies and institutions at the center of Jacobean culture, patriarchy and male patronage.”<sup>6</sup> Lewalski’s position and argument makes it clear that Anne’s introduction into scholarship was immediately studied through a gendered perspective. Anne was a designated role model and feminist figure from the beginning, and this early categorization has propagated both Anne’s story as well as an inaccurate understanding of her achievements to the present day.

Following Lewalski, other feminist scholars such as Lisa Klein also began to look at Anne primarily through a matriarchal position, painting Anne as an influential woman who used her legal battles as a way of

3 This is interesting to note as Anne’s diary is commonly referred to as *Knole diary*.

4 Barbara Kiefer Lewalski, “Claiming Patrimony and Constructing a Self: Anne Clifford and Her *Diary*,” in *Writing Women in Jacobean England* (Cambridge: Harvard University Press, 1993), 125.

5 Barbara Kiefer Lewalski, “Re-writing Patriarchy and Patronage: Margaret Clifford, Anne Clifford, and Aemilia Lanyer,” in *Patronage, Politics, and Literary Traditions in England, 1558–1658*, ed. Cedric C. Brown (Detroit: Wayne State University Press, 1991), 59.

6 *Ibid.*, 60.

developing her aims to redefine the patriarchy. Klein further promotes the idea that Anne was a role model for other women, especially for future generations, because she had a desire to win back her properties not only for herself, but also for her daughter and granddaughters. Another interesting study on Anne begins with Virginia Woolf's novel, *Orlando: A Biography*, published in 1928. In this story, the protagonist, originally a man, turns into a woman and lives in England for the next three hundred years. For this reason, the novel has been analyzed and studied by gender historians and feminist scholars ever since. Most notably, Woolf actually dedicated the book to her close friend and supposed lover, Vita Sackville-West (relative of Anne Clifford), for whom she had hoped the story would bring consolation to after Sackville-West lost her childhood home to her male cousin on the basis that she was a woman. In a 1995 article titled "Anne Clifford as Orlando: Virginia Woolf's feminist historiography and women's biography," Nicky Hallett proposes that the protagonist in Woolf's infamous novel was not Vita Sackville-West, but rather Lady Anne Clifford herself. Hallett goes into great detail distinguishing and comparing the narratives of these two women, noting that "the identification at once gives insight into a purpose of this particular feminist biography in (re)empowering a particular woman, and... of the act of enabling the dispossessed to (re)possess which is, of course, Virginia Woolf's aim."<sup>7</sup> The association made by Hallett between Clifford, Sackville-West, and the character Orlando is significant because Woolf's novel aims to reinterpret English history through a gender lens specifically, and thereby makes Clifford the central and earliest figure of this redefinition.

As detailed, the establishment of the historiography surrounding Lady Anne primarily began in the early 1990s by feminist historians, and because of this, focused on Anne solely through a gender perspective, constructing her story and her legal battles as achievements because they were done by a woman, and not as achievements independent of gender altogether. However, this essay will demonstrate that the current direction of Lady Anne's historiography is inaccurate and propagates erroneous assumptions about Anne and the status and abilities of women of her time. Because of the restricted perspective taken to study Anne's story, historians, whether intentionally or not, have given Anne the position of gender warrior and champion of women's legal rights. However, instead of viewing Anne in this way, historians must come to understand why and how so much is actually known about her. Anne left behind a large literary collection of her personal works, and these sources are exactly what enabled scholars to begin dissecting and understanding her life in the first place. In the process, they attempted to use this information to recreate a historical narrative that they chose to place Anne within, finding it only too easy to take a gendered approach towards a woman who fought legal battles against male relatives in a time that was supposedly unfavorable to her. However, the fact that Lady Anne left behind such a vast and detailed collection of records that have not only survived to this day, but that have also simultaneously perpetuated her significance as a historical figure over the last four centuries is imperative to her story, and ultimately, the way she should be studied. Anne is a literary bureaucrat devoted to collecting, assembling, recording, editing, and revising copious amounts of documents, sources, and evidence with the purpose of publishing works and producing art that would not only survive her, but that would ensure her legacy was created and sustained. Historians have attributed Anne with an air of exceptionality that other women of similar status and accomplishments failed to receive or be recognized for primarily because Anne preserved large and detailed volumes of letters, manuscripts, diary entries, annual summaries, and even commissioned artworks. In leaving behind numerous sources describing and organizing her life and struggles, right down to her very thoughts and feelings, Anne has handed historians a wealth of knowledge and direct insight into the society she lived in, ensuring that her life could and would be open to study. This is the most significant aspect of Lady Anne, and should be the reason for which she is truly celebrated and understood. It is important to note that this essay in no way attempts to diminish the value of Anne's legal accomplishments, remarkable in their own right, but rather intends to break down the gender perspective that has always followed her story. This argument will illustrate that Anne was not, and could not, have been the gender warrior she was elected to be, but instead a literary bureaucrat who saw to it that documenting her struggles was much more significant to her than the role her gender played throughout it.

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<sup>7</sup> Nicky Hallett, "Anne Clifford as Orlando: Virginia Woolf's feminist historiography and women's biography," *Women's History Review* 4, no. 4 (1995): 506.

## The Disputed Inheritance at Stake

Lady Anne Clifford, born on 1 May, 1590 in Westminster, was the daughter and only child of George Clifford, third Earl of Cumberland, and Lady Margaret Clifford (*née* Russell), courtiers in Elizabeth I's royal court. Anne belonged to a long lineage of ancestors of high-repute and stature, and the Clifford family held titles such as earldoms and baronies for many generations past. Anne herself rose to prominence due to her involvement in an inheritance dispute concerning her father's will and her uncle's share of the estates and titles. When Anne was still a young girl, her mother, Lady Margaret, discovered that her husband intended to bequeath the majority of his estates to his younger brother and not to their daughter, leaving only a jointure for herself and a small marriage portion of £15,000 for Anne. Lady Margaret was the one to initiate the process of researching archives, collecting documents, and filing a legal suit, telling Anne in a letter that "your ancient inheritance from your forefathers from a long descent of ancestors is richly worth a hundred thousand pounds."<sup>8</sup> Margaret immediately began a case even before George had died, and "used her jointure resources to fund the legal battles she undertook to secure Anne Clifford's inheritance."<sup>9</sup> Mother and daughter then jointly pursued fighting for Anne's rights to the inheritance, however it was not until Margaret's death that the dispute over ownership truly began between Anne and her uncle Francis.

As the only child of George Clifford, Anne claimed to the court that she was the only applicable heir and thus entitled to all the properties and lands of her father. On the other hand, her uncle Francis, younger brother of her father George, was the closest living male relative in the Clifford line at that time. This prompted George to leave him the majority of the lands and estates. Here is where historians have begun their story of Anne. Her situation already makes it quite clear that she was up against male opponents, whether they were initially her father and uncle, or her husband, judges, officials, and the King to come. While it is true that Anne had to struggle to fight against unfairness and injustice in a legal system that did not necessarily favor her, what most historians fail to distinguish at this point in Anne's narrative is exactly what was at stake in the first place. A detailed breakdown of the inheritance itself is the first step in proving that Anne's legal battles were not, in fact, innovative or pioneering acts. This section of the essay will illustrate that Anne was really only eligible for one portion of the total inheritance, the physical properties. This conclusion will allow the analysis to move into the succeeding sections, which in turn will demonstrate that many women fought for and held properties, thereby making Anne's position not unusual. The term "inheritance" that is used when describing Anne's story was actually comprised of three main categories: the title of the earldom, the title of the barony, and the real properties and wealth e.g. castles, estates, lands, and money (not including the jointure and marriage portion initially left to Margaret and Anne, respectively). The first part, the earldom, was the title of Earl of Cumberland that George had held (as the Third). Earldoms could not be inherited by females, and this had been set in law. Therefore, since Francis was the next male in line, George had no option—besides letting the earldom die out—but to pass it to his brother.

Barred from attaining the earldom, there were only two remaining aspects of the inheritance at play. The second part in question was the Barony de Clifford, a title held by the family for centuries. Unlike earldoms however, some baronies could pass to and through females, depending on its type. Historian Eileen Spring provides a detailed explanation of the three primary types of baronies in her book, *Law, Land, and Family*. The primary categories include baronies by fee, baronies by writ, and tail males. The first, baronies by fee, were attached to its lands, inheritable by females, and in most cases, would be passed entirely to a single heir. The second, baronies by writ, were similarly attached to its lands and also inheritable by females, however in the case where there was more than one daughter, it was held equally by all (in abeyance) until one of them, or one of their sole heirs, remained to inherit it entirely. This barony was established through a writ of summons, so-called because it was issued by Parliament to an individual, usually a member of a peerage, to establish their right to attend, sit, and vote in Parliament. Finally, the third type, tail males, were not inheritable by females at all—as the name would suggest. However, unlike the first two, these were not exclusively tied to its lands. Consequently,

8 Portland MS 23, Letter, 1615, 69.

9 Jessica Malay, "Lady Anne Clifford's *Great Books of Record*: Remembrances of a Dynasty," in *A History of Early Modern Women's Writing*, ed. Patricia Phillippy (Cambridge: Cambridge University Press, 2018), 400.

while the title may have passed to a male, any associated lands could have still been willed to a daughter if so decided.<sup>10</sup> In Anne's case, Baron de Clifford was a feudal barony created by writ, when Robert de Clifford, first Lord, was summoned to Parliament in 1299, marking the beginning of this family peerage.<sup>11</sup> Since Anne was the only daughter and child of George, she claimed she was the right and sole heir to this barony.

While Anne's claim to the barony may seem to work in her favor, there are still three details that need to be taken into account. First, from the fourteenth century onwards, the majority of the remaining baronies were commonly converted into tail male.<sup>12</sup> Because of this, her uncle Francis simultaneously claimed the title believing it was only inheritable by males. Second, and partly due to this discrepancy, there had been some confusion regarding exactly what type of barony it was to begin with. For both these reasons, Barony de Clifford was held in suspension from 1605–1678 while the House of Lords deliberated on the matter, however, for a long period of this time, they simply refused to make a decision and postponed the hearing. Whether intentional or not, the House did not come to a decision on the ownership of the barony for over 70 years, the vast majority of Anne lifetime, thus prompting her to continue fighting Francis for it. After all, "the uncle... was the heiress's natural adversary. His interests were not hers. As he displaced her in the succession, he did not take the land only for his life but sent it to his heirs, and his heirs were not hers."<sup>13</sup> Third, Spring interestingly notes that "titles were unthinkable without land to support them."<sup>14</sup> The distinction here between land and title ownership is essential to Anne's case because it trumps an argument that would have worked in Anne's favor. Even if Baron de Clifford was found to have passed through tail male—the worst case scenario for Anne—it must still be remembered that the title of the barony was not attached to the actual lands. While the title would have passed to the closest living male heir, her uncle Francis, it would have still been possible for Anne to inherit the lands and estates associated with the title. However, "the dignity and influence of families who had won peerages could only be maintained if some substantial land accompanied the title rather than going to the common law heiress."<sup>15</sup> This finding notes that while it may have been possible for Anne to inherit the properties and not the title, it was highly unusual; an heir who received a certain title would have also inherited its lands by custom.

With the earldom only inheritable by males and the confusion surrounding the barony awaiting further deliberation, Anne's "inheritance" came down to the third remaining portion—the physical lands, properties, and wealth. Of course, these lands would have had to be any independent of the earldom and the barony, leaving one to wonder how much this would have constituted in the first place. However, this argument does not seek to measure the quantifiable amounts of what Anne was fighting for. Rather, this extended analysis divides up the inheritance to prove that there was only a small portion of the total amount that Anne would have been able to pursue in the first place, and to show the significance of what that portion actually comprised of—real property.

Women's participation within the legal world has been studied and understood for decades. Many women brought forth various legal claims, especially in regards to both fixed and moveable property, filed suits on dower and jointure agreements, and litigated inheritance cases—all while navigating through a complex legal system in seemingly innovative ways. Despite common thinking, they were certainly not new to such a world. Just a few examples of contemporary scholarship is enough to demonstrate that. Amy Louise Erickson's *Women and Property in Early Modern England* provides detailed analyses of the extent of women's involvement in the legal field, especially within the area of property. Erickson demonstrates that women were clearly integrated into such a realm, and they held, transferred, passed, and maintained land and property on a day-to-day basis. Additionally, Tim Stretton's *Women Waging Law in Elizabethan England* provides a notable study of how women actively participated in courts and proceedings, and how they were used as viable sources of aid. Stretton's findings illustrate that numerous women, even those who "were temporarily poor, individuals recently dispossessed of their substance or in imminent danger of dispossession, or the powerless poor such as orphans" found that the

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10 Eileen Spring, *Law, Land, and Family: Aristocratic Inheritance in England, 1300 to 1800* (Chapel Hill: The University of North Carolina Press, 1994), 20.

11 John Bernard Burke, *A Genealogical and Heraldic Dictionary of the Peerage and Baronetage of the British Empire* (London: Colburn and Co. Publishers, 1852), 276.

12 Spring, *Law, Land, and Family*, 20.

13 Ibid., 97.

14 Ibid., 20.

15 Ibid., 93.

equity courts were a means of providing a way out of the strict principles which were so dominant in the common law practice of other courts.<sup>16</sup> The Court of Requests and the Court of Chancery were “particularly useful for women, who often had less access than men, through the operation of coverture or their exclusion from areas of public transaction, to deeds, leases, uncanceled bonds and other proofs.”<sup>17</sup> All of these studies repeatedly illustrate that women of all stature were certainly not novices to the complex legal system that governed the sixteenth and seventeenth century period of England. So, what does this mean for Lady Anne Clifford? If there is clear evidence that numerous other women were female litigants who not only chose to pursue property cases in courts, but who also had the capacity to do so, then Anne, a woman who held a higher stature and amount of wealth than the vast majority, would definitely have had the same, if not more, opportunities to do the same. She is simply one of a great number of women who acted as they were able to, indicating that the reputation given to her for her “gendered struggle” was not distinctive at all.

### The Practice and Perpetuity of English Custom

Now that the inheritance at stake has been broken down into its constituent parts, it is clear exactly what Lady Anne would have been pursuing in her legal battles. This reveals that Anne was not fighting for titles or positions, but rather for the transfer of landed wealth and property to her name. This realization weakens the pedestal that scholars such as Barbara Lewalski have placed Anne upon for years, claiming that she was attempting to fight for things that were unusual for a woman to do in that time. Lewalski goes so far as to assert that Anne’s attempts to redefine the patriarchy “enact[ed] resistance and challenge to oppressive institutions, not meek acceptance, and they move[d] beyond the dominant gendered ideologies to more enabling conceptions.”<sup>18</sup> However, the observable fact that women pursuing legal cases was not uncommon to begin with only further diminishes the value of Anne as a gender warrior and role model. Although it was obviously not as easy as it was for men, women could still inherit, hold, and execute responsibility over property and land—and a large number of them certainly did. They were specifically able to do so because of the common law’s use of custom, which provided a workable way of navigating around more stringent laws. This section of the essay will provide the legal details surrounding Anne’s case, and will show that based on the use of English custom alone, which was a predominant aspect of common law, Anne would have been correct in her property claims. This contextual information is needed to later illustrate that custom was not the only factor at play, but rather various laws and even common practices surrounding female inheritances meant that the position Anne found herself in was not radically different to the reality of her time.

Regardless of the fact that the legal realm of sixteenth and seventeenth century England was already confusing in and of itself, with its numerous courts, proceedings, judges, methods, etc., it became a lot more complicated with the development of custom—contemporarily thought of as a form of precedent. Custom is most easily explained as an established and recognized pattern of action that has been accepted as the proper conduct or truth within a particular context. It does not necessarily have to be a formal law passed in and of itself, but rather, it may act as a “force in the community to be upheld and maintained as a matter of tradition, or social obligation.”<sup>19</sup> Thereby, its continued use over a number of years may allow it to stand in place of an accepted law. Continued use of a certain custom could, in some cases, even help to influence the creation of a new law that would legally validate the custom in question. Best put, custom ensured that “decisions settled the matter in hand and were not expected to do more; they were not constrained by the past and did not fix rules for the future.”<sup>20</sup> While this may not have been the most productive method when it came to deciding the correct action or rule to apply in a given circumstance, the custom that had been in place would be the fallback upon making a decision to that particular case. For this reason, custom “exert[ed] considerable force, and its observance may be a conscious choice.”<sup>21</sup> When there was no approved law to resolve a dispute or amend an issue, customary law took precedence over

16 Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge: Cambridge University Press, 1998), 98.

17 *Ibid.*, 28.

18 Barbara Kiefer Lewalski, “Re-writing Patriarchy and Patronage: Margaret Clifford, Anne Clifford, and Aemilia Lanyer,”

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19 J. H. Baker, *An Introduction to English Legal History*, 4th ed. (London: Butterworths Tolley, 2002), 3.

20 *Ibid.*, 1.

21 *Ibid.*

most other methods, and this meant that more restricted groups such as women used custom as a way of settling their individual cases without having to appeal to any formal legislature.

The slight distinction between custom and law plays an integral role in Lady Anne's historical narrative. When it came to heirs and lineages, especially in opposition to civil law practiced on the European continent, English custom was explicit in its preference for inheritances of family property and wealth to pass "in the second degree in the descending line," meaning to the son or daughter.<sup>22</sup> As Anne was not merely the only daughter of George Clifford, but his only surviving child, she implored to the Court of Wards that she was the sole and rightful heir to the lands and estates—as custom would clearly dictate. For many decades, historians such as George Williamson, not only believed that she was correct in her claims, but continued to perceive and write about Anne's story in this way.<sup>23</sup> Williamson wrote the first major work documenting Lady Anne's life in great detail. While a lot of what he included is factually correct and can be used to understand Anne's story, the overall idea that Anne was some sort of novel activist is incorrect. Numerous sources and scholars have echoed time and time again the truth of Anne's claim. Since she was the sole child, regardless of her gender, the inheritance in question should have passed entirely to her—of course, only the parts of it that she was eligible to hold. It seemed odd that George Clifford would have not only broken this customary precedent, but did so by passing over his only child in favor of a "collateral male," something that was definitely uncommon in English tradition. A collateral relative is a person who is still within the family, but who does not belong in the descending, or "right," line. Rather, they are in the transverse line, making them "the brother or sister of the father or mother and their heirs descending 'ad infinitum.'"<sup>24</sup> Henry de Bracton (1210–1268), an English cleric and jurist most notable for his legal work, *On the Laws and Customs of England* (1235), detailed the customs and traditions that were not only preferred, but which also became the general standard, describing them in his various sections on succession, kinship, children, and heirs. While he is an earlier source and lived before Anne's own time, the material provided throughout his work has been corroborated by many later and more contemporary historians, such as J.H. Baker and Eileen Spring, since they too allude to the same information. Bracton's work is thus referred to since it is a primary source from an appropriate context and specifically of a legal nature. He stated that "as long as any heir survives in the right line descending no one ought to be called to the succession in the transverse line"<sup>25</sup> and even more explicitly noted that "a women in the right line [is] the nearer heir and bars a male in the transverse line, as where a man has a daughter... and a brother; the daughter... is preferred to the brother in the succession."<sup>26</sup> These definitions make it extremely clear that Anne should have inherited all eligible properties from her father both as his only child and immediate heir, as the rules of custom dictated at the time.

This seemingly indicates that Anne Clifford was correct in pursuing her claims for the lands and estates and in challenging her uncle for ownership. According to this custom, Anne was not just the next, but the only, descendent in the "right line," and consequently should have been granted the inheritance by her father. In fact, it may even seem odd at this point as to why George chose to have his lands given to a collateral male as opposed to passing it on to his daughter—by which the properties could and would have continued down the same lineage. While it may be true that Bracton was writing in a time before Anne Clifford was even around, J. H. Baker, one of the most notable English legal historians of the twentieth century and a more modern source, concedes parallel ideas. In his section on "The Law of Inheritance," Baker first states that "the existence of inheritance [was] a social custom."<sup>27</sup> After this, he begins to describe the "parentelic scheme." The parentela of a certain person is every living individual who can trace their relationship back to the deceased in question; being their "issue."<sup>28</sup> Baker notes, as Bracton similarly mentions, "the search for the heir went successively through the parentelae... [and] each set of descendants had a better claim than those in the next degree of remoteness, so that lineal descendants

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22 Henry de Bracton, *On the Laws and Customs of England* (1235), 190, Accessed through Harvard Law School Library: Bracton Online, 2003.

23 George C. Williamson, *Lady Anne Clifford, Countess of Dorset, Pembroke & Montgomery, 1590-1676: Her Life, Letters and Works* (Buntingford: S. R. Publishers, 1967).

24 Ibid.

25 Ibid., 195.

26 Ibid., 190.

27 Baker, *An Introduction to English Legal History*, 265.

28 Ibid., 266 & Bracton, *On the Laws and Customs of England*, 196.

of the deceased were preferred to his collateral relatives.”<sup>29</sup> And finally, Baker quite directly asserts:

“...The common law did not exclude female inheritance, because it gave greater weight to the parentelic system than to the exclusion of females. Women were therefore allowed to inherit if there were no males in the same degree. Thus, if a deceased tenant left no sons, his daughter was preferred to his brother because they were lineal descendants within his own parentela.”<sup>30</sup>

The preference given to a daughter over any collateral relative, even a male heir, was obviously a part of the common law tradition and was exactly what Anne would have used to support her own claims. However, this consensus alone only proves that Anne should have rightfully received the inheritance in the first place, and certainly does not explain why it was not then reverted to her once she filed suit for it. Here are where the gender assumptions about Anne are made. Since it seems evident that she was wrongly deprived of her properties on the simple basis that she was not a male, it is easy to begin painting the picture of Anne’s legal battles as one of a defiant woman fighting against a system that attempted to continue subordinating women. However, it is imperative to note that Anne was in no way fighting against an unjust legal *system*, but rather against what she believed was an unfair legal *decision* made on her individual case. One person, regardless of any one part of their identity, fighting for something they believed was rightfully theirs does not necessarily make them a role model for others if they do not see themselves as one, and especially if they do not intend to enact any greater changes for that group. Just how unfair Anne’s case actually was lies in the discrepancy surrounding the preference for her to inherit as an only child and the reality of inheritances for daughters during this time, and will be further explored in the following sections.

### **The Tradition of Custom Versus the Authority of Law**

It seems almost obvious to anyone following Anne’s story that she should have either received the inheritance from the beginning, or have won her case at law once she began fighting for it. The reason this did not happen, however, lies in the difference between custom as tradition and law as passed legislative acts, which this section will focus on. While it is true that Anne’s case may have turned in her favor if the rules of custom were followed, it must just as equally be argued that custom was indeed not the law, and therefore did not *have* to be followed. While “good decisions are guided by custom and wise counsel as to what is reasonable,”<sup>31</sup> custom was, after all, “of lesser authority than law.”<sup>32</sup> This is the defining and most important principle in regards to Anne’s case, and the foundation for the argument of this essay.

In 1536, the Parliament of England was forced to pass the Statute of Uses by King Henry VIII. Landholders, for many years, had been able to bypass the hefty fees they owed the Crown on their lands. By effectively splitting a title from the land itself, landowners found a clever way to profit from their property while avoiding the payment of fees. This statute eliminated this ability, ensuring that titles and lands had to pass jointly from one person to another. However, as a result, landowners felt that there was now too much royal control of their properties and urged King Henry VIII to give them the legal authority to at least determine who they could pass their lands to after their deaths through the execution of wills. Four years later in 1540, Parliament passed a second law titled the Statute of Wills. This time, rather than enacting a statute in the Crown’s favor, it was actually pressure from the landowners themselves that resulted in the passage of this law. Hence, the capacity to devise and implement wills came about most radically after 1540. This is significant for this narrative since it was not only before Lady Anne’s time, but even before her father’s. By the time her father George was deciding the future of his estates and titles, he knew the legal legitimacy that a will held.

The importance of custom has already been noted, and the favor it would have provided Anne has been made quite clear. However, the power of law always took priority, as it still does, over any sort of tradition. After

29 Ibid., 266.

30 Ibid., 267.

31 Baker, *An Introduction to English Legal History*, 1.

32 Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge, 1997), 6.

the Statute of Wills was implemented, wills and agreements took precedence over custom regardless of how long a tradition may have been in practice for. In fact, Bracton has an entire section dedicated to the consequential occurrence “that a condition prevents descent to right heirs.”<sup>33</sup> Of course, what Bracton refers to here are requests and agreements that would have been made naturally by landowners even during his own time. Living before 1540, he obviously would not have known about the development of more formal and legally-binding wills, however his passages on “agreements” already indicate that a person’s wishes written down on paper were significant enough to constitute a contract to be later acknowledged and executed, even if this had not yet been specifically passed into law. While Bracton did extensively provide information on what the conventional custom was when it came to the due of rightful and entitled heirs to a particular inheritance, he also went on to state the authority that agreements held over such custom, as a testament to a person’s final wishes. He clearly stated that “an agreement prevails over law.”<sup>34</sup> Here, an “agreement” refers to a previously decided upon statement, the most obvious example being a will, and the “law” mentioned would be a form of customary law, as the Statute of Wills was passed only after Bracton’s life. Additionally, he noted that “an agreement made by ancestors injures heirs, by force of the condition,”<sup>35</sup> taking into account the consequences that could result from such a predetermined settlement. This is exactly what happened to Lady Anne. Since the will her father devised was not in her favor, his decisions resulted in her unhappiness and life-long struggle to obtain what she believed was rightfully hers. Even during Bracton’s time, an agreement of some sort would have influenced which heir(s) would receive what and how much of an inheritance. Although this would have been an informal agreement at the time, it still resulted in significant repercussions for family lineages and property ownership. Combined with the legally-binding demands of the Statute of Wills, it becomes apparent that Anne’s father’s actions were not as unusual as custom may first deem them to be.

Baker also argues that while immediate descendants were preferred, such preference was not definite. One of the first things Baker clarifies is that inheritance as a custom “did not in itself necessitate fixed rules as to who should be heir [and]... were not as permanent as law.”<sup>36</sup> This implies the authority that law held over custom, and thus indicates that while custom did dictate one type of formality, it was certainly not the absolute rule. Again, historians such as Lewalski and Williamson have sided with Anne because of the vagueness of this discrepancy. Over and over again, sources such *Lady Anne Clifford: Her Life, Letters and Works* have indicated that Anne “should have possessed... [the] vast estates” and received the entire inheritance in the first place.<sup>37</sup> Williamson even goes so far as to assert that her father’s decision to will everything to his brother and nephew was illegal.<sup>38</sup> However, as previous evidence has already proved, Anne was actually ineligible to receive a large part of the inheritance. Additionally, it would have been odd for her father to will her the properties while still obliged by law to give his brother the associated titles—and thus, those titles without any lands attached to them. Finally, by 1605 when George died and Francis received his inheritance, the Statute of Wills had already been in effect for 65 years. At this point, it is evident that Anne’s father was quite realistically free to will whatever he pleased to whomever he chose, even if his preference was not to his “nearest heir” and only child.<sup>39</sup>

### The Strict Settlement and Its Consequences

Numerous other women were in similar, if not the same, position as Anne was in terms of receiving (or not receiving) inheritances and in being heirs of their own fathers and family lineages. In fact, both Spring and Erickson provide valuable information, including quantitative data, substantiating just how unexceptional Anne’s situation really was. A great part of this lies with the strict settlement. This section of the essay will illustrate

33 Bracton, *On the Laws and Customs of England*, 73.

34 Ibid.

35 Ibid.

36 Baker, *An Introduction to English Legal History*, 265.

37 George C. Williamson, *Lady Anne Clifford, Countess of Dorset, Pembroke & Montgomery, 1590-1676: Her Life, Letters and Works* (Buntingford: S. R. Publishers, 1967), 1.

38 Ibid.

39 Bracton, *On the Laws and Customs of England*, 190.

how the common assumptions surrounding the positive impacts of the settlement are incorrect, and rather than benefiting women, the settlement impeded their ability to inherit. While this conclusion is rather bleak, the studies later referred to in this section have a more significant purpose. The results will prove that there must have been many women during this time who were not only eligible heirs, but who similarly did not inherit what they were eligible for. These results provide further indication that Anne could not have been the first or only woman to find herself in such a situation, and therefore cannot be given the unique status she received from scholars such as Lewalski or Hallett.

Lady Anne belongs to a group of women that historian Eileen Spring categorizes as “heiress-at-law.” This term categorizes women who were eligible by birth to receive an inheritance from their parents, usually from their father, when the time came. They were the legitimate children from their parents’ legal marriages and were also the only children of these marriages, since an older daughter with younger brothers would have still been passed over as a consequence of primogeniture. The most important aspect of the heiress-at-law’s story is the strict settlement. This “particular type of settlement... governed the estates of most landed families in England... preserving the estate in the male line and providing for individual family members.”<sup>40</sup> The benefit of the settlement for women meant that they were accounted for in regards to receiving inheritances and were guaranteed, at a minimum, a portion of the total wealth, usually inheritable at 21 years of age or when they married. The settlement itself was a form of agreement decided upon the marriage of the bride and groom, and included contingencies for future unborn children. While it was optional to create, implementing this settlement quickly became common practice, especially within aristocratic families who owned vast amounts of property and land. The purpose of the strict settlement was to be more inclusive and fair to children who were not the eldest-born son (all daughters and younger sons), ensuring that each received some share of the total inheritance, a “remainder.” Since such a settlement designated ownership of the property to the next generation, even before they were born, this agreement ensured that the parents were still allowed to enjoy the rights and privileges of their lands without actually holding possession over them. This made it very difficult for them to sell land away from their lineage and thus guaranteed maximum preservation of ancestral properties.

However, despite the new material historians have come across in regards to this settlement, “the inherent tension between estate preservation and wealth distribution have stimulated significant debate as to their aims and economic and familial effects.”<sup>41</sup> In fact, new findings discovering the true consequences and impact this settlement had on women are gradually coming to light. Spring plainly states that “it aimed first and foremost at limiting the interest of the heiress-at-law,” since by limiting her claims in advance, it sent “the estate as little reduced as possible to the collateral male.”<sup>42</sup> This form of estate preservation applies precisely to Anne’s situation, and truly illustrates that her circumstance was not unusual at all. Anne’s father George was already forced by law to leave the earldom, and by custom, the associated lands, to his brother Francis. It makes sense that George would have then also chosen to bequeath the vast majority of the inheritance to Francis as a means of preserving the lands as much as possible. Therefore, while the strict settlement did grant a portion of the estate to the heiress-at-law before she was born, that inheritance was still accordingly limited.<sup>43</sup> As a result, women who held this status began to decline in significance. As opposed to common law rules, women ironically began to inherit more infrequently within a system that sought to promote the well-being of future generations. Rather than gaining, or at the very least, maintaining, her rights to equal portions, the heiress-at-law found herself unable to receive inheritances until there was simply no other option. Her portion within the strict settlement was not calculated in her favor, but rather in a way that aimed to preserve the property ownerships of the family in the greatest way possible. Essentially, “English landowners had moved from lineal to patrilineal principles.”<sup>44</sup> This shift in itself results in an odd predicament. In an attempt to preserve family estates, the male line was preferred because of the heir’s blood relation to his father. However, it may be equally argued that a daughter (born of the same parents) would be just as much related to her father as her brother would be, and thus her children related just as much

40 N. G. Jones, “Strict Settlements,” In *The Oxford International Encyclopedia of Legal History* (Oxford: Oxford University Press, 2009).

41 Ibid.

42 Spring, *Law, Land, and Family*, 18.

43 Ibid., 35.

44 Ibid., 18–19.

as her brother's. Here, the difference in blood relation value lies with marriage, and the consequences that result from it. A son inheriting the properties would hold them in his name even after marriage, whereas a daughter could only do the same up until the point of her own marriage, at which time it would pass to her husband's name, and thus to a non-blood relation.<sup>45</sup> Looking at female inheritances through the consequences of future generations is a very interesting concept and an important aspect to note when analyzing its validity as an argument. While it was unquestionable to claim that a daughter was as equal an heir to her brother with all other factors remaining the same, it was her future status as a wife and the consequences of her marriage on property ownership that ensure this argument cannot be easily dismissed. The patriline, after all, was focused on long-term repercussions, and "the succession of a female came to be held not as the natural means of continuing the family, but the end of the family, its very dying out."<sup>46</sup> A woman's ability to hold property in her family's name was not simply about an exclusive blood relation between her father and herself. Rather, women were seen as transitory, giving way to an unfortunate connection between her family's property and their husband's ownership of it.

The preference given to the continuation of the patriline has significant implications for Anne's narrative since it provides an evidentiary argument that she was merely one of many women who all suffered from the effects of the strict settlement. A study conducted on all surviving records of strict settlements created before 1740 showed that of the 107 total settlements included, 24 of them (22.4%) gave preference to the daughter over the collateral male.<sup>47</sup> While this study highlights the nearly one-quarter of settlements that did allow such successions to women, these results obviously, and rather alarmingly, still show "that more than three-quarters (78 percent) of them rejected the daughter in favor of the collateral male."<sup>48</sup> Passing over an heiress-at-law for the next closest male heir, however distant a relative he may be, was clearly not an unusual circumstance. Instead of viewing Lady Anne's story as a single struggle, it must be accepted that in reality, "33 percent of women would have inherited from their fathers if the common law had prevailed, [but] less than 10 percent actually did so."<sup>49</sup> Anne's heirship was thus far from the line of exclusivity.

One of the most important aspects of Anne's story is the persistence and incredulous effort she put into her fight against the decision her father made. "As means were developed by which the collateral male came to dislodge [a woman] from the succession," Anne's determination and perseverance does indeed warrant substantial acknowledgment.<sup>50</sup> Here, it is important to distinguish that this argument does not intend to diminish the value of Lady Anne's actual struggle against the legal decision that was made beyond her control—which in and of itself was an admirable feat—but rather attempts to demonstrate that the later historical thinking that has been projected back upon Anne has inaccurately and specifically categorized her achievements in regards to her struggle as a result of her gender. Since so many other women before her were forced by laws and customs into such similar circumstances, it is quite clear that Anne's gender should not have been the reason why her legal struggle was classified as an achievement.

## Women Setting a Pattern of Precedent

Since it was not the legal battles themselves that resulted in an inaccurate depiction of Anne's accomplishments but rather the gendered lens through which her struggles were retroactively projected, it is imperative to note the extent to which other women also found themselves in similar positions and how they too achieved similar feats. An argument that attempts to prove that women held positions of power and influence is not innovative, but rather incorrect. Due to recent historical thinking and evidence, it is beyond obvious that women of all stature and wealth were able to, and did, participate in the legal realm of the early modern English period, even if to varying

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45 Ibid., 19.

Each side of the argument originally presented by Holt, "Feudal Society," 3 and *Boswell's Life of Johnson*, Oxford ed. (London, 1904), 2:520, respectively. However, both are cited in Spring's *Law, Land, and Family*.

46 Ibid.

47 Lloyd Bonfield, "Marriage, Property and the 'Affective Family,'" *Law and History Review* 1, no. 2 (1983): 305.

These were settlements documented in two county record offices.

48 Spring, *Law, Land, and Family*, 17.

49 Ibid., 14.

50 Ibid., 17

degrees. It is not at all unusual to acknowledge the major role they played as individuals of change, and the impact and effects they had on themselves, their positions in society, and their relationships with others. Joan Kelly-Gadol's article, "Did Women Have a Renaissance," is one of the most well-known pieces of historical writing that attempts to argue against the traditional historiography, claiming that women's rights began to decline during the early modern period. Her general answer that women did not have a renaissance has been widely criticized by a number of gender historians including Catherine King, Frederika Jacobs, Geraldine Johnson, Sara Matthews Grieco, Rona Goffen, Paola Tinagli, and Cynthia Lawrence. Lady Anne, as a woman—and a particularly powerful one at that—was certainly no different to the numerous other women who participated in society, and her own legal and societal involvement was, in reality, not as unique as it has been credited to be. Amy Louise Erickson, a prominent gender historian, provides an example of the commonality of women's legal participation, stating in her work that "prosperous young women... sued in the Court of Chancery for their portions in the hundreds of pounds, as [did] the aristocrats with thousands of pounds in portion."<sup>51</sup> Here, she clearly notes the frequency with which many women found themselves in situations concerning inheritances of property, whether as a maid, wife, or widow, making it clear that Anne was not an exception to the rule.<sup>52</sup>

One prominent example of precedent to Anne's case is the legal dispute of Mary Fane (*née* Neville) against her own uncle, Edward Neville, for both her father's property and the title of Baron Abergavenny.<sup>53</sup> This dispute is of particular importance to Anne's story for two primary reasons. First, Mary's own struggle and legal battles mirror Anne's exactly. This point is fundamental to this argument since it illustrates that Anne's case was not distinctive or incomparable to others, rather it was just one of many that were similar, or even identical. Second, the case study of Mary Fane is significant because it turns out that Mary is a distant relative of Anne herself.<sup>54</sup> This is especially useful since it establishes that Mary was of the same stature as Anne, a Lady from an extremely wealthy and distinguished family, and thereby disproves that Anne was the first aristocratic woman to pursue such legal battles. Additionally, there are state documents indicating that Anne actually cited Mary as precedent while pursuing her own case, and thus included Mary as part of the evidence for her claims to the Clifford properties and the title of Baron de Clifford.<sup>55</sup> Mary's legal case serves as an earlier example and clearly substantiates the claim that Anne's narrative does not distinguish her as an emerging gender warrior or even as a role model to other women, especially since she was not the first woman, let alone the only, to take on such a task.

Mary Fane belonged to the family of Neville, who include the Earls of Westmorland and the Barons Abergavenny. She became the seventh and fifth Baroness Abergavenny after inheriting it from her father, Henry Neville, the sixth and fourth Baron.<sup>56</sup> The reason for this double ordinal designation goes back to Mary's great-great-grandparents, Sir Edward Neville and Lady Elizabeth Beauchamp, third Baroness (and the one who originally inherited the barony from her father).<sup>57</sup> Around 1450 after Elizabeth had died, her husband was mistakenly summoned to Parliament as Lord Abergavenny, intended in right of his wife. However, by this time, the barony had already passed to their son, George. Due to this confusion, Parliament created a new barony by writ, thus entitling Edward as the first Baron Abergavenny. After his parents' death, their son then received and held the title to both baronies from the first and second creations, as the fourth and second Baron. Both titles essentially passed through the generations in this fashion until it arrived at Lady Mary Fane. By modern doctrine, and because this was a "barony by writ" (note that Clifford's was as well), both baronies descended to Henry's only daughter and sole heir, Mary Neville.<sup>58</sup> However, since she was female, her uncle, also named Edward Neville, claimed the title of the seventh Baron, specifying that he was the next closest male heir. Again, this is similar to Anne's story. At

51 Erickson, *Women and Property in Early Modern England*, 96.

52 Erickson notes that during this time period, a "maid" simply referred to an unmarried woman. Instead, the term "maidservant" was used to designate a female in the employed position more commonly thought of today. (4)

53 Some sources refer to it as Baron Abergavenny, while others call it Baron Bergavenny. Either way, both refer to the same barony of the Neville family.

54 See *Appendix I: Extended Family Tree of Lady Anne Clifford* for full family genealogy including both Lady Mary Fane and Lady Anne Clifford.

55 See *Calendar of State Papers, Domestic Series*, 1628

56 In *Calendar of State Papers, Domestic Series*, December 7, 1588.

57 Burke, *A Genealogical and Heraldic Dictionary of the Peerage and Baronetage of the British Empire*, 1039.

See *Appendix I: Extended Family Tree of Lady Anne Clifford*.

58 At this time, Lady Fane was still unmarried and therefore went by her maiden name, Mary Neville.

this point, it is unclear whether this dispute was due to genuine confusion regarding the type of barony it was (i.e. whether it was a “barony by writ,” inheritable by females, or converted to “tail male,” only inheritable by males), or whether it was fueled purely by Edward Neville’s greed for the title and properties. However, regardless of motive, the point to note is that Mary Fane’s inheritance struggle exactly mirrors Anne’s in law. Both women were the only daughters and heirs to their father’s barony (and most likely along with any properties and lands associated with it). Both women struggled to retain their rights to their family barony due to both their gender and the confusion surrounding the type of barony it was. In both cases, the barony went specifically through the transverse line to the women’s uncle (their father’s brother), and from that point on, continued lineally through his descendants (i.e. to their first cousin). Most importantly, both women, of aristocratic stature, engaged in arduous legal battles against collateral males in an attempt to reclaim their rights to the titles.<sup>59</sup> For all of these reasons, Lady Mary Fane’s narrative is the most perfect example that could ever be presented for Anne’s case, and Anne herself made this extremely evident. In a document from the Calendar of State Papers, Domestic Series, published in 1628, Anne specifically cites Mary Fane as an example of a woman who rightfully ended up receiving the barony she had filed suit for:<sup>60</sup>

“Reasons to prove, that by the common law dignities conferred by writ of summons to Parliament descend to females where there is a sole heir and not co-heirs; being the reasons alleged for Mary Lady Fane in her suit for the barony of Abergavenny in 1587, with other alleged reasons to show that such dignities by custom and reason descend to heirs female, produced on behalf of *Anne* claiming to be Lady Clifford.”<sup>61</sup>

Anne Clifford herself has proven here that she was not the first woman to fight for an inheritance that was taken from her due to her gender. By citing another woman who had an identical legal experience as precedent for her own case along with the fact that such a reference was something she could realistically do and that would be accepted in court is enough of an example to illustrate just how incorrect the historiography surrounding Anne has been over the past few decades. Clifford’s use of Fane’s case as precedent and evidence for her own illustrates that this type of incident was likely not limited to just one or two past cases but would have occurred on a number of occasions. Ultimately, portraying Lady Anne as a rare gender heroine for women of early modern England disregards Anne’s true exceptionality by their own standard, while simultaneously neglecting the stories of the many other women who accomplished similar feats. This argument does not intend to diminish the value of Anne’s legal struggle, but to distinguish that her choice to fight for her inheritance was not exceptional simply because it was done by a woman. Instead, it is more important to ask *why* she has been so recognized over the years and *how* she remains such a prominent figure of history even without the reasons that fuel the gender warrior status she has been given. Rather, Anne’s reputation and true exceptionality lie within a different category, one showcasing her literary prowess and designating her as a person who chose to document her life, making her worthy of being studied for centuries to come.

### **Lady Anne Clifford, the Exceptional Literary Bureaucrat**

It is more evidently established that Lady Anne Clifford, despite the praise and admiration that has been attributed to her over the many years, was not a woman of great exceptionality when it came to pursuing legal cases or fighting for property inheritances. The fruits of her legal battles did not turn her into an emerging gender warrior,

<sup>59</sup> In *Calendar of State Papers, Domestic Series*, April 12, 1604: “Declaration... of the claims of Mary Neville... to thsse barony of Abergavenny, against Edw. Neville.”

<sup>60</sup> In *The Manuscripts of the Marquess of Abergavenny*: “‘The succession of the Baronnes of Bergavenny... specially to sett fourth how the dignitie of that Barony hath alwayes gon with the possession of the place, and not by proximity of blood,’ dedicated to Queen Elizabeth by Edward Nevill of Abergavenny.” (1)

This source indicates that Edward must have only received the properties attached to the barony, and was therefore petitioning for the title of Baron as well (which in this case would have thus gone to Mary).

<sup>61</sup> *Calendar of State Papers, Domestic Series, of the reign of Charles I, March 1628 – June 1629, preserved in the State Paper Department of Her Majesty’s Public Record Office*, ed. John Bruce, vol. 3 (London: Longman, Brown, Green, Longmans and Roberts, 1859), 432. Accessed through *State Papers Online*.

The latter reasons Clifford alludes to are ineligible in copy.

role model, or proto-feminist figure. The vital question is how and why Anne Clifford has managed to maintain her status as such a prominent character throughout history. The reason here lies within the sources historians used to understand her story. Anne left behind a number of records detailing her life and legal struggles in the form of diary entries, annual summaries, letters, official government papers, legal documents, and additional notes, all compiled and published in her volumes of work titled the “Great Books of Record.”<sup>62</sup> Consequently, there must be a shift in how Anne is viewed from now onwards since continuing to label Anne’s achievements solely through a gender classification is simply incorrect. Hence, Lady Anne Clifford was and should now be acknowledged as a literary bureaucrat, a person who prided herself on her ability and desire to record, compose, and produce vast amounts of documents and texts in largely-available and comprehensible forms.

Anne initiated her historical research and began compiling documents for her literary compositions long before she even knew the full outcome of her inheritance case. This indicates that the records she left behind were not a direct result of her legal pursuits or her status as a woman throughout them, but rather something that Anne chose to do simply because she wanted to. In fact, the reason why Anne has been so studied in the first place is because her role as a literary bureaucrat and documenter has given scholars convenient accessibility to her sources. Unfortunately, historians have chosen to represent her in a way that ultimately serves to project a preferred direction onto the study of gender history, particularly of this time period, rather than giving Anne the due credit she deserves as an individual in history. It has been shown that plenty of other women were in similar legal situations to Anne, each setting an example of what women were capable of doing during this time period. It may even be further reasoned that since Lady Mary Fane found herself in the same circumstances as Anne, and actually came before her time, she could and should have been the gender warrior that historians have asserted Anne to be. However, since her narrative has been virtually unknown and hardly ever studied, the only difference that sets Anne apart is the large volume of documentary evidence she herself chose to leave behind so that her story may be understood in the future. Lady Anne’s role as a literary bureaucrat served her personally while also providing historians with a large and valuable source collection. However, her own attempt to convey her life’s story resulted in an inaccurate classification of her struggle by the scholars she had left her sources for.

### **Conclusion: The Greater Impact on the Study of Gender History**

The argument set forth in this essay has been a challenging but crucial one. Lady Anne Clifford was, and continues to be, an exceptional woman in her own right. However, the reasons for such a designation must be reviewed and ultimately corrected. Because of Anne’s tenacious, and even heroic, struggle through a long legal dispute surrounding the property and title inheritances from her father, a number of gender and legal historians—Barbara Lewalski, Lisa Klein, George Williamson, and even Nicky Hallett with her take on Virginia Woolf’s *Orlando*—have chosen to proclaim Anne with the substantial title of champion for women’s rights during sixteenth and seventeenth century England, a time when women supposedly had extremely limited privileges and were thus subsumed into a society dominated by men. “Yet, while it might be expected that such a radical submersion of married women’s rights would have prevented questions regarding their property from entering the courts, the reality appears to have been exactly the opposite.”<sup>63</sup> Although the reasons surrounding women’s position in this society are questionable at the very least, the purpose of this argument, however, is to focus on the contemporary forms of historical study and the consequences it has on understanding and studying women and their accomplishments of the past. It is almost as if historians have chosen to right the wrongs, not only of women’s treatment throughout history but also of their forgotten existence in the historical narrative ever since.

By perpetuating an incorrect assumption about Lady Anne herself, a well-known and highly-regarded figure, there is also the risk of assuming many other facts that may gradually become “historical truths.” These include the stature of women like Anne, the legal situation of her time, and the intricate relationships between women, property, and inheritance during such a pivotal moment in English history. Rather, the fact that Anne was

<sup>62</sup> Clifford, *The Diary of Anne Clifford*.

Pembroke, Anne Clifford Herbert, *Anne Clifford’s Great Books of Record*, ed. Jessica L. Malay (Manchester: Manchester University Press, 2015).

<sup>63</sup> Christopher W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge: Cambridge University Press, 2008), 364.

only one of many women who pursued legal suits, fought inheritance disputes, and held positions as heiresses-at-law confirms that she was not the exception to the rule but an example of why such a rule could have never existed. While it may seem blatantly obvious that women have always been a part of society, it is often forgotten or at least overlooked, and as a result, women have either been completely left out of the picture, studied as an exclusive group out of context, or as in Anne's case, singled out for actions designated as accomplishments simply because they were done by a woman. Trying to understand Lady Anne in this way only diminishes the value of her achievements due to inaccurate characterizations based solely on gender. By choosing to focus on certain women in order to exemplify their achievement despite the restrictions of gender allegedly imposed, historians only serve the opposite purpose. They end up perpetuating the notion that the remaining larger majority of "ordinary" women were unimpressive, powerless, and uninfluential. Ultimately, it must be remembered that women were simply one inherent and inclusive aspect of society at large, just as men, the elderly, children, husbands, wives, or any other social distinction.

Gender historian Helen Smith acknowledges this point and emphasizes the collaborative nature of literary production that existed throughout the early modern period in England.<sup>64</sup> While it is easy to re-integrate women into a narrative already understood by historians, Smith notes that there really should not be a segregation by gender in the first place. Rather, gender in the realm of textual engagement becomes a typical byproduct of historical writing, not a decisive viewpoint of study. Similarly, another interesting argument that supports Anne's position as a literary bureaucrat and savvy landowner comes from historian Katherine Larson through what she denotes as "textual conversation" by women of an aristocratic stature.<sup>65</sup> She focuses on writings that require two-sided interactions, especially of a conversational nature, such as the letters Anne wrote to her mother, her husband, the King, and land tenants. This original take illustrates that Clifford was not only able to include herself within the literary culture of the time, but did so by using language that creates a respectable and certainly influential position for herself. By using everyday dialogues, such as the informal narratives in letter-writing, there is a shift away from the perfectly published texts that tend to describe less about a women's role in textual conversation to her overall status as a writer or editor.

The primary argument of this essay aims to illustrate that the study of Lady Anne's story must be reinterpreted in order to accurately understand the value of her achievements and to recognize the influences of not doing so on studying other women of her time. Promoting a form of revisionist history within her own arguments, gender historian Marion Wynne-Davies has similar aims.<sup>66</sup> She resolutely intends to include women into the narrative of literary production against the usual assumptions that they lacked the opportunities to compile and write large volumes of works. At the same time, she also puts women within the context of family where the interaction between males and females make it hard to understand why women were forgotten in the first place. Wynne-Davies analyzes the work of females alongside males of the same household so that they may be studied as literary contributors within a single group, rather than as women within any sort of gender-specific division, which is particularly true for Anne's case. This may be a possible direction for the future of gender history to follow. Writing women back into the larger historical narrative as key players in social, political, and religious timelines—as feminist historians have attempted to do with Lady Anne—can either be enlightening or contradictory. Introducing women, a gendered group that was previously overlooked, means that their history will inevitably be formed by new research trying to intersect women into a story that not only already exists, but that has been repeatedly recounted. As the historiography surrounding Anne has shown, this method can lead to incorrect assumptions and the propagation of misrepresented ideas that may end up as historical truths. Lady Anne's story can no longer be understood solely through the lens of gender. Of course, her gender did play a role throughout her legal battles—none of this would have even begun if Anne were male—but that does not mean that it is the only, or even the correct way, to approach her story. Wynne-Davies supports this idea by demonstrating that gender is a way of introducing a topic as a valid form of study, but such distinctions are not an ideal way of approaching history.

64 Helen Smith, *'Grossly Material Things': Women and Book Production in Early Modern England* (New York: Oxford University Press, 2012).

65 Katherine Larson, *Early Modern Women in Conversation* (London: Palgrave Macmillan, 2011).

66 Marion, Wynne-Davies, *Women Writers and Familial Discourse in the English Renaissance: Relative Values* (London: Palgrave Macmillan, 2007).

The earlier scholars, especially of the 1990s, who chose to elect Lady Anne as an early modern proto-feminist only ended up perpetuating mistaken gender assumptions because it is what they, and frankly most people, wanted to believe about such a defiant woman and her accomplishments. Unfortunately, their interpretations have lasted through to the current day and continue to influence the perspective of historians who not only study Anne but also use her to further understand the social, cultural, legal, and political aspects of her time. However, early modern feminism was actually more concerned with aspects such as women's rights and access to education, as opposed to their relationship with the property and the law.<sup>67</sup> Thus, the gendered characterization of Lady Anne that has continued for decades has resulted in not only an imprecise study of Anne as a prominent historical figure herself, but also an inaccurate understanding regarding other women and the context of her time period. Labeling Anne as an exception and thus praising her for efforts that were not so unusual to begin with does not undo the centuries of failure at initial inclusion inevitably intertwined throughout the study of history. Instead, while this new perspective on Lady Anne Clifford might demote her from her usual pedestal of being an exceptional woman and role model, she still contributes, along with every other "ordinary" woman, to the greater historical narrative. Together, the women prove that they need not be studied exclusively, but rather as individuals who simply comprise of and contribute to the same society as everyone else—and that thought in itself, is quite exceptional.

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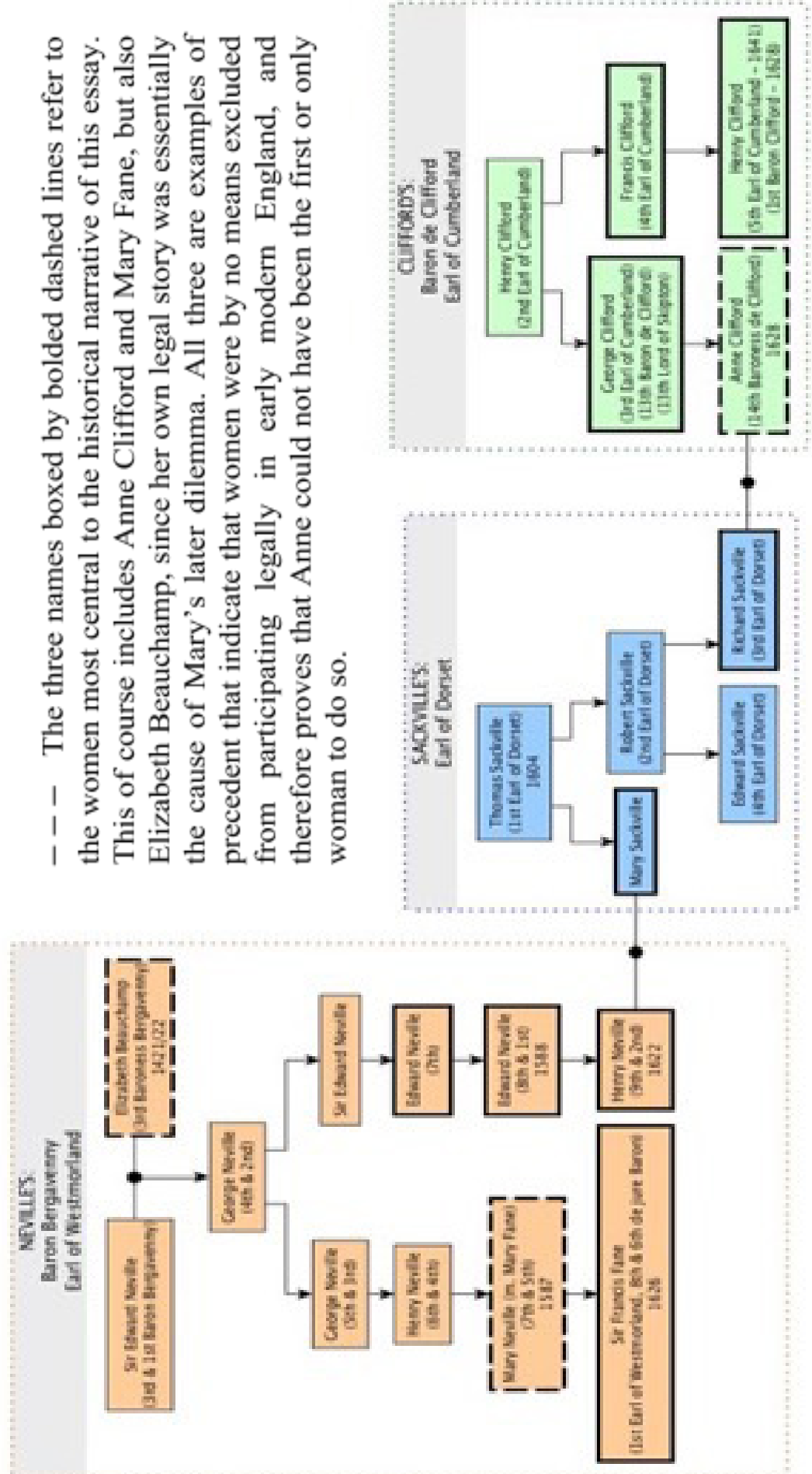
67 Erickson, *Women and Property in Early Modern England*, 14.

## Appendix I: Extended Family Tree of Lady Anne Clifford

### KEY:

— Names boxed by bolded lines indicate that the person is an essential character to either Anne Clifford's or Mary Fane's legal disputes. These people have most likely been mentioned throughout this essay.

-- The three names boxed by bolded dashed lines refer to the women most central to the historical narrative of this essay. This of course includes Anne Clifford and Mary Fane, but also Elizabeth Beauchamp, since her own legal story was essentially the cause of Mary's later dilemma. All three are examples of precedent that indicate that women were by no means excluded from participating legally in early modern England, and therefore proves that Anne could not have been the first or only woman to do so.



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