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ARTICLE

# 'World Now Thou Seest What Tis to Be a Ward': Representations of Wardship and Enforced Marriages on the Seventeenth-Century Stage

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This article argues that the trope of the young ward being threatened with enforced marriage by their guardian remained popular on the late seventeenth-century English stage, despite changes in the law of wardship which offered more protection to wards. It offers an overview of the changing laws of wardship in the seventeenth century and links these to representations of wardship in the work of William Shakespeare and George Wilkins on the one hand, and Thomas D'Urfey on the other. That D'Urfey continued to use, as a main driving action in his plays, the character of the greedy guardian who tries to enrich himself by infringing on the rights of his ward, is, however, less a representation of the legal situation at the time, and more a continuation of a popular, earlier-seventeenth-century trope.

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Wardship, the legal procedure in which a minor is placed under protection of a court of law after the death of his or her father, played an important role in early modern England. Between 1540 and 1642 the Court of Wards and Liveries held jurisdiction over these minors and was responsible for placing them, and their inherited lands, under supervision of court-appointed guardians. This happened, by estimation, some 85 times a year, and as minors would remain in wardship till they reached their majority, the total number of youngsters in wardship was likely to have been considerable.<sup>1</sup> The right to become a guardian to an individual ward was sold to the highest bidder, leaving wards vulnerable to the whims of their guardian, who may not have the minor's best interest at heart. The potential ramifications and abuse of the wardship system frequently found themselves represented on the seventeenth-century stage. The emphasis on wardship in the opening lines of William Shakespeare's *All's Well that Ends Well* (c.1604-5), for example, demonstrates early modern English 'culture's preoccupation with it' (Dubrow 1999: 168).

Despite the importance of wardship in early modern English society, however, the topic has received little scholarly attention.<sup>2</sup> As such, there is a relative paucity of scholarship on the legal principle of wardship, in general, and representations of wardship on the stage, in particular. What is more, those who discuss portrayals of wardship in early modern English drama either tend to focus on how wardship is dealt with in the work of one author (e.g. Sokol and Sokol 2003); deal with wardship only when they discuss a single play in which it happens to be featured (e.g. Snyder 1993: 12); or concentrate on the first half of the seventeenth century only, leaving Restoration drama out of their discussion of wardship (e.g. Blayney 1956). In order to

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<sup>1</sup> It is difficult to gauge the exact incidence of wardship (Bell 1953: 134). The number given here is based on Fabian Philipps's (1660) estimation that during the reigns of James I and Charles I on average at least 85 wardships were granted each year (33–34). As H. E. Bell (1953) has also noted (134), this number is likely to be a low estimate, given that Philipps was one of the biggest proponents of the wardship system. In discussing the incidence of wardship, Philipps hopes to find support for his claim that there are only a few ways in which the Crown could 'make any profit or advantage ... by Wardships, Marriage, Reliefs, primer seisin &c' (34). 85 is the average of the four numbers Philipps provides for four different years (71 in James's 21<sup>st</sup> regnal year; 73 in his 22<sup>nd</sup> regnal year; 112 in Charles's 2<sup>nd</sup> regnal year; 85 in his 3<sup>rd</sup> regnal year).

<sup>2</sup> This has also been noted by Heather Dubrow (1999: 166) and H. E. Bell (1953: 186).

understand the development of the wardship trope as it is used on the seventeenth-century stage, however, it is necessary to study it across plays and across periods. This article, therefore, will compare works of earlier seventeenth-century dramatists William Shakespeare and George Wilkins to plays by Restoration playwright Thomas D'Urfey, who continued to use the wardship trope after it had already lost its legal and social topicality. By escaping rigid classifications of (literary) periodization it is possible to trace the development of the wardship trope from an accurate description of the legal situation in the first half of the seventeenth century, to a metaphor for a wider range of types of thralldom towards the end of the seventeenth century.

This article will conduct this comparison by first discussing the law of wardship at the beginning of the seventeenth century, up to the closure of the Court of Wards and Liveries in 1642. The second section will demonstrate that early-seventeenth-century dramatic representations of the wardship system reflect the harsh real-life situation by discussing plays by Shakespeare and Wilkins. The third section looks at how the feudal wardship system came to be replaced by wardship in socage after the Restoration, which allowed the situation of wards to improve enormously. While one might expect this to be the end of the unfairly treated stage ward, the fourth section shows that despite their newly improved situation, unhappy wards continued to make an appearance on the Restoration stage: in *Love for Money: or, the Boarding School* (1691) and *The Richmond Heiress: or, a Woman Once in the Right* (1693), D'Urfey re-introduces the trope of the self-centered guardian and the victimized ward. Ultimately, this article will reflect on D'Urfey's choice to stage guardians infringing on the rights of their wards at a time when this opportunity for abuse had been legally curbed, arguing that rather than being rooted in real-life examples, the playwright borrowed a hugely popular earlier-seventeenth-century trope in order to lift on its success and explore and critique contemporary social issues, such as mercenary marriages.

### **The Law of Wardship in the Early Seventeenth Century**

Wardship was originally based on the idea that tenants could be called upon by their lord to deliver knight-service to defend the kingdom (Bell 1953: 79). When the tenant

died, however, his under-age heir could not be asked to offer such military service. The lord could therefore take the land back until the heir came of age, and demand military service from the new, temporary, guardian of the land and heir. By the sixteenth century, tenants-in-chief by knight-service were no longer expected to offer military service; the wardship system was, however, maintained to ensure that lands held by the Crown remained under the Crown's authority. In this feudal wardship system minors were placed under protection and authority of the Court of Wards and Liveries in case their father had died – irrespective of whether their mother was still alive. Wardship did not, however, necessarily extend to all children of the deceased tenant-in-chief. The ward would have to be his or her father's heir, which means that, in line with primogeniture, only the oldest boy in a family qualified, or, in a family with only daughters, all girls would become wards. Children could stop being wards at the age of twenty-one for boys and sixteen for girls (fourteen when she had married). At that age, they could sue out their wardship and claim their father's inheritance for their own.

Once a child was a ward, the wardship over his or her body and land would be up for sale. Wardship over land gave the guardian the right to the profits of the land during the space of the ward's minority. Wardship over the ward's body gave the guardian the right to marry the ward to a party of their own choice. There were rules in place that protected wards from marrying below their status: they could not be married to a partner suffering from 'defects of mind' (in case the prospected marriage partner was an idiot (mentally impaired from birth) or lunatic (someone who was thought to be only temporarily insane)); 'defects of blood' (if the marital partner was of inferior status); or 'defects of body' (in case the marital partner was ill, deformed or impotent) (Hurstfield 1973: 140). With the right to choose the ward's marital partner came the obligation to treat and raise the ward as befitting his or her status.

This wardship system had several proponents. First and foremost, there was the Crown. As the system minimized the possibility of 'concealed lands' ('lands held of the crown by some tenure or other, in which the link had decayed or been cut by an elusive tenant') and instead made sure that feudal dues were paid to the Crown, it was

lucrative (Hurstfield 1973: 35). The sales of wardship, too, helped to fill the Crown's pockets. As such, the Crown was particularly invested in keeping the Court open. As J. H. Baker (2007) explains: 'The value of the feudal revenue to the Crown explains why the feudal system of tenures was preserved by the law long after its purpose, in terms of services, had become obsolete' (241). The system was also attractive to those interested in gaining some quick money. Indeed, as Joel Hurstfield (1973) informs us, the majority of the petitions that Master of the Court Lord Burghley received were not sent on behalf of a ward's relative, but by those interested in pecuniary gain (60). For would-be guardians, buying the wardship over a ward's land and body could be lucrative. A wardship over land allowed the guardian to reap its yearly profits and wardship over a ward's body gave the guardian the opportunity to marry the ward to a partner of choice. For these two groups (the Crown and speculative buyers), then, the wardship system was attractive.

At the same time, the wardship system could come at a heavy price for the individuals it involved. One of its results was that entire families could be torn apart, as mothers of children placed in the wardship system would have to go through the same bidding procedure as all other interested parties, and could not expect any preferential treatment (Dubrow 1999: 167). Wives of deceased tenants-in-chief would thus face the possibility of losing their oldest son or all of their daughters alongside their husbands. They also lost the possibility of finding a suitable marital match for their child(ren). Wards, in their turn, could be taken from their familiar surroundings and be placed in a new home. Mark Jervis (2013) has demonstrated that for Catholic families the wardship system could be extra tough, as the Court of Wards and Liveries sometimes discriminated against them. These may be difficult situations in and of themselves, but abuse of power by a guardian could make them even worse. Guardians in it for the profit alone could waste a ward's land completely. In theory, a ward could hold his or her guardian liable for such waste. In practice, however, few wards had the financial means to pursue such a legal avenue. H. E. Bell (1953) refers to the losses a ward faced through such waste as 'one of the chief objections to wardship' (134). Another way in which the guardian could abuse his

power was through marrying their rich ward off to a family member, ensuring that the wealth would seep into the guardian's family's pockets. It can thus be no surprise that the system was rather unpopular among the affected families it involved.

By the beginning of the seventeenth century, the Court of Wards and Liveries saw its reputation go downhill. Indeed, the Court became severely hated, particularly by the nobility and gentry, partly because of the wardship system that was open to corruption and fraud, and left young, vulnerable wards subject to maltreatment.<sup>3</sup> The fact that the King used the Court as a means of increasing his coffers did not do the Court's reputation much good either in the run up to the English civil wars. Moreover, the Court became unpopular because of its 'slow, expensive and arbitrary' judicial process (Bell 1953: 133). For all of these reasons, public opinion turned against the Court and there was a 'prevalence of complaints stemming from wardship practices' (Dubrow 1999: 166). In 1604, parliament tried to have the Court abolished, but failed in its attempt.<sup>4</sup> A second attempt in 1609–10 also did not succeed in abolishing the Court and its much-hated wardship system (Reid 1995: 241). Bell (1953) records various other attempts at bringing feudal wardship to an end, all without success (133–149). The abolition of the Court remained on people's mind, however, and parliament enforced its closure at the start of the civil wars. In the meantime, the negative side of the wardship system had found itself translated unto the early modern stage.

### **Representations of Wardship on the Early-Seventeenth-Century Stage**

Given the growing dislike against the Court of Wards and Liveries, it is, perhaps, no surprise that references to wardship were ubiquitous on the early-seventeenth-century stage.<sup>5</sup> As B. J. Sokol and Mary Sokol (2003) have demonstrated, several of

<sup>3</sup> It is less clear how the lower and middling classes would have perceived the wardship system, as they would have been less affected by it.

<sup>4</sup> In his 2007 essay '*All's Well that Ends Well* and the 1604 Controversy Concerning the Court of Wards and Liveries', Terry Reilly places Shakespeare's *All's Well that Ends Well* in the context of the 1604 discussions.

<sup>5</sup> Glenn H. Blayney (1956) offers a useful overview of the representation of wardship (including, but not limited to, accounts of enforced marriage) on the early-seventeenth-century stage in his article 'Wardship in English Drama (1600–1650)'.

William Shakespeare's plays feature wards and guardians or refer to wardship in passing (42–55). Often, such references are negative in nature. Other playwrights, too, incorporated the trope of the unhappy ward in their plays. Ben Jonson's *Bartholomew Fair* (1614), for example, features Grace Wellborn, ward to Adam Overdo, a justice of the peace. She explains how she became his ward: 'Faith, through a common calamity: he bought me, Sir; and now he will marry me to his wife's brother, this wise gentleman that you see, or else I must pay value o'my land' (Jonson 2012a: 3.5.230–232). Ned Winwife describes her situation as 'An unfortunate foolish tribe you are fall'n into, lady. I wonder you can endure 'em' (3.5.238–239). In order to avoid sharing a similar fate, Richard Brome's Amy in *A Jovial Crew or, the Merry Beggars* (1652) runs away before being forced to marry against her wishes.<sup>6</sup> As such, wardship in general and the unhappy ward in particular were well-represented in early-seventeenth-century drama. Indeed, the trope was so well known that Ben Jonson could use it as the ultimate form of humiliation in *Epicoene, or The Silent Woman* (1609). In the final act of the play, the greedy Morose, who has been guarding his estate like a hawk throughout the play, proposes voluntary wardship to his nephew Dauphine Eugenie: 'My whole estate is thine. Manage it; I will become thy ward' (Jonson 2012b: 5.4.140–141). While these plays mention wardship in passing, two early-seventeenth-century plays whose action chiefly drives on the trope of the unhappy ward being forced to enter into marriage are William Shakespeare's *All's Well that Ends Well* (c.1604–5) and George Wilkins's *Miseries of Enforced Marriage* (c.1607). What follows is an exploration of how the wards and their enforced marriages are represented in these plays.<sup>7</sup>

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<sup>6</sup> While this play was first published in 1652, after the abolition of the Court of Wards and Liveries, it was written before the court's closure, and first performed in 1641. See, for more information about the play's stage history, *Richard Brome Online*, 'Stage Histories'. Available at: <https://www.dhi.ac.uk/brome/history.jsp> [Last accessed 20 May 2020].

<sup>7</sup> The scope of this article is limited to plots revolving around the enforced marriage of wards in the wardship system. It does not consider instances of other types of enforced marriage. For more on the representation of enforced marriage in early modern drama, see Glenn H. Blayney's 'Enforcement of Marriage in English Drama (1600–1650)', *Philological Quarterly*, 38 (1959): 459–472; David Atkinson's 'Marriage Under Compulsion in English Renaissance Drama', *English Studies: A Journal of English Language and Literature*, 67 (1986): 483–505; and Benita Huffman Muth's unpublished PhD dissertation 'Examining Authority: Forced Marriage Plots in Early Modern Drama', University of North Carolina, 1997.

Out of the two, Shakespeare's *All's Well that Ends Well* contains what is perhaps the most well-known representation of wardship on the early-seventeenth-century stage.<sup>8</sup> While the play's setting is the south of France, it is the English wardship system that is placed under scrutiny. The disruptive power of this wardship system is showcased immediately in the play's opening lines, as the Countess of Roussillon exclaims that 'In delivering my son from me, I bury a second husband', to which her son replies: 'And I in going, madam, weep o'er my father's death anew; but I must attend his majesty's command, to whom I am now in ward, evermore in subjection' (1.1.1–6). The late Count Roussillon, Bertram's father and the Countess's husband, was apparently a tenant-in-chief by knight-service, and after his death, Bertram, who must be under the age of 21, becomes a ward to the King. Either the Countess's petition for the wardship of her son's land and body has not been successful, or she has not put in such a bid at all. Either way, in *All's Well that Ends Well* the guardianship of Bertram resides with the King.

While the King has only been Bertram's guardian for a short amount of time, he is quick to exert his prerogative over him. Under the feudal wardship system, the King took over the role of the absent father. This becomes clear in *All's Well that Ends Well* when Lafeu tells Countess Roussillon and Bertram that 'You shall find of the King a husband, madam; you, sir, a father' (1.1.7–8). As part of his parental duties, being a guardian gave the King the right to find marriage candidates for his wards; in the case of *All's Well that Ends Well*, the King orders Bertram to marry Helen. While Helen is quite keen, as she has had a crush on the handsome and eligible Bertram for a while, she also knows that the boy is out of her league: 'I am from humble, he from honoured name' (1.3.156); as a result, 'he is so above me' (1.1.89). Indeed, Bertram and Helen differ distinctly in rank: Bertram is a Count, whereas Helen is a 'mere' physician's daughter.<sup>9</sup> Howard Cole (1981) has noted that with this match, the

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<sup>8</sup> All references to this play are taken from Susan Snyder's 1993 Oxford World's Classics edition: William Shakespeare, *All's Well that Ends Well*. Edited by Susan Snyder. Oxford: Oxford University Press.

<sup>9</sup> What the two do have in common is that neither is raised by their parents. Bertram's guardian is the King, while Helen has been adopted by the Countess of Roussillon. For the relationship between Helen and her surrogate mother, see Erin Ellerbeck's 'Adoption and the Language of Horticulture in

King of *All's Well that Ends Well* breaks the rule that a partner chosen by a guardian should not disparage a ward's rank (37, 97–99). The King ignores the rule in order to pay off his debt to Helen; in return for curing the ill King, he will give her 'with [his] kingly hand/What husband in [his] power [she] will command' (2.1.191–192). The King makes it clear that whomever is chosen by Helen will have to obey: 'Who shuns thy love shuns all his love in me' (2.3.74). Bertram certainly protests, as he claims Helen will 'bring [him] down' (2.3.113). Nonetheless, he consents to a 'contract' and 'ceremony' of marriage (2.3.179), while the King offers 'A counterpoise, if not to thy estate/A balance more replete', indicating that he will make sure Bertram does not suffer financially from the match (2.3.176–177).<sup>10</sup> This offer does not appease Bertram at all; although 'they have married me!/I'll to the Tuscan wars, and never bed her' (2.3.273–274). He describes his state as 'Undone, and forfeited to cares for ever!' (2.3.269). The King's decision to marry Bertram to Helen is thus not only odious to Bertram: it also goes against the laws of wardship.

Despite Bertram's initial reservations to the match, the final scene of the play brings the couple together, although various scholars have argued that at the end of the play all is still *not* well. In order to tie Bertram to her, the crafty Helen ensures that she shares Bertram's bed, is begotten with child by him, and obtains his ring – all unbeknown to him. As a result, Bertram promises to 'love her dearly, ever, ever dearly' (5.3.316), which, on the surface of it, could qualify as a happy ending. Joshua Avery (2017), however, draws attention to the conditional nature of Bertram's promise, and reads it as a form of irony (46). Emily C. Gerstell (2015), too, dismisses the play's ending as a happy one. Instead, she argues that Bertram's and Helen's wishes become

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<sup>10</sup> On the legal status of the marriage contract, see Margaret Loftus Ranald's 'The Betrothals of *All's Well that Ends Well*', *Huntington Library Quarterly*, 26(2) (1963): 179–192; Subha Mukherji's "Lawful Deed": Consummation, Custom, and Law in *All's Well that Ends Well* in Stanley Wells (ed.) *Shakespeare Survey 49: Romeo and Juliet and its Afterlife*, Cambridge: Cambridge University Press, 1996; and A.G. Harmon's "Lawful Deeds": The Entitlements of Marriage in Shakespeare's *All's Well that Ends Well*, *Logos: A Journal of Catholic Thought and Culture*, 4(3) (2001): 115–142.

'ancillary to those of their social superior' (204). As such, she highlights an important trend in the play: all of the proposed marriages in the play depend 'not on the will of the bride and groom but rather on that of their master or mistress' (204). In that light, the play ends the way it began: in the final scene it is Diana, rather than Helen, who is offered her choice of husband by the King. Even if one reads the reunion between Helen and Bertram as a happy ending, there is no guarantee that the next time the King abuses his power in forcing one of his wards to accept a disparaging marriage, and there will be a next time, the play suggests, all will end well again.

Even if one does consider the ending of the play as a happy one, then, this does not exonerate the King. By forcing his ward to accept a marriage to someone below his own rank, the King has abused the power granted to him by the feudal wardship system. It is mere luck and craftiness on Helen's side that the play ends with the seeming promise of a successful marriage after all. For Hiewon Shin (2013), this constitutes a 'happy ending' to the play, and one that sheds a partly positive light on wardship: 'the King's urging Bertram to wed Helena hardly appears abusive', as he emerges as 'a guardian who is able to choose a suitable match with inner virtue for his immature ward' (347; 352). Katharine Eisaman Maus (2016) goes even further and reads the play wholly as an endorsement of the wardship system, as it shows that Bertram is not capable of managing his life properly, and therefore needs to be forced into marriage (2638). I, however, see it as the opposite: the play exposes the system as flawed and open to corruption. Indeed, there is no evidence that Bertram is an unpleasant character until the King orders him to marry Helen against his wishes. Before that moment Bertram may behave somewhat immaturely, when he responds angrily to not being allowed to go to war, but rather than this being evidence of his disagreeable nature, I read it as a sign of his youth. His response may be immature, but that is because Bertram *is* immature. The very reason he has become a ward to the King is that he has not yet reached his majority, and the reason he is not allowed to fight is that he is 'too young' and "tis too early" (2.1.28). It is the wardship system, then, and the King's abuse of it, that brings about Bertram's reprehensible side.

Less well-known than Shakespeare's *All's Well that Ends Well*, perhaps, but dedicated chiefly to the horrors of enforced marriage made possible by the feudal

wardship system, is George Wilkins's *Miseries of Enforced Marriage* (c.1607).<sup>11</sup> The play is based on a real-life murder case, in which Walter Caverley injured his wife and murdered two of his children, failing to kill the third.<sup>12</sup> This true story attracted widespread attention, which culminated in the creation of a pamphlet and two plays, the anonymous *A Yorkshire Tragedy* (c.1606) and Wilkins's *Miseries*, based on the events.<sup>13</sup> While both the pamphlet and *A Yorkshire Tragedy* focus on the element of domestic violence, *Miseries of Enforced Marriage*, on the other hand, does not feature the murders, but instead focuses on what drove Caverley (called Scarborow in Wilkins's dramatic rendition) to contemplate killing his wife and two children: his enforced marriage.<sup>14</sup> This focus on Scarborow's motive allows the playwright to explore the dark side and possible ramifications of the early modern wardship system.

In *Miseries of Enforced Marriage*, young Scarborow and Clare, daughter of Sir John Harcup, agree to marry. Their happiness is short-lived, however, as Scarborow's guardian, Lord Faulconbridge, orders his ward to marry Katherine, daughter of

<sup>11</sup> All references to this play are taken from Glenn H. Blayney's 1964 edition; George Wilkins, *The Miseries of Enforced Marriage*. Edited by Glenn H. Blayney. Oxford: Malone Press.

<sup>12</sup> Krista Kesselring has traced in the records of the Court of Star Chamber how the deeds of Caverley negatively affected the marital prospects of his one surviving son, who also became a ward after his father's death. See Kesselring's 'Disparaging Marriage in Early Modern England', *Legal History Miscellany*, 6 January 2020. Available at <https://legalhistorymiscellany.com/2020/01/06/disparaging-marriage-in-early-modern-england/> [Last accessed 19 May 2020], in which she refers to The National Archives, STAC 8/65/10.

<sup>13</sup> The twin plays have been the subject of a fair amount of scholarly attention, particularly in relation to the genre of domestic tragedy (see: Catherine Richardson 2006 *Domestic Life and Domestic Tragedy in Early Modern England*. Manchester: Manchester University Press, pp. 175–192; Viviana Comensoli 1996 'Household Business': *Domestic Plays of Early Modern England*, Toronto, Buffalo, London: University of Toronto Press, pp. 97–102; Frances E. Dolan 1994 *Dangerous Familiars: Representations of Domestic Crime in England, 1550–1700*, Ithaca and London: Cornell University Press, pp. 153–159; and Leanore Lieblein 1983 'The Context of Murder in English Domestic Plays, 1590–1610', *Studies in English Literature, 1500–1900* 23(2): 181–196).

<sup>14</sup> Secondary sources that investigate Scarborow's motive and the consequences of parental compulsion in marriage formation include: Subha Mukherji 2006 *Law and Representation in Early Modern Drama*. Cambridge: Cambridge University Press, pp. 27–28; Catherine Belsey 1985 *The Subject of Tragedy: Identity and Difference in Renaissance Drama*. London and New York: Methuen, pp. 202–203; and David Atkinson 1986 'Marriage under Compulsion in English Renaissance Drama', *English Studies* 67: 483–504.

Sir William, instead. Unlike the case in Shakespeare's *All's Well that Ends Well*, the guardian's choice for wife in *Miseries of Enforced Marriage* is actually, at least on paper, a suitable one: by all accounts, Katherine is an eligible girl, pretty, rich and worthy of Scarborow in terms of social status. The problem is that Scarborow has already exchanged vows in the present tense with Clare, constituting a *de praesenti* marriage – an irregular, but valid form of marriage.

That the representation of the wardship system in *Miseries of Enforced Marriage* is less than positive becomes obvious even before young Scarborow is forced to marry against his wishes. On being summoned to London by his guardian, Scarborow is advised by Sir John Harcop, Clare's father: 'you being Ward to him son Scarborow,/ And know him great, it fits that you obey him./It dus it dus, for by an antient law,/ We are borne free heires, but kept like slaves in awe' (B2<sup>r</sup> 308–311).<sup>15</sup> Harcop's lines indicate the power imbalance between a ward and his guardian: the latter needs to follow the former's instructions blindly. The comparison to a relationship between a slave and his master is not an inaccurate one. A male ward, however, could sue his livery upon turning twenty-one, and as such his slavery would have a fixed release date on it. For Scarborow, however, this moment of deliverance is still far away: the eighteen-year-old has to wait another three years before being able to release himself from the bonds of the wardship system (B2<sup>r</sup> 325–330).

Scarborow is particularly unlucky with his guardian, Lord Faulconbridge, who is keenly aware of the power he has over his young charge. When Faulconbridge presents his plan for Scarborow to marry Katherine, the ward makes it clear that this is not an option, for he is already married to Clare. Despite this, Lord Faulconbridge insists on the match between his ward and Katherine – even though he now knows this is immoral as it would constitute bigamy. Faulconbridge uses plain and threatening language to talk Scarborow into the marriage, ordering him to: 'Being my Ward, contract you to his daughter' (B3<sup>v</sup> 436), and telling him: 'Sir you shall know that you are Ward to me,/Ile make you poore inough: then mend your

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<sup>15</sup> In Blayney's edition, all lines are spoken by Harcop, but it makes, perhaps, more sense if Scarborow speaks lines 310 and 311.

selfe' (B3<sup>v</sup> 440–441). As such, Faulconbridge makes it clear that Scarborow is to consent, or feel his wrath. Indeed, he lets his ward know that the boy could do much worse still: 'And spight of they dare contradict my will,/Ile make thee marry to my Chambermaid' (B4<sup>r</sup> 453–454), and: 'where I meant my selfe to haue disburst/Foure thousand pound, vpon this mariage/Surrendred vp your land to your owne vse,/ And compast other portions to your hands,/Sir Ile now yoke you still' (B4<sup>r</sup> 447–451). Scarborow fully understands his position, and confirms that it is 'A yoake indeed' (B4<sup>r</sup> 452). Scarborow's uncle, Sir William, sums up the ward's predicament:

you are his ward, being so, the Law intends,  
 He is to haue your duty, and in his rule  
 Is both your marriage, and your heritage,  
 If you rebell against these Iniunctions,  
 The penalty takes hold on you, which for himselfe,  
 He straight thus prosecutes, he wasts your land,  
 Weds you where he thinkes fit, but if your selfe  
 Haue of some violent humor matcht your selfe,  
 Without his knowledge, then hath he power  
 To Merce your purse, and in a sum so great,  
 That shall for euer keepe your fortunes weake,  
 Where otherwise if you be ruld by him,  
 Your house is raisd by matching to his kin. (B4<sup>rv</sup> 474–486)

The injustice of his situation leads Scarborow to exclaim: 'World now thou seest what tis to be a ward' (B3<sup>v</sup> 446). In the end, Scarborow gives in and marries Katherine, to his own great despair.

Forcing Scarborow into marriage allows Wilkins to investigate the potential ramifications of such enforced marriages. After his marriage to Katherine, Scarborow quickly spirals out of control. He squanders his money and repudiates his wife, in an act of vengeful destruction. Clare is driven to commit suicide by her status as betrothed, but never to be properly married woman, as the vows *de praesenti* have

not been consummated nor solemnized in church. Scarborow becomes estranged from his brothers Thomas and John and their (unnamed) sister, who are forced to watch their brother waste his money, while they live in poverty because he refuses to pay them their portion. As such, the guardian's abuse of power does not only affect his ward, but has a ripple effect which has consequences for Clare and her family, Katherine and her children, and Scarborow's siblings.

Unlike the true story on which the play is based, Wilkins' dramatic retelling ends on a happy note. This is only made possible because the guardian comes to regret the behaviour he displayed towards his ward. On his deathbed, Faulconbridge shows remorse for his actions, admitting in a letter to Scarborow that 'he knew he did [Scarborow] wrong,/Was greeud fort, and for satisfaction/Hath giuen [Scarborow] double of the wealth [Scarborow] had' (K4<sup>r</sup> 2835–2837), and that the 'sinne was his, the punishment his due' (K4<sup>r</sup> 2841). This makes Scarborow realise he 'ha straid amisse', for which he apologizes; this allows him to be reconciled with his uncle, brothers (whose portions Scarborow promises to pay), sister (whom Faulconbridge offer to provide a dowry for) and wife and children (K4<sup>v</sup> 2847). Although everything works out well for most of the characters, Faulconbridge's abuse of power has caused Clare to commit suicide, an irreversible act which also has a direct impact on her family, who must deal with their loss long after Faulconbridge has shown remorse. It reveals just how dependent the wardship system is on the goodwill of the individuals wielding all the power.

In both *All's Well that Ends Well* and *Miseries of Enforced Marriage*, the feudal wardship system is shown to be liable to abuse of power. Guardians dispose of their ward's hand in marriage out of self-interest and do not act in the best interest of their ward. Even if an enforced marriage has the potential of being a happy one, it is the use of force itself that is ultimately depicted as wrong. While both Bertram and Scarborow behave distastefully, it is the wardship system that draws out this side of their characters. While Bertram displays no villainous tendencies prior to the King's order of marriage, the same goes for Scarborow, whose 'dissipation follow[s] directly from the enforced marriage' (Lieblein 1983: 195). Only after Faulconbridge apologizes to Scarborow and thus breaks the abusive wardship pattern does the

latter transform into a virtuous man. The wardship system thus creates villainous types like Bertram and Scarborow. Placing the two plays next to one another allows us to view Scarborow as the kind of husband that Bertram may turn into after being forced to marry against his own desires. In both plays, then, the feudal wardship system is revealed as flawed and open to abuse. It was partly because of this that the Court of Wards and Liveries, enforcer of this system, became so hated that it had to close in the 1640s.

### **Wardship after the Restoration**

While the Court of Wards and Liveries was closed during the political unrest of the civil wars in 1642 (abolition ordinance given in 1646), it was not formally abolished until the Tenures Abolition Act was passed in 1660. This statute, also known as 12 Car. II c. 24, ensured that the jurisdiction regarding wardship reverted to the Court of Chancery, where it had also resided prior to the foundation of the Court of Wards of Liveries. During the intervening period of 1642–1660, the situation regarding wardship was unclear. The old feudal system was no longer in use, but a new system was yet to replace it. Peter Roebuck (1978) suggests parliament attempted 'to operate its own system of wardship at that time' (75–76).

After the 1660's Tenures Abolition Act had passed, feudal guardianship was replaced by wardship in socage. The new situation applied to all children who stood to inherit an estate in the form of land, no matter its size. Under the new law, wardships over these children and their land were no longer sold to the highest bidder, but instead passed to so-called guardians in socage, also referred to as guardians by the common law. These guardians were the child's next of kin – but they had to be a relative who could not possibly inherit. Otherwise, the situation would be 'Like committing the lamb to the wolf to be devoured', as it was deemed unwise to appoint someone who could stand to inherit after the ward's death (Blackstone 1769). When they reached the age of fourteen, wards could choose their own guardian, unless one had already been chosen by the ward's father. Anyone could be chosen as guardian, with the exception of 'popish recusants' (Blackstone 1769). Guardians were referred to as testamentary guardians or guardians by statute, and children would remain

under their protection till the age of twenty-one. These guardians were placed under scrutiny of the Court of Chancery: they had to provide accounts of their actions, spending and income, which were checked by auditors appointed by the Court. This ensured protection of the ward and their property against an inadequate or self-centered guardian.

The rationale behind the changed procedure (placing the choice for guardian in the hands of the child or the child's father instead of with the King – who made decisions based on what was best for his coffers) was to provide more protection for the child and his inheritance. Indeed, according to Lord Justice of Appeal Elizabeth Butler-Sloss, it was the Court of Chancery in the late-seventeenth-century where 'the modern protective jurisdiction over children was developed', suggesting that guardianship in socage laid the foundations for the welfare of the ward as we now know it (*Re W* 1990: 212). As Roebuck (1978) puts it, 'Only after 1660 therefore, were the minor's interests progressively and comprehensively safeguarded against both the depredations of complete strangers and the potential rapacity of his own relatives' (76). Guardians could still mismanage their charges' estate, but such transgressions could not continue unnoticed and unpunished for very long. A ward's welfare had thus improved enormously in the course of the seventeenth century.

### **Representations of Wardship on the Restoration Stage**

Based on the improved conditions of wards after the introduction of the 1660 Tenures Abolition Act, we may expect the trope of the abused and maltreated ward, forced to marry their guardian's choice of partner, to be absent from Restoration drama. This, however, is not the case. The plays of Restoration dramatist Thomas D'Urfey (1653–1723), for one, continue to feature the trope of the unhappy ward, victim of their guardian's greed.

Not particularly well known today (he is thought to have played a mere 'footnote, little more, in the history of English drama'), Thomas D'Urfey was also not the most popular playwright of his own time (McVeagh 2000: 15). Of all of his plays, *Love for Money* (1691) seems to have been the most popular, but it also incurred various negative responses (Walker Sanville 1950: lxviii). The author of plays, songs and

poetry was particularly criticized for letting himself be heavily inspired by the work of others, which he then used in his own work. The author of *Wit for Money: or, Poet Stutter* (1691) explicitly accused him of such plagiarism:

Smith: They say that *the Kid-napping of the Heiress to the East-Indies* in your Play, looks very much like some such thing in *Sir Hercules Buffoon*, that your *Sir Rowland Rakehell* hath the Knavery of *Selden*, with the humour and profaneness of *Sir Hercules*; and your *Ramps* are like *Innocentia*, one of the *Heiresses* there. And that the List which the Lady *Addleplot* reads of their party, is the same thing almost with that which the *Irish Priest* reads in the *Amorous Bigott*, and though the words are somewhat different, the humour is the same. (Brown 1691: 15)

Poet Stutter, the name given to D'Urfey because he allegedly had a stutter, defends himself to these accusations by saying that 'I never took a hint from any man' (15). In an earlier aside, however, Poet Stutter admits his guilt by praying that 'some other malicious prying Book-monger maynt find it out', 'it' referring to his liberal borrowing of other people's work (14). According to John McVeagh (2000), author of the only book-length study of all of D'Urfey's plays to date, however, D'Urfey may have 'modernized old plays for the Restoration stage' and '[h]is writings include hints from other writers plus echoes of their work but this is not plagiarism' (15). Plagiarism or not, it is clear that D'Urfey found inspiration in the work of earlier playwrights.

In his *Love for Money: or, the Boarding School*, D'Urfey introduces Mirtilla, an orphan and ward, who has, unbeknown to her, been cheated out of her inheritance of an estate worth 3000 pounds a year.<sup>16</sup> Her guardian, Sir Rowland Rakehell, gave orders to Old Merriton to ship Mirtilla off to the Indies, so that Rakehell himself could manage the estate. Merriton, however, disobeys this devious plan and instead

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<sup>16</sup> All references to this play are taken from Thomas D'Urfey, *Love for Money: or, the Boarding School*. London, 1691. Wing/D2740.

of shipping the young heiress off, he places her in a boarding school in Chelsea and maintains her there. Until Merriton reveals the devious plot against Mirtilla and her estate, Rakehell fully profits of the situation.

While the new laws provided wards with legal action against their guardians, this form of protection only worked if the children were aware of their rights, and, indeed, their status as heir(ess). In Mirtilla's case, the auditing of Rakehell's account books would presumably not reveal the injustice done to her, as Rakehell would surely take excellent care of 'his' estate in order to make the most money of it. The pay-off he gave to Old Merriton for his part in the kidnapping scheme, 200 pounds a year, could be listed in the account books as money spent on Mirtilla's upbringing – for which, ironically perhaps, it was actually used. Without knowledge of her status as heiress to her father's wealth, then, Mirtilla does not know the law offers her the possibility of a change of fortunes.

Old Merriton may be the one who enables Mirtilla to recover her estate, but it is only after he learns that she has fallen in love with his son that he decides to shares his long-kept secret. The reason for this may be purely self-centered, as a marriage between the poor Young Merriton and the wealthy heiress can only constitute an excellent match in the eyes of the father. When he learns of Mirtilla's crush on his son, Old Merriton exclaims: 'This is as I could wish' and proceeds to enlighten Mirtilla of her status as heiress (40). One may wonder how much longer Old Merriton would have kept the secret if his son's future happiness was not at stake. His own explanation is that while the agreement he had made with Rakehell 'was always odious' to him, he decided against revealing Rakehell's plan earlier, because he suspected Rakehell's 'Crowded Coffers would have out-talk'd my honesty' (53).

In any case, Mirtilla is dependent on his good will in order to get what is rightfully hers. In the event, however, breaking the news almost harms the young lovers' commitment to one another: Young Merriton is afraid that her new-found wealth will turn Mirtilla 'Peacock, and make her so proud of her own Tail, there would be no enduring her' (44). It is for this reason that he initially turns her down after Mirtilla has offered herself to him: 'The House I stand possest of, and the Writings, which

give me Title as my Father's Heir, all which, Sir, being about to choose me a new Guardian, I have offered, nay, with my self, to an ungrateful Man that has refus'd me' (53). Young Merriton quickly comes to his senses, however, and the two youngsters end up happily ever after.

While Mirtilla thus marries a man of her own choice, Young Merriton was not the husband her guardian had in mind for her. Indeed, Sir Rowland Rakehell lusts after the young ward's wealth himself and his 'Legs cannot carry [him] half fast enough' when Mirtilla seemingly agrees to marry him (43). It is not, however, the rich heiress who gives her hand to Rakehell, but the 'cunning' and 'Mercenary Town Jilt' Betty Jiltall, who pretends to be Mirtilla ('*Dramatis Personae*'). D'Urfe thus turns the trope of enforced marriage on its head: in *Love for Money*, it is the guardian who ends up in an undesirable marriage, rather than the ward. This is not the full extent of Rakehell's bad luck: at the end of the play, he is seized by the constable and guard for kidnapping, and Mirtilla leaves it up to the law to punish her guardian.

Neither Sir Rowland Rakehell, her official guardian, nor Old Merriton, who takes on the role of guardian, have been chosen for the job by Mirtilla. It is presumably Mirtilla's late father who chose Rakehell as his stand-in and Old Merriton does the job out of guilt (and perhaps with an eye for making a profit out of it, some day). The latest guardian, however, is of Mirtilla's own choosing: Young Merriton, her lover. One would hope he does a better job at it, but this, of course, one simply cannot be certain of. Although it is clear that the young couple is fond of each other (38–39), Young Merriton is young, inexperienced and in love with Mirtilla, which is perhaps not the ideal basis for a guardian-ward relationship. He has also shown himself to come back on his promises, which has made Mirtilla realise that 'Little should I depend upon your promise, when you had power, that can infringe it now' (38). There is thus no guarantee that Mirtilla's husband will prove to be a good guardian for her. As such, *Love for Money* demonstrates that the wardship system continued to keep wards dependent on their guardian's whims. While it may have offered more protection to wards compared to the situation prior to the Tenures Abolition Act, mischievous guardians were still capable of making wards' lives very difficult.

We see the same danger lurking in D'Urfey's *The Richmond Heiress: or, a Woman Once in the Right* (1693).<sup>17</sup> The titular heiress of the play is Fulvia, who is ward to Sir Charles Romance. Sir Charles wants to marry the rich Fulvia to his son Tom, but Fulvia already has her eyes set on a different marriage partner: Frederick. In order for Fulvia to be able to marry the partner of her choice, she and Frederick design an elaborate scheme in which Fulvia feigns lunacy. When it is revealed that Frederick was previously engaged to Sophronia, however, Fulvia is sorely disappointed and secretly concocts a different plan. In the play's culmination, the heiress reveals the marriage contract between Frederick and Sophronia, and Fulvia herself vows to never 'trust Mankind, but lay my Fortune out upon my self, and flourish in contempt of humane Falshood' (63). As Christopher J. Wheatley (2001) reminds us, however, Fulvia can only stand up for her ideals because, unlike most other female wards, she has an enormous fortune of 50,000 pounds (353). She is further enabled in this decision by Sir Charles, who agrees to allow his ward to choose a new guardian (62–63).

It was Fulvia's late father who appointed Sir Charles as his daughter's guardian, presumably with the idea that the latter would be a suitable guardian. Sir Charles, however, is mostly interested in the well-being of his son Tom, and he seeks to use Fulvia as a means to increase Tom's wealth. He describes Fulvia as 'not only my Daughter-in-Law and Ward, but the Darling Jewel of my Life, the Treasury of my Son's Hopes too, an Heiress worth Fifty thousand Pounds' (6), and tells his son: 'since thou hast me of thy side, be confident, Policy as well as the Sword shall secure her to thee' (9). It demonstrates just how far Sir Charles is willing to go in matching his son to the rich heiress. When Sir Charles's 'Policy' fails, the guardian tries a different approach. He pretends to value Fulvia's opinion on the matter of her future husband, presenting himself as a 'humble Suitor on my Sons behalf' (52), but is quick to use forceful and threatening language after Fulvia says she 'will consider of it' (52): 'I hope my Candor and my Love at last, will force ye to be gratefull, and to shew how much I prize a Reconcilement; this Night we will have Revells and a Ball, and I my self

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<sup>17</sup> All references to this play are taken from Thomas D'Urfey, *The Richmond Heiress: or, a Woman Once in the Right*. London, 1693. Wing/D2769.

will drink one Glass the more, in honour of the Marriage' (52–53). Sir Charles's words reveal that he has already made up his mind, and that Fulvia would be ungrateful if she disobeyed his wishes. Clearly, it is not his ward's welfare that is on Sir Charles's mind.

If one thinks Sir Charles's agreement to let Fulvia choose a new guardian is a sign of repentance, they are sadly mistaken. The only reason Sir Charles agrees to let Fulvia take 'the Keys where all your Writings are, and the Power left me by your Father', again, has to do with his vision of a union between Fulvia and Tom (63). As an aside, Sir Charles says: 'I see she intends to give her self generously to my Son, and therefore to confine her, were ungenerous' (63). Neither Tom nor Fulvia is interested in marrying the other, however, as Fulvia resolves 'to shun' 'the Race of Men' (64) and Tom has set his sights on Sophronia, for which his father 'disinherit[s] [him] immediately' (63). Not only does Sir Charles make for a poor guardian, he has also lost sight of his son's wishes and desires. The guardian is fully engrossed in his own ideas about marriage, lineage, wealth and status.

It is not only Sir Charles from whom Fulvia has something to fear: there are various plots laid by other people to abduct or marry the heiress. Frederick abandons his promise to marry Sophronia, for 'what's a Promise, when put in Competition with Fifty thousand Pounds?' (11). Then there are the 'Courtier, an Alderman, a Politician, and a Divine', four people 'that did formerly teize her for her Estate' (18). Quickwit, employed by Frederick to help him steal Fulvia, has competition of Cunnington, who also aims to kidnap the rich heiress. According to Sir Charles, 'this rich Heiress is the cause of all these Brawls', but by showing that the only remedies available to Fulvia are a voluntary stay in a madhouse and the shunning of all men, the play clearly posits the heiress as the victim, and not the cause of the plots on her inheritance (9). Fulvia's final words are in that sense apt: 'Love may seem [sic] great that in it self is small,/Looks cover thoughts, and Interest governs all;/When *Damon* to an Heiress speaks kind things,/Tis not for what she is, but what she brings' (64).

Despite the abolition of the unpopular Court of Wards and Liveries and the introduction of the Tenures Abolition Act, then, the trope of the abused heir or heiress was (re-)introduced on the late-seventeenth-century stage by Thomas D'Urfey. Given

the improved real-life situations of wards, however, it is perhaps rather surprising that D'Urfey uses the greedy guardian and his vulnerable ward as a means to drive the action in his plays. Indeed, D'Urfey is one of only a few Restoration playwrights who uses wardship, and the forced marriage of wards, as a fundamental part of his plays. He is accompanied by the likes of Aphra Behn and Abraham Cowley. Both Behn and Cowley, however, produced wardship plays featuring accounts of forced marriage that were rewritings of older, earlier-seventeenth-century plays: Behn adapted Wilkins' *Miseries of Enforced Marriage* in her comic *The Town-Fopp: or Sir Timothy Tawdrey* (1677) and Cowley reworked his own 1641 play *The Guardian* in *The Cutter of Coleman Street* (1661). Although D'Urfey's plays may indeed expose a potential flaw in the new wardship system, demonstrating that heirs and heiresses (though D'Urfey singles out heiresses in particular) are still vulnerable to the whims of their chosen guardians, D'Urfey's representations are, like those by Behn and Cowley, likely to be borrowed from pre-Restoration drama rather than based on the real-life situation of wards after 1660. Indeed, D'Urfey's representation of wardship is not an accurate reflection of the legal state of wardship at the time, but instead, he uses the trope to reflect on contemporary social issues.

D'Urfey's use of female wards, instead of male ones, for instance, reveals late-seventeenth-century concerns regarding marriage and women's place in society. As Katherine M. Quinsey (1996) has pointed out, 'Restoration drama is overwhelmingly concerned with questions of gender identity, sexuality, and women's oppression, to a degree and a depth not seen in a comparably popular form of entertainment before or since' (1). One of the institutions that allowed playwrights to explore women's position in society was that of marriage. Marriage as dramatic closure thus remained a popular trope on the Restoration stage, as it had been in the preceding eras, but mercenary marriages were consistently objected against in Restoration comedy, as Peggy Thompson (1996) has noted (73). So it is the case in D'Urfey's wardship plays: in *Love for Money*, it is not Mirtilla who ends up in an enforced marriage, but it is her guardian who is tricked into wedlock by his mercenary mistress. *The Richmond Heiress's Fulvia*, too, avoids falling victim to a forced, mercenary marriage, not once,

but twice (as she escapes the forced marriage her guardian has envisioned for her, as well as a marriage to the 'Mercenary Soul' Frederick (52)), while her guardian's and suitors' greed is exposed and condemned. Wardship thus allows D'Urfey to reflect on post-Restoration attitudes towards marriage and women's position within that institution.

Linked to his critique of mercenary marriages, is D'Urfey's invocation of colonial interests and references to slavery in his two wardship plays. The ward in his *Love for Money* was supposed to be kidnapped to the Indies, so that her guardian could claim her fortune. Instead of being shipped to this British colonial territory, Mirtilla remains in London, but the mere reference, alongside the continual reference to slavery in the play (eg. 23, 24, 25, 34, 49), though not in relation to wardship, is enough to draw attention to unequal and exploitative relationships. Slavery, of course, constitutes a mercenary relationship, in which one party is exploited for the benefit of the other. Mirtilla finds herself to be on the vulnerable and inferior end of that connection. While *The Richmond Heiress* does not feature such an explicit reference to colonialism, it does use the language of slavery. At least five times the word 'slave' is used, though, as is the case in *Love for Money*, not in relation to wardship (10, 13, 23, 45, 46). Like Mirtilla, however, Fulvia is wholly dependent on her guardian's authority when it comes to having anything to say about her choice of marital partner and her fortune. As such, the language of slavery reinforces the exploitative position the ward finds herself in. D'Urfey thus uses the relationship between ward and guardian to comment on hierarchical relationships in general, and mercenary marriages in particular.

D'Urfey is not alone in his exploration of hierarchical relationships through the outdated metaphor of wardship. While Behn and Cowley reworked older wardship plays to make them fit for the Restoration stage, they, too, used the wardship system to reflect on late-seventeenth-century hierarchical relationships. In Cowley's *The Cutter of Coleman Street* (1661), Lucia's father died during a trade mission in Africa, as such explicitly invoking colonial interests. His death ensured that Lucia became a ward to his mercenary brother, Colonel Jolly, who aims to force Lucia into a, for

him, lucrative marriage. Behn, too, investigates social control over marriage in her play *The Town-Fopp* (1677).<sup>18</sup> Here, the ward Bellmour is forced to marry Diana by his guardian Lord Plotwell. The situation makes Bellmour refer to himself as a 'slave' (19), a hierarchical position which is confirmed by Plotwell, who claims Bellmour as 'my slave' (21). While Restoration wards found solid protection from the law, then, Restoration playwrights did not offer the same kind of protection to their under-age heirs on the stage. In their plays, the specific trope of wardship is used as a metaphor for a wider range of types of thralldom.

As such, in placing the abused heir, subjected to a greedy guardian, center-stage in his productions, D'Urfey was not so much mirroring the contemporary legal situation of his own time, but instead borrowing a hugely popular early-seventeenth-century trope to reflect on contemporary social issues, particularly mercenary marriages. In order to make it fit the contemporary legal situation, D'Urfey had to make certain adjustments, but the gist of it remains the same: a young, innocent, virtuous heir or heiress is being mistreated by their legal guardian, the person who should be looking out for them, but is instead more concerned with their own financial situation, and in particular, how to improve that situation at the expense of their young charge. The later-seventeenth century may form the foundation of the contemporary English protective wardship system, but D'Urfey's stage wards followed in the footsteps of their earlier-seventeenth-century predecessors, by still falling victim to greedy guardians and immoral suitors.

## Competing Interests

The author has no competing interests to declare.

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<sup>18</sup> For a discussion of Behn's exploration of marriage in *The Town-Fopp*, see Derek Hughes 2001 *The Theatre of Aphra Behn*. Basingstoke: Palgrave. pp 70–79.

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