

'Destitute of all manner of Livelihood':

The Sequestration of the Earl and Countess of Downe.¹

When I began writing this paper, I selected the petition I'm going to be focussing on because it was legible and you don't need an expert grasp of palaeography to be able to read it. But when I started exploring the background to the case I realised that this is one of the most tragic stories I've ever found. So instead of giving you a broad overview of what happened to multiple women, I'm going to focus on one example, and demonstrate how sequestration could add another layer of difficulty to an already troubled life.

In September 1645 the 21 year old Countess of Downe submitted a petition² to the Committee of Lords and Commons for Sequestrations at Goldsmiths Hall. She lamented that she had been 'left destitute of all manner of Livelihood and subsistence and reduced to that lowness of fortune that shee hath not wherewith to releive herself and Child w[i]th necessaries.' Her husband's estates and income had been confiscated, or sequestered, by Parliament because he was loyal to the King. Sequestration had been formally introduced in March 1643, and allowed Parliament to confiscate the goods and estates of anyone actively supporting the King, as well as all Catholics.

The vast majority of people targeted by sequestration were men, which left women in the difficult position of having no home, no belongings and no money. With their husbands and fathers away fighting in the army, it became the woman's responsibility to enter into negotiations with Parliament to secure financial support for themselves and their children.

On the face of it, the Countess' petition closely resembles many others submitted by women during the Civil War. Andria Beeton declared that 'neither hath shee anie other meanes for her subsistence in the absence of her husband'³. Dorothy Hide, a former servant of the Countess of Derby, stated that she 'is Growen soe old that shee

¹ The original title of this paper was 'Our Wives you find at Goldsmiths Hall: Women and Sequestration in the English Civil War' but it was changed to better reflect the content.

² TNA SP 20/11/23, f. 105.

³ TNA SP 20/10/25, f. 85.

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

cannot doe service nor any thinge to get her a subsistence & ... is like utterly to perish unless shee be Releeved by this Hono[ura]ble Committee.'⁴ Margaret Heath complained that 'yo[u]r pet[itio]ne[r] & her Children for want of an Allowance are in [a] very miserable Condition.'⁵ There's clearly a common theme emerging here. But what sets the Countess of Downe's petition apart is the back story.

Her name was Lucy Dutton, and she was born in the spring of 1624. She was the youngest daughter of John Dutton of Sherborne, and his wife Elizabeth Baynton. John was an MP for Gloucestershire and was known as 'Crump' Dutton due to his humped back.⁶

In 1635 the Duttons acquired the wardship of 13 year old Thomas Pope, the 2nd Earl of Downe. Thomas had been born in 1622, the eldest son of Sir Thomas Pope and Elizabeth Watson. His father died in 1624, so when his grandfather Sir William Pope, 1st Earl of Downe, died in 1631, young Thomas inherited the earldom. By the 1630s Lady Elizabeth had married Sir Thomas Penyston.

Thomas was initially placed in the care of William Murray, one of Charles I's grooms of the bedchamber, but Murray was happy to sell the responsibility of his young charge to the Duttons for £4,000. There was also a payment of £2,000 from Sir Thomas Penyston to John Dutton, along with an agreement that should Lady Elizabeth die while her son was still in his minority, the lands which should pass to him would instead become Dutton's property. She conveniently did die in September 1638 when Thomas was 15.⁷

Two months later, a marriage took place between 'the Right hono[ura]ble Thomas Earle of Downe And Lucie Dutton.' Again, how convenient. This was the work of Dutton and Henry Beesley, Thomas' tutor. Thomas was just a few weeks short of his 16th birthday, and Lucy was 14. Dutton gave the manor of Coberley as part of the

⁴ TNA SP 20/10/34, f. 94.

⁵ TNA SP 20/13/10, f. 67.

⁶ 'Dutton, John (1594-1657), of Sherborne Park, Sherborne, Glos' in Thrush and Ferris (Editors), *The History of Parliament: the House of Commons 1604-1629* (2010); available at <http://www.historyofparliamentonline.org/volume/1604-1629/member/dutton-john-1594-1657>.

⁷ Gloucestershire Archives, D678/1/F2/18-22

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

marriage settlement, and this will come into play when we return to Lucy's petition later.

A very dodgy 19th century genealogy of the Dutton family gives a romantic imaginary scene between Thomas and Lucy;

'Lucy would be a pleasant companion for the little lord, who was two years her senior, in their walks together about the sunny, old-fashioned, parterre gardens, trimmed arbours, and fishponds of Sherborne, with perhaps the white dog, as seen in her father's portrait, frisking about them.'⁸

No.

The marriage did not get off to a good start. Thomas made no secret of the fact that he had been hit, imprisoned, deprived of sleep, 'and other strange barbarous usage' until he agreed to marry Lucy. She in turn was very vocal about her opposition to the marriage, which 'she expressed strangely and sadly on publike view att the time of performing it, and some while after.'⁹ In view of their young ages the couple were separated immediately after the wedding, 'until time and riper yeares should inable them to understand [the true end of the Holy Ordinance of Matrimoney] and make them fit to Cohabite and live together.' Thomas was sent to Christ Church College, Oxford, and Lucy remained at Sherborne with her father.

The couple were reunited in roughly the spring of 1640, but their separation had only caused further problems. Thomas recalled that 'in stead of that Reciprocall Love that ought to have byn betweene them there hath byn onely a mutuall dislike and aversion ... and without the least inclination or sparke of affection that may make them hope their said Marriadge at any time hereafter can bee in any wise comfortable.' Their mutual dislike caused constant heated arguments, and Thomas became physically abusive towards his wife, although his friend Sir Kenelm Digby tried

⁸ *Historical and Genealogical Memoirs of the Dutton Family, of Sherborne, in Gloucestershire, as represented in the Peerage of England by the Right Hon. the Baron Sherborne* (1899), p. 105.

⁹ BL Add MS 41846, ff. 113r-117v.

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

to stop this, arguing that even if he couldn't treat Lucy with affection, he should treat her with respect.

In October 1640 Thomas travelled to York to ask Charles I for permission to divorce Lucy, declaring that their marriage was unlawful because it had been forced. This was so extraordinary that it quickly became the talk of both the court and the town, and the King was sympathetic. Returning to London, Thomas began negotiations with his father in law to regain possession of the lands Dutton had illegally acquired and exploited, as well as the terms of his separation from Lucy. Dutton conceded that the marriage was a failure, declaring that 'he had rather accompany his daughter to her grave then to my lordes bed.'¹⁰

During this brief period of agreement this draft Act was drawn up. It was a formal petition to the King 'for the adnullinge dissolveinge and makeinge voyd' of the marriage. Thomas argued that their young ages meant that 'neither of them understood the vellewe of those vowes and promises', and that the marriage 'proceeded not from anie love either of them beare unto the other.' Instead, it was 'soe full of bitterness' that Thomas, Lucy, John Dutton and their friends all agreed that the marriage should be annulled to avoid 'inconvenyencies and mischefes' and 'danger[ous] consequence[s]'. Thomas was so desperate to be separated from Lucy that he willingly offered to pay John Dutton £6,000 to take her back. The couple therefore pleaded with Charles, who Thomas described as 'next under God', to declare the marriage 'unlawfull and void', with the consent of both Houses of Parliament.¹¹

And there lies the snag. They needed the consent of both Houses of Parliament. I'm going to skip over most of what happened in the following weeks, but as briefly as possible Dutton suddenly withdrew his support for the divorce and refused to give Thomas his lands back. Thomas then tried to sue him through the Court of Wards, but Dutton claimed privilege of Parliament to avoid prosecution.

¹⁰ BL Add MS 41846, ff. 113r-117v.

¹¹ TNA C 104/263, Part 2, Bundle 16.

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

Thomas responded by petitioning the House of Lords directly. The vast majority of the document is concerned with the exploitation of his estates by his step-father and Dutton, estimating that their value had been wiped of £40,000. He requested that Dutton's hands 'may be removed from your petitioner and his lands' and that 'exemplarie punishment may be Inflicted' on the offenders. Towards the end of his petition Thomas spoke briefly about his marriage, recalling that,

'the said Mr Dutton by practise with one Henry Beesley contrived that a Marrigge should bee had betweene your petitioner & Lucy Dutton ... although hee well knewe & was informed that there was noe likeinge or affeccon betweene [them] yet the said Mr Dutton By Threats Menaces Blowes hard usages & terrifieings ... & without the Consent of your petitioner inforced the same to bee effected. And nowe withholdeth from your petitioner his lands and will not allowe him meanes for his necessary maintenance.'¹²

The Lords attempted to intervene in the case by ordering Dutton to explain himself to the Commons, but the timing of Thomas' petition was extremely unfortunate. Both Houses of Parliament quickly became preoccupied with the impeachments of the Earl of Strafford and the Archbishop of Canterbury, key events leading up to the outbreak of war. The marital problems of a teenage Earl and Countess were the least of their worries, and the case was quickly forgotten. Thomas and Lucy were stuck together.

So, returning to Lucy's petition, what happened during the Civil War?

In spite of their previous differences, Thomas and Dutton were united in their loyalty to the King. Both men joined him in Oxford in 1643, with Dutton joining the Oxford Parliament,¹³ and Thomas raising forces to support his military campaign.¹⁴ According to the Victoria County History of Gloucestershire, Charles I stayed at Coberley Court on two occasions; on 6th September 1643, following the Siege of Gloucester, and

¹² Parliamentary Archives, HL/PO/JO/10/1/50.

¹³ E K Vyhmeister, *Lord Sherborne: A Genealogical Biography* (Lulu Press, 2012), p. 33.

¹⁴ Mary Anne Everett Green (Editor), *Calendar, Committee for the Advance of Money, Part 3, 1650-55* (London: HM Stationery Office, 1888), pp. 1266-70.

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

again on 12th July 1644.¹⁵ In her brief ODNB biography of John Dutton, Jan Broadway has claimed this is enough evidence to describe Lucy as 'an active Royalist',¹⁶ but the only evidence we have of Charles' visits are brief references in news books and there is no indication that Lucy was actually there.

In the meantime, Thomas' estates had been wholly sequestered, with a later report noting that 'much rigor' had been used by the sequestrators. Parliament was particularly keen to target the higher profile Royalists closest to the King with large estates of great value, like Thomas. The tragedy of this situation is that Thomas had spent years fighting Dutton to regain possession of the lands he should have inherited, only for Parliament to snatch them away. He had effectively spent his whole life under some kind of sequestration.

This left Lucy with a bit of a problem. Before the war it had been Thomas' responsibility to petition Parliament and request the financial maintenance that Dutton was withholding, but suddenly it was Lucy's turn. In the spring of 1645 she was somewhere in Oxfordshire, close to her husband's family home of Cogges Manor. On 15th April their only child Elizabeth was baptised in the parish church there, but Lucy had no money to bring her up with. Returning to the quote I began this paper with, Lucy was 'reduced to that lownes of fortune that shee hath not wherew[*i*]th to releive herselfe and Child w[*i*]th necessaries.'

Fortunately, Parliament had created a strategy to deal with this problem. When sequestration was first introduced in March 1643 the legislation did not refer to women at all. However, within a short time they realised that an increasing number of women were being left with no means of support when their husbands were sequestered, and so in August 1643 they introduced a provision of maintenance. Wives would be granted 1/5 of the annual value of their husbands' estates, because Parliament recognised that they should not be punished for the sins of their male relatives. The money was not provided automatically; women had to petition either their local

¹⁵ N M Herbert (Editor), *A History of the County of Gloucester: Volume 7* (Oxford: 1981), pp. 174-83.

¹⁶ Jan Broadway, 'Dutton family (*per.* 1522–1743)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/72340>, accessed 7 Sept 2016]

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

county committee, or the central sequestration committee in London, and sometimes both. However, if a married woman was suspected of supporting the King she would be barred from claiming maintenance money.

Lucy's testimony in her petition claims that she was not an active supporter;

'shee haveinge never as yet given any aid or Asistance to the forces raised against the Parlyam[en]t nor any waies in her desires or Affec[t]ions adheared thereunto.'

I can't say with any certainty whether this is true. She might have just been telling Parliament what they wanted to hear, but it is just possible that she deliberately remained as neutral as she could to distance herself from her very Royalist husband and father. As Lucy's request for maintenance was granted, we can assume that either she was innocent, or that at this moment Parliament was unaware of her actions.

What is clear, however, is that she did not want to stay near Cogges. In her petition she specifically requests that the manor of Coberley be given to her as maintenance, because it had been part of her dowry and she didn't think it should be considered part of her husband's estate.

The committee's response to the petition was recorded in what is unfortunately a damaged and in places illegible scribble on the left hand side of the page. As I've already said, they did allow her the fifth part of her husband's estate, and an order was sent to the Gloucestershire committee. Unfortunately I can barely read the second half of this scribble, so I can't see what they decided about Coberley.

However, the following month Thomas formally began the process of composition to regain his property. He would be required to pay a large fine – usually twice the annual value of all his estates – as well as swearing his future allegiance to Parliament. He appeared before the Committee for Compounding at Goldsmiths Hall on 24th October 1645, and in November his estates were valued at £2,202 per annum, and his

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

fine was set at £5,000. This means that Lucy would have been entitled to just over £400 per year in maintenance.

On 4th February the following year the committee produced a report about his case, describing and valuing each of his nine estates. Coberley is also included in the report, although the commissioners noted that it was 'settled upon him and his Lady ... upon the marriage' and that John Dutton, in a rare display of paternal care, had changed the terms of the manor on 18th November 1643, after the war had broken out, placing it 'to the use of [the] said Countesse for tearme of her life.' So in theory, Lucy should have been able to live at Coberley, as she requested. However, it was still included in the final amount Thomas had to pay.

On 28th February 1646 he was ordered to pay £1,500 upfront and the further £3,500 in 6 months. However, he couldn't afford it. A real catch 22 of the process was that Parliament wouldn't give delinquents their property back until they paid a hefty fine, but the delinquents often couldn't afford to pay the fine because Parliament had confiscated the rents and profits of their estates, so they had absolutely no income. On 6th June 1646 he petitioned Goldsmiths Hall saying he was 'not able by any meanes soever to raise any more', and that his estates had been 'wholly ruined & undon, since these sadde & miserable warres.' In May 1648 Thomas was described as being £11,000 in debt,¹⁷ and in March 1649 he was accused of 'neglect[ing] to satisfie & pay the Remynder of his said ffine.' All of his estates were re-sequestered due to non-payment, and the entire process had to start all over again.

Another petition from Lucy to the sequestration committee, this time dated 28th March 1650, reveals that Thomas had actually left the country in 1648, and presumably sought refuge in the French court, where he had been planning to go at the beginning of the decade when his marriage was breaking down. I think it's safe to say this was now the formal separation of Thomas and Lucy. He had agreed that she should still receive the £400 a year she was entitled to, but Lucy complained in 1650 that it had been 'ill paid', and that she had been forced to 'contract many debts for necessary livelyhood of her child.' The committee later confirmed that she should still

¹⁷ Mary Anne Everett Green (Editor), *Calendar, Committee for the Advance of Money, Part 1, 1642-45* (London: HM Stationery Office, 1888), pp. 483-90.

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

receive her 5th part through the re-sequestration, which they backdated to December 1649.

To finally rid himself of sequestration, Thomas temporarily returned to England and secured a private Act of Parliament on 28th February 1650 to sell several of his estates to raise the £4,000 he needed. It took over a year, but on 17th April 1651 he was 'cleerly freed & discharged', with a promise that he would 'be no further troubled molested or proceeded against in the matter of sequestracon for any Delinquency charged upon him for anything by him said or done in relation to the first warr against the Parliament.'¹⁸

The only estates Thomas had left were the manors of Cogges, Wilcote, and Coberley. Lucy's claim to it meant that he couldn't sell it. Unusually, all three manor houses are still standing today, and Cogges is now actually a working historical farmstead, open to the public.

Lucy appears to have settled permanently at Coberley in the 1650s. Unfortunately the final trace we have of her is her burial there at the age of 32, on 8th April 1656. Intriguingly the parish register records that prior to her death, she had 'fasted from eating or drinking' for 10 days. Make of that what you will, but at least she was able to spend her final years at the home she had wanted.

Her father did not long outlive her, dying on 14th January 1656/7. He compounded for his estates in 1646 by paying £3,500. In spite of his previous Royalism, during his final years he somehow became close friends with Oliver Cromwell, placing his nephew and heir William Dutton in Cromwell's household and trying to arrange a match between him and the Protector's youngest daughter Frances, although it never came to pass. After Dutton's death Cromwell described him as 'my very good friend.'¹⁹ The mind boggles.

¹⁸ *Historical and Genealogical Memoirs*, pp. 187-208

¹⁹ *Historical and Genealogical Memoirs*, p. 123.

Charlotte Young – Royal Holloway, University of London; charlotte.young.2014@live.rhul.ac.uk
Paper presented at the Royal Holloway History Postgraduate Seminar on Thursday 22nd September 2016.

Thomas spent the majority of the Interregnum in Europe, and returned to England after the Restoration. He died soon afterwards, on 28th December 1660, at Arthur Tillyard's coffee house in Oxford, aged 38.

To end on a slightly happier note, in spite of their unhappy marriage, Thomas and Lucy would have been amazed to know who their descendants turned out to be. Their daughter Lady Elizabeth married twice; first to Sir Francis Lee, and after his death to the 3rd Earl of Lindsey. Her first marriage produced one son, Edward Lee, who became the 1st Earl of Lichfield. In 1674, at the age of 10, he was betrothed to Lady Charlotte Fitzroy, the illegitimate daughter of Charles II and Barbara Villiers. The King was very keen for the marriage to take place, which it did on 6th February 1677, when the bride was 12 and the groom was 14. Unlike his grandparents' unhappy union, Edward and Charlotte appear to have been very happy together and had a rather eye-watering 18 children. The first was born when Charlotte was 13.

One of their many grandsons was Arthur Dillon, who became a commander of the French Army and was executed during the French Revolution in 1794. His daughter, Madame Bertrand, and her husband, were devoted to Napoleon Bonaparte, accompanying him into exile twice, first to Elba and later to St Helena. The couple were at his bedside when he died in 1821.

Other descendants of the Earl and Countess of Lichfield include Clementine Churchill, wife of Winston, the philosopher Bertrand Russell, Clark Gable's fourth wife Sylvia Ashley, and the infamous Mitford sisters. So, in spite of their utter misery together and very difficult lives, Thomas and Lucy had quite an impact on the world.