

# **Women in the Northern Courts: Interpreting Legal Records of Familial Conflict In Early Fifteenth-Century Yorkshire**

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In her pioneering study of medieval English nunneries Eileen Power brought to light the plight of Katherine Northfolk, a young heiress in fifteenth-century Yorkshire. The tale evoked Power's pity in her discussion of nunneries as locations for the disposal of certain sorts of girls: the illegitimate, the deformed, the mentally ill, and the young heiress. Katherine Northfolk's enforced entrance into the monastery of Wallingwells is one of four cases which Power drew from legal sources to support her assertion that many "little heiresses" were hurriedly and unwillingly professed with little or no recourse to the law.<sup>1</sup> Power's rendition of Katherine's case was as follows:

Another case, the memory of which is preserved in a petition to Chancery, concerns Katherine and Joan, the two daughters of Thomas Norfolk, whose widow Agnes married a certain Richard Haldenby. Agnes was seised of certain lands and tenements in Yorkshire to the value of £40 a year, as the nearest friend of the two girls, whose share of their father's estate the lands were. But her remarriage roused the wrath of the Norfolk family and an uncle, John Norfolk, dispossessed her of the land and took the children out of her guardianship, "with great force of armed men against the peace of our lord the king," breaking open their doors and carrying away the deeds of their possessions. Then, according to the petition of Agnes and her second husband, "did he make the said Katherine a nun, when she was under the age of nine years at a place called Wallingwells, against her will, and the other daughter of the aforesaid Thomas Norfolk he hath killed, as it is said." The mother begs for an inquiry to be held.<sup>2</sup>

Power was quite justified in grouping this case with others involving forced profession and theft of inheritance. However, her rendition of the Chancery Proceeding was not entirely faithful to the original and requires some correction (a task taken up shortly). In addition, Power was unaware of further documentation relating to the conflict over Katherine's inheritance which might have led her to a more nuanced consideration of John Northfolk's actions and a more hopeful prognosis for the future happiness of the young nun.

The Haldenby and Northfolk dispute was a long one, generating records which spanned nearly twenty years and survive in the documents of four different legal venues: the Chancery Proceedings (PRO C 1/7/70), the Bishop's Consistory Courts at York (BIHR Cause Papers F.89), the Civic Court of York (YCA E 20A f. 76, f. 90v),<sup>3</sup> and the Probate Court of York (BIHR, Probate Register, vol. 3, f. 352v; vol. 4, f. 25r).<sup>4</sup> This article reconsiders the story of Katherine Norfolk and her troublesome relations in light of these documents, which I found as a part of my wider research on women, conflict and power in late medieval Yorkshire. Beginning with an examination of the records and a reconstruction of the temporal sequence of the conflict, I shall propose an interpretation of the Northfolk and Haldenby family's dispute with particular reference to the problem of individual women's agency in familial conflict. In so doing, I hope to shed light upon the motives of both Agnes Haldenby and John Northfolk.

### **Public Record Office, London, Chancery Proceedings 1/7/70**

The Chancery plea paraphrased by Power introduced the grievance of Katherine Northfolk's mother, Agnes Haldenby, widow of Thomas Northfolk. In the undated document she and her husband, Richard Haldenby, petitioned the Archbishop of York, Chancellor of England, to rectify wrongs against Agnes and her daughters which had occurred during the reign of Henry V.<sup>5</sup> They claimed that Katherine and her sister, Joan Northfolk, were the heirs of their late father, Thomas, and were seised of lands and tenements worth £40 per annum in the town of Naburne and other towns in the county of York. Agnes was her daughters' guardian after the death of Thomas and, as such, she was seised of their land during their minority.<sup>6</sup> Agnes and Richard further alleged that, against the peace of the King, armed men ousted the girls from their land and their paternal uncle, John Northfolk, abducted and abused them. The uncle, they continued, forced Katherine against her will to become a nun at the priory of Wallingwells at the age of nine, while still a minor. They alleged that Joan died as a result of John Northfolk's abuse.<sup>7</sup> Agnes and Richard prayed that the chancellor should

summon John Northfolk to appear and be examined under pain of a £100 fine and that his wrongs be remedied. There is no judgment or decree attached to this proceeding, as is quite normal in this period and later.<sup>8</sup>

With only the Chancery Proceeding to guide her, Power found John Northfolk's behaviour reprehensible and she sought to explain it by offering the motive of Agnes' remarriage. However, Power did this in a way that misrepresented the actual contents of the document, which contained no discussion of John Northfolk's motivation.

### **Borthwick Institute of Historical Research, York, Cause Papers F.89**

A second set of documents preserved in the Cause Papers at the Consistory Court at York, recorded in the months after Easter in 1425, introduce a very different view of events from those reported by Agnes and Richard Haldenby.<sup>9</sup> This cause recorded the plight of a young nun, Katherine Northfolk, who was abducted from the monastery of Wallingwells. The defendants, Robert Arthyngton, Richard Castelan, John Roos of Northdighton and Agnes wife of Richard Haldenby, were accused of removing Katherine from the monastery after she had professed at the age of thirteen.

Both the length of this document and the damage it has suffered make it difficult to précis succinctly. In its entirety, this cause must have been quite extensive, since the portion that remains is in itself large, being comprised of four separate sheets of vellum of approximately forty-five lines each and a large roll containing the witnesses' depositions. In total the document is nearly nine hundred lines long. The loose sheets of vellum upon which the libels are recorded are quite damaged in places, especially along the tops where the constitution of the proctors and identification of the plaintiffs and defendants normally appears.<sup>10</sup> Hence the cause was erroneously identified by its twentieth-century cataloguer as "Robert Arthyngton, Richard Castelan, *John and Agnes Haldenby* c. John Northfolk de Naburne, domicellus, and Katherine Northfolk (1425)" (emphasis mine). One has to move a good way through the second sheet of vellum before it becomes clear that we are dealing not with John Haldenby, but John Roos. Agnes' husband, Richard Haldenby, was not present as a member of the abducting party; in fact, he was never mentioned in the suit, except when his name appeared as a part of Agnes' identification. In addition to the damage of the libels, the positions or interrogatories, which set out the queries to be addressed to witnesses, and thus *inter alia* set out the plaintiff's case against the defendant, are missing. However, the positions can be partially surmised from the testimony in the surviving depositions of thirty-two witnesses. Fortunately, the sentence, although quite damaged, has been preserved.

Two plaintiffs, the knight John Northfolk (represented by the proctor Robert Sturneton)<sup>11</sup> and the Abbess of Wallingwells<sup>12</sup> (represented by the proctor William Driffeld<sup>13</sup>), accused the defendants (represented by the proctor Robert Esyngwald<sup>14</sup>) of removing Katherine Northfolk from the monastery of Wallingwells, located on the border of Nottinghamshire and the East Riding of Yorkshire outside the walls of the park at Carleton in Lindrick, northwest of Worksop.<sup>15</sup> A large number of witnesses were called to respond to twenty-four positions set out by the plaintiff's legal counsel. The depositions of twenty women and twelve men have survived. Several of the witnesses were related to John, Katherine, and Agnes. John's sister Joan and her husband Robert Souman gave depositions.<sup>16</sup> Katherine Rothe was recorded as John's affine and Katherine Rudstan of Hayton was *cosanguinea*.<sup>17</sup> Margaret Symson was Agnes' affine, since Agnes was her daughter's godmother.<sup>18</sup> The remainder of the witnesses were friends and neighbours of the Northfolk family. The ages of the witnesses ran between twenty-three and sixty years of age, the majority of them being listed at exactly forty, giving the impression of a respectably mature group, if not an absolutely accurate representation of their true age.<sup>19</sup> Many of the witnesses—sixteen—were married to another witness.<sup>20</sup>

When responding to the queries posed, almost all the witnesses reported that they could not say whether the first eleven items were true or false because they had their information as hearsay (*dicit se nescire deponere nisi ex relatione alioris*). With few exceptions the same is true for items thirteen to twenty-four. But the crux of the case against the four defendants was built on item twelve, which asked the witness how old Katherine was. Every witness answered this query. One may presume that John Northfolk and the Prioress claimed that Katherine had consented to enter the monastery and was of legal age to do so. The force of the witnesses' testimony certainly indicated that this was the plaintiffs' argument. All thirty-two depositions agreed that Katherine had reached the age of thirteen by Easter of 1425.

The means by which witnesses supported their opinions are illuminating of social events surrounding births. Of the twenty women examined, three testified that they had attended Agnes Northfolk at Katherine's birth in the home of her aunt Joan and uncle Robert Souman: Joan Souman of Watirfulford, Alice wife of Robert Clarell of Watirfulford, and Agnes wife of John Ingram of Watirfulford claimed to be present. Agnes Ingram gave an especially full deposition, responding to item twelve by saying that she was present at Katherine's birth in the spring on the Monday after Easter thirteen years earlier, together with Alice Clarell, Joan Souman, and Agnes Farnham.<sup>21</sup>

Katherine was baptised in the chapel of St. Oswald at Fulford and her godmother, Alice Tailor, and her godfather, whose name Ingram had forgotten, lifted Katherine from the baptismal font. This was witnessed by a woman named Katherine who, at the time of Ingram's testimony, lived in Kingston on Hull,<sup>22</sup> and by Agnes Farnham, the midwife.<sup>23</sup> Ingram remembered this after so much time because she was pregnant and gave birth after Corpus Christi to a daughter called Joan who lived to be ten, but had died at the feast of St. Michael three years earlier.<sup>24</sup> In response to other questions she stated that she had spoken with Agnes Northfolk before Corpus Christi at the home of a mutual friend in York and had asked Agnes how her two daughters fared. Agnes had told her that her younger daughter Joan had died but that the elder, Katherine, was well and was twelve years old.<sup>25</sup>

In addition to Agnes Ingram, twelve women and six men who gave depositions dated Katherine's birth by the birth or death of their own children. Alice Jakson of Watirfulford said she knew Katherine was born thirteen years earlier in the Souman home because her own son William died shortly after in May. She also remembered that the Soumans' servants had told her that Katherine had been born to Agnes after a difficult labour.<sup>26</sup> John Galt of Gatefulford said that Katherine was born on the Monday after Easter thirteen years earlier because he heard it spoken of frequently by many men and women in the vill; also, his wife Margaret gave birth to a daughter Joan before Easter who would be thirteen now if she had not died.<sup>27</sup> Some witnesses remember Katherine's birth date for unusual reasons. Robert Bolton of Naburne remembered Katherine's birth date because he was having dinner with a couple, Thomas and Katherine, and went together with them after that dinner to the chapel at Fulford to see Katherine baptised. He recalled that Agnes was purified on the Sunday known in English as "lawe Sunday" and on that same day he personally brought twelve doves and six hens for a meal with Agnes and others.<sup>28</sup> Another witness, Joan, wife of William Wighton of Henylsy, remembered that Katherine was born thirteen years before at Easter in the home of Robert Souman, known in English as "Sewy House" because her own daughter was born in the same fall at the feast of St Michael the Archangel. She recalled nursing Katherine Northfolk when Agnes had to be away.<sup>29</sup>

The official (i.e. presiding judge) hearing arguments about Katherine's age would have been left in little doubt that she was thirteen and able, if not willing, to consent to religious vows. The sentence stated that Robert Arthyngton, Richard Castelan, John Roos, and Agnes Haldenby—with ill intent—abducted and carried off Katherine, dressed with the clothes of a nun, from Wallingwells. The four had not returned

Katherine to the monastery, as the prioress had requested. Therefore, the official, with the council of his legal expert, handed down a sentence of major excommunication to the four defendants.<sup>30</sup>

**York City Archives, York, E 20A (Yorkshire Memorandum Book) f. 76v, and f.90v**<sup>31</sup>

**a) Yorkshire Memorandum Book , f. 76v**

Just as the consistory court records tell a different tale from the Chancery plea, the documents in the York Memorandum Book provide a surprising twist upon the contents of the cause papers and provide a glimpse of issues underlying the dispute. The first entry related to the case concerns a gentleman named Robert Arthyngton—apparently the same Robert Arthyngton excommunicated at York—who appeared on the 15<sup>th</sup> of April 1435, before the mayor of York, Thomas Gare. Arthyngton had in his possession a deed which had been made in 1427 by the abbot of Newbo, John Apilton. The abbot of Newbo was also present before the mayor and he acknowledged that in 1427 he had made and sealed the deed which was now being presented by Arthyngton. Abbot Apilton had been the confessor of Nicholas Northfolk of Naburne, the father of Thomas Northfolk and grandfather of Katherine and Joan Northfolk. In the deed Apilton recalls the promises and last wishes of Nicholas Northfolk, which Nicholas had made verbally to him sometime before 1427. The record reads as follows:

Wytt all men that I Johne Apilton, Abbot of Neubo, sumtyme Vicar of Acastre Malbys, confessour and executor to Nicholas Northfolk of Naburne, wytness that the forsayd Nicholas in hys lyve at the tyme of his dying, prayd and charged me als I wald answar to God at the day of dome that I sould gyve none of hys moveable godys nor herelomes to Cateryn and Johne, doghtiris of Thomas, his son, yf so were that the same Thomas happynd nocht to cum home beyonde the see bot thar to dye, for, he sade, the forsade Catheryn and Johne sowlde inheret all hys land in Nabourn and others plass, for he saide he myght nocht put it fro thame, nor he wald nocht dame his sall nor charge his consiens saveying the land that he gafe to hys othir childyr for terme of thar lyve, and this I wyttneest and rehersed before Johne Portyngton and William Wylesthorp, arbetrores chosyn on the parte of Johne Northfolk. In wytness of this, to this present wrytyng wryten by my nowyn hand, I have sett my sele. Wrytyn at Yorke, the 11 daye of Marse in the yer of Oure Lord 1427.<sup>32</sup>

What Robert Arthyngton hoped to gain by presenting this deed to the Mayor was not stated. In any event, the deed allows us to see, one generation before the actions of both John Northfolk and Agnes Haldenby, what may be the origin of their dispute: Nicholas Northfolk knew that his son's inheritance should pass to his granddaughters in the event that Thomas perished abroad. Yet, Nicholas seemed displeased with this arrangement, since he charged his executor to ensure that the girls received nothing more (not even the customary goods that normally descended as heirlooms with the property) and intended to grant the lifetime use of some of his lands to his other children.

### **b) Yorkshire Memorandum Book, f. 90v**

F. 90v of the York Memorandum Book adds yet another intriguing element to the story. There we find an entry made on the 21<sup>st</sup> of August, 19 Henry VI (1441) which refers to Katherine, the daughter of Thomas Northfolk, now no longer a nun, but married to John Grene. The entry recorded an acknowledgment from Katherine's uncle William that the land he held jointly with his other siblings belonged to Katherine. It reads as follows:

Acknowledgement made in the Council Chamber before Thomas Kirke, Mayor, by William Northffolk, gentelman, to John Grene and Katherine, his wife, daughter of Thomas Northfolk, brother of the said William, that the reversion of tenements in the City and suburbs of York, which he held jointly with Robert Northfolk, his brother and Elizabeth, his sister, for the term of their lives by the gift of Nicholas Northfolk their father, belonged to Katherine, wife of John Grene. He paid 1d. as acknowledgment of his life tenancy.<sup>33</sup>

No reason for the acknowledgment was provided.

### **Borthwick Institute of Historical Research, Probate Register, vol. 3, f. 352v; vol. 4, f. 25r**

Two entries pertinent to Katherine's case appear in the York probate register. Volume 3, f. 352v contains an entry of registration for the will of Richard Haldenby in 1426. The proved will is not recorded, although Agnes Haldenby is noted as the executor. Volume 4, f. 25r contains the will of William Northfolk proved in 1471.

Using all of these sources, the Chancery plea, the Consistory Court documents, and the Memorandum entries and wills, we can be fairly sure of the sequence of events as they unfolded between the Northfolks and Haldenbys. Katherine was born in 1412 on the 4<sup>th</sup> of April, the Monday after Easter, in the home of her aunt Joan (Northfolk) Souman, which was in the village of Watirfulford.<sup>34</sup> A midwife attended her mother Agnes at Katherine's birth, as well as her husband's sister and other women from the community. Katherine received baptism at St Oswald's chapel in Fulford in the presence of a group of people including her godmother, Alice Taylor, other affines of the Northfolk family and members of the community. Agnes' ceremony of purification after Katherine's birth was on Low Sunday, the first Sunday after Easter, and a dinner with friends and family marked the occasion. Some time later, Agnes gave birth to a second daughter, Joan Northfolk.

We have good reason to believe that Katherine's father, Thomas Northfolk, was the eldest son of a large family with at least five siblings (John, Joan, William, Robert and Elizabeth). As such, he was the heir of his father, Nicholas Northfolk, just as Katherine, in the absence of a brother, was heir to Thomas. Quite naturally, Thomas Northfolk would have been concerned to make arrangements for his family in the event of his death abroad. Based upon the deed of John Apilton and the events that took place after Thomas' death we can guess that the passing of his inheritance to his daughters, Katherine and Joan, as his legal successors and representatives in common law, had been discussed in advance.<sup>35</sup>

Thomas Northfolk did die abroad, probably sometime before the end of Henry V's reign in 1422. It was not impossible that he was part of Henry V's campaign to France in 1415, since the deed of John Apilton described Thomas as across the sea, "happynd noght to cum home beyonde the see bot thar to dye."<sup>36</sup> Katherine's birth in 1412, followed sometime later by the birth of Joan, easily fit this scenario. If, as Agnes Northfolk alleged in her petition to the chancellor, Katherine was nine years old at the time her uncle John Northfolk placed her in the house at Wallingwells, Thomas might have died sometime before 1421. In fact, enough time would have passed for Agnes to receive news of his death, mourn, and possibly contract a new marriage with Richard Haldenby. With only Agnes' allegations to draw on, it is difficult to be certain of the events. However, it is clear that John Northfolk was holding land in Naburne by 1422, as his land was used to describe the location of land in a deed entered in the York Memorandum Book, dated 22 June 1422, 10 Henry V.<sup>37</sup> In any event, we can be sure from the cause papers that by 1425 both Katherine's



father, Thomas, and sister, Joan, were dead. Agnes had remarried and Katherine had been taken to Wallingwells by John Northfolk and removed again by her mother and her allies. With thirty-two witnesses in agreement there could be no doubt that Katherine was thirteen by the time these events had occurred.

Both canon and English law forbade men from removing nuns from their religious houses for marriage or any other reason, even if the nun consented to the “abduction.” In England the Church had set a particularly strong precedent for punishing nuns’s abductors with the excommunication of Sir Osbert Giffard in the late thirteenth century. Giffard, a very powerful knight, was excommunicated, forced to restore the two nuns he had abducted, performed a harsh and prolonged public penance at Salisbury Cathedral, and lost his title. In his study of apostasy, *Runaway Religious in Medieval England*, Logan argues that Giffard’s abduction of these nuns from Wilton Abbey was so reprehensible to the English prelates that it led to the legislation in the Statute of Westminster II (1285) against the abduction of nuns.<sup>38</sup> In keeping with that precedent, the consistory official excommunicated the four defendants in the Northfolk case, Robert Arthyngton, Richard Castelan, John Roos and Agnes Haldenby in 1425. Yet, we find in the York Memorandum Books that Katherine did not permanently return to the monastery at Wallingwells, but appeared some years later married to John Grene. How are we to account for this turn of events?

There are several possibilities. The defendants might have appealed the pronouncement of their excommunications. The archepiscopal see was vacant at York when the consistory court heard the case against the four abductors.<sup>39</sup> While the business of the courts continued, the vacancy meant that appeals normally directed to the Archbishop were sent to Rome. Although, there is no evidence that an appeal to Rome on behalf of the defendants took place in this case, it was a strategy used in other cases. For example, in the same year as Katherine’s case was heard, Robert Sturneton (John Northfolk’s proctor), acting as proctor in another cause, appealed the defendants’ sentence directly to the Pope and sought to have the case in progress dismissed.<sup>40</sup> Another possibility could be that the defendants produced Katherine for the official, he determined that she had not freely entered the convent, and the four were absolved. There is a third possibility: Katherine was restored to Wallingwells and the defendants performed their penance and searched for another means to free her.

If Agnes and her allies were biding their time, looking for new strategies, events at the English court were in their favour. In March of 1426, nine months after the last witness’ testimony was recorded in the cause papers, John Kemp was appointed

archbishop of the province of York. He was also appointed to the office of chancellor by Henry VI, becoming one of the most powerful men in England. If Richard and Agnes Haldenby's undated petition to the chancellor had been made before the case in the York Consistory, their petition would have been made to the Bishop of Winchester who was chancellor from 1424-6; however it was addressed to the Archbishop of York.<sup>41</sup> Therefore, the Chancery Proceeding must have been made sometime after March of 1426; in other words, after Agnes had been excommunicated. In terms of the temporal sequence of events, this is puzzling.

Excommunicates did not have the legal right to plead in the secular or religious courts, unless they were appealing their excommunication.<sup>42</sup> In fact, if Agnes had remained obdurate for more than forty days, it would have been the responsibility of the royal chancery—at the bishop's request—to issue the local sheriff with a writ for Agnes' arrest and detention, until she was absolved (Logan 17n). All this suggests that Agnes' sentence must have been lifted by the time the Chancery Proceeding was made, either because Katherine had been restored to Wallingwells or found to be unwillingly professed, as I have just suggested.<sup>43</sup>

In his office as archbishop, John Kemp would have had a strong interest in preventing forced professions on the one hand and apostasy on the other. As chancellor, he had a duty to pursue bills of complaint made by subjects of the King.<sup>44</sup> The fact that the abbot of Newbo, John Apilton, appeared before John Northfolk's "arbtrores" and "wytressed and rehersed" Nicholas Northfolk's final wishes on 11 March 1427 indicated that Agnes Haldenby and John Northfolk were still wrangling over Katherine's inheritance, possibly because the Haldenbys' request to the chancellor for further investigation had been undertaken.<sup>45</sup> Whichever scenario is nearer the truth, the result was the same: Katherine did not remain at Wallingwells, Agnes did not remain excommunicate.

When Katherine was twenty, Agnes' second husband, Richard Haldenby, died. Agnes acted as executor of the will. Only the registration of the will was entered in the York Register on March 30 of 1433, the will itself not being recorded.<sup>46</sup> The following year, Robert Arthyngton approached the mayor of York's court with the deed made by abbot Apilton and before the mayor the abbot certified that the document was indeed authentic. If Katherine had been married, her husband, not Robert Arthyngton, would have approached the mayor. Arthyngton's prominent role in the Wallingwells "rescue" and his appearance before the mayor on behalf of Katherine's interests spoke to his close relationship to Agnes and Katherine; possibly

he was Agnes' brother. By the time Katherine was twenty-nine she had no need of Arthyngton's help in court for she had married. Hence, it was to John and Katherine Grene that William Northfolk acknowledged Katherine's ownership of the lands he and his siblings held as tenants for life. He paid Katherine £1 as an acknowledgment. In 1471 William Northfolk died, leaving all his goods and chattels to his sister, Elizabeth (Northfolk) Duffeld, and his nephew, Jacob Duffeld.<sup>47</sup>

To summarise, Katherine was born in 1412. By 1425, her father and sister had died, her mother had remarried into the Haldenby family, she had been taken to Wallingwells by her uncle, and had been removed again (perhaps permanently) by her mother. In 1425 her mother Agnes and her mother's allies were excommunicated. Sometime after March of 1426 her mother and her step-father petitioned the chancellor. In 1427 John Apilton gave information to John Northfolk's "arbetroses" about the last wishes of Nicholas Northfolk which indicated that Katherine was her father's heir. In 1434, Katherine's interests were represented by Robert Arthyngton before the mayor of York and, finally, in 1441 Katherine and her husband John Grene received a formal acknowledgment of her title to lands which were held for life by her uncles and aunts.

Interpreting these events is more difficult than sequentially ordering them. Power was quick to condemn John Northfolk and my narration of events seems to suggest her low opinion had good grounds. Yet there are reasons that might lead a man of his position to consider his actions well advised. If Agnes, Katherine, and Joan had been much under the Northfolk family's protection, his actions could be interpreted as paternal and legitimate, particularly if Katherine had a serious calling to the religious life and Agnes was standing in the way of her profession for fear of losing the profits of her marriage. To see the situation in the best possible light, it may be that John felt responsible for Katherine's care. It was not unusual for the surviving male head of a family to make arrangements for his deceased brother's children. From another perspective, John's actions may demonstrate his dedication to the duty of a *paterfamilias* to maintain the family patrimony. In so doing he was simply upholding an imperative of the land-holding classes. Some part of his action was perhaps motivated by a wider social discomfort with the law of inheritance by representation—the means by which Katherine inherited her father's patrimony—especially when the heir in question was a minor female. J.H. Baker describes how the common law of inheritance by representation was ensured slowly over a period of several hundred years after long struggles between numerous nephews with their uncles.<sup>48</sup> Although

Paul Brand asserts in his discussion of inheritance in later medieval England that women also inherited by representation, I think that assertion deserves to be examined more closely especially with respect to young female heirs.<sup>49</sup> In a patriarchal society the rights of nephews over uncles could be asserted and still maintain the gendered status quo. That is not the case with nieces. Framing the problem of John's behaviour from this perspective, we may come closer to understanding his own justifications for disinheriting Katherine. It is well to recall how conflicted John's father, Nicholas Northfolk, was over passing his land on to his granddaughters. A consequential amount of his family's income would move out of Northfolk hands. Nicholas must have been under considerable pressure to use his will to avert that loss; yet his concern that he not damn his soul prevented him from misusing his will, which was essentially a religious document. John Northfolk would appear to have held the family patrimony in high priority, placing Katherine in a monastery against her best interest, with the welfare of the whole family in mind. After all, he did not attempt to force her to marry against her will, nor did he harm her so far as we can tell. To make her a nun was an honourable choice given the variety of dishonourable alternatives available to him.

Yet, when one considers his selection of monastic house for Katherine's destination it is more difficult to support the notion that John's intentions were honourable. Wallingwells, located on the border of the Yorkshire East Riding and Nottinghamshire, was nearly seventy kilometres from York as the crow flies.<sup>50</sup> How much bad road lay between York and Carleton in Lindrick, the closest settlement to the monastery, is anyone's guess. It was certainly an out-of-the-way location when one considers how many other monastic establishments for women were within a comfortable distance of Naburne: St. Clements, Thicket, Nun Appleton, Wilberfoss, Nunburnholme, Nun Monkton, and Sinningthwaite were all closer to Naburne. Thicket, to the south-east of Naburne, was only a few kilometers away.<sup>51</sup> Although most women's houses were financially worse off than men's establishments, and Yorkshire houses were never as prosperous as those in the south, Wallingwells appeared to have been particularly poor. The extreme poverty of the nuns was noted on more than one occasion in the late thirteenth-century register of Archbishop Giffard.<sup>52</sup> Henry VIII's *Valor Ecclesiasticus* recorded the annual income of the house after reprises at just less than £59.<sup>53</sup> By way of comparison, Romsey Abbey in Hampshire had a temporal income of nearly £405 per annum a century before the *Valor Ecclesiasticus* was recorded.<sup>54</sup> Given the condition and location of Wallingwells, it would be hard to argue that John Northfolk had Katherine's best interest in mind. Consider what he had to gain: £40 per annum—the value of Katherine's lands

according to the Chancery plea—was a large sum for a northern knight whose inheritance was stretched thin among several siblings.

£40 per annum was a significant amount of money, but was it enough to induce John to murder his niece Joan? Other than Agnes' allegations, only Agnes Ingram's deposition mentioned Joan's death and recorded it in such a way as to seem much in keeping with the high mortality rates to which the young were subject.<sup>55</sup> Even the wording of the Chancery plea was vague: "...and he has killed the other daughter of the aforesaid Thomas Norfolk, *as it is said*."<sup>56</sup> Perhaps Joan did die while under John's control, but one suspects it was of natural causes and that Agnes included her death in her list of grievances to the chancellor to increase the severity of her allegations against John.

The initial picture we develop of Agnes is more positive. She appeared to be a valiant fighter on behalf of her daughter. The absence of her husband, Richard Haldenby, from the list of defendants in the cause papers is suggestive of her agency in the affair. Although Agnes required the help of men, in particular Robert Arthyngton, clearly she was not a woman easily intimidated, risking grave consequences to retrieve Katherine from Wallingwells. However, there is no way of knowing whether it was a risk she took out of maternal love or for financial gain. A case could be made for both possibilities, and these motivations need not be mutually exclusive. As Katherine's guardian, she had the responsibility for maintaining the girl's inheritance during her minority, as well as the responsibility, and potential profits, from arranging her marriage.

Women of the landed classes frequently managed the family estates and were expected to promote their family's fortunes and status through their children's marriages. Agnes Paston's bitter and, by present standards, abusive struggle with her daughter Elizabeth over her refusal of an arranged match, and Margaret Paston's total ostracism of her daughter Margery after her clandestine marriage to the family bailiff were two well-known examples of women's keen (some may say cruel) and controlling interest in marriage negotiations which placed family status before personal happiness.<sup>57</sup> On the other hand, Honor Lisle's efforts, in the early sixteenth century, to marry the children of her first marriage demonstrated concern for both their happiness and financial stability.<sup>58</sup> Although the Northfolks were neither as well off as the Pastons nor as well-connected and powerful as the Lisles, a girl who inherited lands valued at £40 per annum was assured of making a very advantageous marriage.

Honor Lisle's daughter Anne Basset had a marriage portion of 100 marks (not quite £67) and was considered well provided for (Byrne 201).

Katherine was vulnerable as an heiress who was still a minor. The problems suffered by many wards illustrated the serious threats that greedy, angry, excluded relatives could pose to a young girl's inheritance.<sup>59</sup> The facts that Katherine was Thomas's legitimate heir and that the abbot of Newbo remembered her grandfather's last wishes, reticent though they might have been, were all to the good.<sup>60</sup> In Katherine's case, her mother also represented a formidable remedy to her patrilineal family's schemes. While Agnes' motivations may have been financial, the degree to which she was willing to risk her own happiness indicated both a sincere interest in Katherine's welfare and conviction in the righteousness of her cause. Although Agnes Haldenby had significantly less to lose in material terms than the infamous excommunicate Sir Osbert Giffard, nevertheless a sentence of major excommunication was extremely detrimental, prohibiting her from communication with all Christians for any reason, spiritual or temporal, and affecting not only her good reputation, but presumably that of her family.<sup>61</sup> An honourable reputation was the cornerstone of social success. Without it financial agreements, marriage arrangements, and commerce of any kind were extremely difficult.<sup>62</sup> By abducting Katherine, Agnes risked her own good standing and reputation in her community.

The records generated by Katherine's case leave us with some intriguing questions, for example, about the public effect of excommunication for women as opposed to men. When a paterfamilias was excommunicated, records show that his family often shared in his humiliation, even though Gregory VII's canon *Quoniam multos* protected his wife and children from contagion (Vodola 60). When the tables were turned, did the excommunication of a wife hold the same power to bring her family into a state of ostracism?

The records also suggest questions about family strategy and the use of the courts. How frequently did family conflict proceed through different kinds of courts, and how often was their use of the courts in tandem with physical force applied outside of them? In addition, the nature of the records requires us to ask how family conflict was rooted in ideas about gender. John Northfolk's willingness to sever his responsibility to women kin when they stood in the path of his financial interest speaks volumes about the wider social opinion of female inheritance. In particular, it forces us to call into question the social support for the laws of inheritance via representation in the case of young women. John Northfolk's actions required the cooperation of members of his

family and the abbess of Wallingwells, which indicated a quiet tolerance of his method. Without the presence of a very resolute Agnes, John would most certainly have succeeded in separating Katherine from her land.

At the beginning of this article, I asked whether the legal records generated by Katherine's predicament could furnish us with a coherent picture of a woman's influence upon familial conflict. I believe the answer to that question must be a qualified yes. Agnes' decision to retrieve Katherine from Wallingwells had a powerful influence upon the course of the conflict. The qualification comes with how far we are able to see Agnes as the independent instigator of that action. While she acted without her husband in the Wallingwells affair, she may well have had his private support to pursue it. The help of Robert Arthyngton was essential to the success of the "rescue." How much Agnes owed to him for the genesis of the plot is impossible to say. However, there is no suggestion in the cause papers that Agnes was anything other than a full accomplice in the abduction. Without knowing the exact kinship of Arthyngton to Agnes and Katherine we cannot be sure where his interests lay. Indeed, we may never know the "true" course of events as they unfolded between Agnes, John, and Katherine. The important point here is that we can see from these documents that Agnes made a choice to engage in an activity that deepened the conflict between herself and John Northfolk, and this choice was the efficient cause of Katherine's freedom from Wallingwells.

My consideration of these northern legal records offers as many questions as answers to the problem of women's agency in a time when women were afforded little authority, either within their family or in public life. Agnes' defence of her daughter, either for personal gain or for love, or both, demonstrated that a woman's involvement in family conflict inside and outside the legal system could inform the outcome. Eileen Power's assertion that many little heiresses were hurriedly and unwillingly professed was undoubtedly correct. However, in the case of Katherine Northfolk, Power saw only a small part of the story. In this case, largely through the efforts of her mother, this little heiress did finally have recourse in the law.

## ***University of Saskatchewan***

### ***Notes***

1 Eileen Power, *Medieval English Nunneries c1275 to 1535* (Cambridge: Cambridge UP, 1922), pp. 32-9. Power noted (34n) the case of Christina de Burgh,

daughter of Sir Robert Fitzwalter, who asked Ralph Baldock, Bishop of London, to be released from Haliwell where she was placed unwillingly by her parents.

2 Power 35. From Public Record Office (henceforth PRO) C1/7/70 (noted by Power under the old classification, Early Chancery Proceedings 7/70).

3 York County Archives, henceforth YCA.

4 The Yorkshire Archaeological Society published an index to this probate register. *Index of Wills in the York Registry 1389 to 1514* (Worksop: Yorkshire Archaeological and Topographical Association, 1889).

5 PRO C1/7/70. "A son tres gracious seigneur et tres reverent peire en Dieu, l'Erceuesque d'Euerwyke et Chancellor d'Engleterre." The transcription is my own.

6 "[L]a dite Agnes miere les ditz Katheryn et Johane feust seisi come proschein amy a les ditz feiles apres la mort du dit Thomas."

7 "[H]ommes armies encountre la pease nostre seigneur le Roy Henry le quint et les oustes des ditz fieles debrusai et lour monumentz des ditz terres et tenementz illeques prist et enporta et la dite Katheryn fist il un nonayn Religieux quant eils feust forsque de l'age de ix anz a un lien appels Wallandwelles encoutre sa volutes et l'outre feile le dit Johan Northfolk ad occis sicome dit."

8 For a discussion of the format of the proceedings see Anthony Musson and W. M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke: Macmillan, 1999), pp. 23-5; Robert C. Palmer, *English Law in the Age of the Black Death 1341-1381* (Chapel Hill: Univ. of North Carolina Press, 1993), pp. 104-32; *Select Cases in Chancery*, ed. William Paley Baildon, Selden Society vol. 10 (London: Quaritch, 1896), pp. xiv and xxvi. See also Timothy S. Haskett, "The Medieval English Court of Chancery" *Law and History Review* 14 (1996): 245-313. For specific information on the use of this court for ecclesiastical matters and by women see his article "The Curteys Women in Chancery" in *Women, Marriage and Family in Medieval Christendom: Essays in memory of Michael M. Sheehan* eds Constance M. Rousseau and Joel T. Rosenthal (Kalamazoo: Western Michigan University, 1998), pp. 350-6.

9 Borthwick Institute of Historical Research, York (henceforth BIHR) CP F.89.

10 For a discussion of the usual format and elements of a Cause see R.H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge UP, 1974), pp. 12-22. See also his "Judges, Lawyers, Witnesses, and Litigants" in chapter 5.



11 BIHR CP F.89, 1 at line 7; 3 at lines 1-5.

12 This may have been Isabel de Durham who became prioress in 1402. Since the date of her death is not known it is possible that Joan Hewet was the prioress at the time of Katherine's cause. Joan Hewet died in 1465. *Victoria History of the Counties of England* (henceforth VCH) Notts. 90.

13 BIHR CP F.89, 1 at line 16; 2 at lines 9-16; 3 at lines 1-5.

14 BIHR CP F.89, 1 at line 4; 3 at lines 1-5.

15 VCH Notts. ii (1910), 89-90.

16 BIHR CP F.89. Joan's deposition is the second and appears at line 20 of the roll, Robert's is the twenty-eighth deposition and appears at line 478.

17 Katherine Roth's is the first deposition in the roll. Katherine wife of Robert Rudstan of Hayton's is the thirtieth deposition and appears at line 534.

18 Margaret Symson's is the ninth deposition at line 151.

19 Fourteen witnesses were recorded at exactly forty years of age. Jeremy Goldberg observes that age data in the cause papers are quite unreliable. Ages over thirty are generally approximate. See Jeremy Goldberg, "Marriage, migration, servanthood and life-cycle in Yorkshire towns of the later Middle Ages" *Continuity and Change* 1 (1986): 141-69; and "Fiction in the archives: the York cause papers as a source for later medieval social history," *Continuity and Change* 12 (1997): 425-45, at p. 431.

20 Matching couples' names in the cause papers often is misleading due to the popularity of a small pool of Christian names and commonly recurring surnames. For example, two women are identified as the wife of Nicholas Symson of Naburne, but Nicholas Symson does not name his wife in his deposition so I have left them out of my count. The sixteen listed here as couples are from the same locations, refer to each other by name in their depositions, and many also refer to the names of their children. Joan and Robert Souman (2<sup>nd</sup> and 28<sup>th</sup> depositions), Agnes and John Ingram (4<sup>th</sup> and 25<sup>th</sup> depositions), Margaret and John Galt (5<sup>th</sup> and 20<sup>th</sup> depositions), Joan and John Andrew (8<sup>th</sup> and 21<sup>st</sup> depositions), Matilda and Thomas Garbot (11<sup>th</sup> and 17<sup>th</sup> depositions), Marjory and John Garbot (12<sup>th</sup> and 15<sup>th</sup> depositions), Alice and Robert Boulton (18<sup>th</sup> and 22<sup>nd</sup> depositions), Joan and William Wighton (31<sup>st</sup> and 32<sup>nd</sup> depositions).

21 BIHR CP F.89. Fourth deposition lines 62 to 64: *dicit quod in aurora die lune proxime post / dominicam in passione dominum ulter elaps' ad xiii annos praesens...fuit ipsa*

*iurata in domo Roberti Sonman' in Villa / de Watirfulford' situatis una cum Alicia Clar-ell' Johana Souman' contestibus suis et Agnete Ffarnham.*

22 I believe this was Katherine Roth, wife of John Roth of Kingston-on-Hull, who was the widow of a man named Thomas. See the first deposition on the roll of CP. F.89.

23 BIHR CP F.89. Fourth deposition lines 66 to 69: *fuit ipsa katerina in capella Sancti Oswaldi de Ffulford baptizata praesentibus ibidem in baptizacionem huiusmodi ipsa iurata Katerina more iam trahente in villa de Kyngeston' super Hull' Alicia Tailoris com-matribus ipsius katerine uno capellano cuius nominis ad praesens non recolit ut dicto com-patre eiusdem Katernia / dictisque Agnete Ffarnham obstitrice in partu ipsius Katerine.*

24 *fuit ipsa iurata pregnans cum una infante quam die mercur' proxime cum festum corporis christi dict' die' lune immediate sequenter peperit in hunc mundum et ipsa filia sua vocabatur Johana et vixit fere per decem annos ac moriebatur ad festum sancti Michelis / ultimo preteritos ad tres annos.*

25 *ipsa iurata quesivit ab eadem Agnete ubi duo filie sue erant et quomodo valuerint / que Agnes tunc...dixit quod dictam fuit sibi quod filia sua minor nominata johanna mor-tua fuit et tunc / ipsa iurata petit ab eadem Agnete qualiter Katerina filia sua nata in villa de ffulford' valuit que Agnes / tunc dixit quod bone valuit ut dictum fuit sibi et tunc inter alia verba inter ipsas ibidem recitata de etate / ipsius Katerine ipsa Agnes fatebatur et dixit quod tunc ipsa katerin fuit etatis xii annoris et amplius.*

26 BIHR CP F.89. Sixth deposition, lines 108 to 115.

27 BIHR CP F.89. Nineteenth deposition, lines 321 to 329.

28 BIHR CP F.89. Eighteenth deposition, lines 300 to 313.

29 BIHR CP F.89. Thirty-first deposition, lines 551 to 561.

30 BIHR CP F.89.2, lines 21 to 29. This section of the roll is very damaged along the edges. Brackets{ } indicate where I have supplied missing words or parts of words. Ellipses indicate spots that are entirely illegible: *Quia invenimus dictum Rober-tum Arthyngton Ricardum Castelan et Johannem Roos ad.../ dictam Agnetam de Haldenby prefatam Katerinam vestibus monialibus indutam de dicto domo sine prioratu de Wallanwelles /{iniuriouse} abduxisse subtraxisse abstulisse et ammovisse intencionem tamen dictarum Religiosarum mulierum priorisse /...-pio ad restitutionem et reductionem eiusdem Katerine eo modo quo petitur obtinendam sufficienter fundatam non esse / ...pro tribunali sedentes et solum deum....habentes de concilio iuris proctoris nobis assistenciam per hanc nos-*

*tram.../ {quam} ferimus in hiis scriptis pronunciamus decernimus et declaramus dicunt Robertum, Ricardum, Johannem et Agnetem in maioris /... sentenciam dampnabiliter incidisse et sic excommunicatos fuisse et esse ac tales et pro talibus publicandos fore et publice nunciari /...communone honesti fidelium excludi et publice evitari quousque beneficium absolucionem in forma iuris in hac parte meruerint obtiner... / pro tante temeritatis excessu canonicè puniendes fore et cum effectum puniri debere.*

31 Both documents are transcribed in the Surtees Society's publication of the York Memorandum Book (Joyce W. Percy, *The York Memorandum Book*, Surtees Society vol. 186 [1973], pp. 108, 126.) The book contains records concerning civic business and management, such as guild ordinances, city boundaries, deeds, leases, trade regulations and parish collections. See introduction of volumes 120, 125 and 186 for a full description of the contents of all the York Memorandum books.

32 Percy, *Memorandum Book* 108.

33 Percy, *Memorandum Book* 126.

34 The villages of Watirfulford, Gatefuford and Naburne were in the East Riding of York, in the Ouse and Derwent Wapentake. Naburne was approximately 6.5 kilometres south of York situated on the Ouse and Watirfulford was a few kilometres to the north of Naburne toward York. See VCH Yorks ER III.74-82; John Speed, *The Counties of Britain: A Tudor Atlas by John Speed* (London: British Library, 1988), pp. 198-9.

35 The principle of "representation" in common law permitted married children with their own offspring to pass their inheritance rights on to their own children, the grandchildren of the property owner, if they died before their parent. This was true even if the heir's children were female. See Paul Brand "Family and Inheritance, Women and Children" *An Illustrated History of Late Medieval England*, ed. Chris Given-Wilson (Manchester: Manchester UP, 1996), pp. 74-5.

36 Percy, *Memorandum Book* 108.

37 Percy, *Memorandum Book* 49.

38 F. Donald Logan, *Runaway Religious in Medieval England c1240-1540* (Cambridge: Cambridge UP, 1996). See pp. 85-8 for a discussion of the Giffard affair and the history of the Roman, canon and English laws against the removal of nuns.

39 Henry Bowet was archbishop from 1407 to 1423. The seat was vacant from 1423 to 1426. John Kempe was archbishop from 1426 to 1452. See David M.

Smith, *Guide to Bishop's Registers of England and Wales* (London: Royal Historical Society, 1981), p. 242.

40 BIHR CP. F. 157. Robinson c. Rayner. Transcribed by R.H. Helmholz, *Select Cases on Defamation to 1600* (London: Selden Society, 1985), p. 12.

41 Prior to John Kemp the chancellor was Henry Beaufort, Bishop of Winchester, from 1424 to 1426. See the list of chancellors provided in *Select Cases in Chancery*, p. xlvi.

42 F. Donald Logan, *Excommunication and the Secular Arm in Medieval England* (Toronto: PIMS, 1968), p. 14n: "The dictum was *excommunicatus non habet personam standi in iudicio*. Excommunication became a standard exception admissible in the common law courts."

43 There was a great deal of debate among the thirteenth- and fourteenth-century canonists about the concessions that could be made to excommunicates who were appealing their sentences. See Elizabeth Vodola, *Excommunication in the Middle Ages* (Berkeley: Univ. of California Press, 1986), in particular "Excommunication and the Loss of Legal Rights," pp. 70-102, and "Excommunicates Outside the Courts," pp. 128-58. Most notable among the debates were Innocent IV's gloss on *Quia periculosum* and Hostiensis' opposition to it. Innocent IV's arguments suggested "that the Church was unjust to forbid communication...since there was no delay before a sentence of excommunication was executed, appellant excommunicates remained excommunicated throughout their appeals; but to avoid injuring them, Innocent believed, the courts must relieve the worst effect of the sentence, the ostracism" (Vodola 149). Hostiensis argued that appellant excommunicates had to be avoided in everything but their appeal, and that all excommunicates were barred from any legal transactions and contracts (Vodola 150-51). Vodola argues that in practice it was Hostiensis' interpretation which held sway (Vodola 156).

44 See Haskett, "Curteys Women," pp. 350-6.

45 The use of arbitrators, agreed upon by both parties, to mediate disputes in common law was not unusual. A contemporary example of the use of arbitrators can be found in William Paston's 1426 memorandum to his arbitrators. See *Paston Letters and Papers of the Fifteenth Century*, ed. Norman Davis (Oxford: Clarendon Press, 1971) Part I, Letter 5.

46 BIHR, Probate Register vol. 3, f. 352v.

47 BIHR, Probate Register vol. 4, f. 25r.

48 J.H. Baker, *An Introduction to English Legal History* 3rd ed. (London: Butterworths, 1990), p. 305.

49 Brand, "Family and Inheritance, Women and Children," pp. 74-5. Holdsworth also says that although men were preferred, women inherited by representation. See William Holdsworth, *A History of English Law* (1908; London: Methuen, 1966) 3:175. Holdsworth based much of his discussion on F. Pollock and F.W. Maitland, *History of English Law before the time of Edward I* (1895; London: Cambridge UP, 1968).

50 VCH Notts. ii (1910), 89-90.

51 Janet E. Burton, *The Yorkshire Nunneries in the Twelfth and Thirteenth Centuries* Borthwick Papers 56 (1979); Sally Thompson, *Women Religious: The Founding of English Nunneries after the Norman Conquest* (Oxford: Clarendon Press, 1991); Susan Neave, "Medieval Religious Houses" *An Historical Atlas of East Yorkshire* eds Susan Neave and Stephen Ellis (Hull: Univ. of Hull Press, 1996).

52 VCH Notts. ii (1910), 89.

53 VCH Notts. ii (1910), 89n.

54 Jackie Mountain, "Nunnery Finances in the Early Fifteenth Century" *Monastic Studies: The Continuity of Tradition* 2 (1991): 263-72.

55 BIHR CP F.89. Lines 62 to 82.

56 PRO C1/7/70. The translation and emphasis are my own.

57 Ann S. Haskell, "The Paston Women on Marriage in Fifteenth-Century England" *Viator* 4 (1973): 459-471, especially pp. 466-8.

58 Muriel St Clare Byrne, *The Lisle Letters: An Abridgement* (Chicago: Univ. of Chicago Press, 1983). See chapter 10 "Careers for the Children" especially the sections concerning Katherine and Anne Basset, pp. 201-11.

59 See Noel James Menuge, "Female Wards and Marriage in Romance and Law: A Question of Consent" *Young Medieval Women*, ed. Katherine J. Lewis *et al* (Phoenix Mill: Sutton Publishing, 1999).

60 Barbara Hanawalt's discussion of the case of "Alison, the Bastard Heiress" demonstrates how easily an illegitimate girl and her inheritance were preyed upon.

Barbara A. Hanawalt, *Growing Up in Medieval London: The Experience of Childhood in History* (Oxford: Oxford UP, 1993), pp. 97-100.

61 Did excommunication affect women differently than men? It is a question that few historians seem to have considered. James Brundage points out that an excommunicated man “could not lawfully demand payment of the conjugal debt from his wife, but he nonetheless remained bound to pay if she required it of him.” James A. Brundage, “Medieval Canon Law” *Medieval Women and the Sources of Medieval History* (Athens: Univ. of Georgia Press, 1990), p. 70. It is unclear whether Brundage is speaking about a minor or major excommunication.

62 On the importance of honour in late medieval English society see Philippa Maddern, “Honour among the Pastons: gender and integrity in fifteenth-century English provincial society,” *Journal of Medieval History* 14 (1988): 357-71.