

“The Fall and Restoration of Elin Tönnesdotter”¹

Land, Noble Property Strategies and the Law in Early Seventeenth-Century Sweden

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This essay aims to investigate the attitudes of the Swedish early modern nobility towards female property rights and misalliances through a case study. It is mainly based on the records of the Svea Court of Appeal, which at that time dealt with most of the property disputes and crimes of the nobility in Sweden. In the 1600s and early 1610s, Elin Tönnesdotter [Tott], a young, unmarried noblewoman, first had a liaison with one priest's son and then married another. She risked her paternal inheritance rights through her first affair, and either of the two actions was enough to warrant the repeal of the noble tax exemption of her lands. Her relatives wished to prevent this; in fact, they attempted to dispossess Elin of both her paternal and maternal inheritance, which resulted in litigation at the Svea Court of Appeal. The essay analyses how the nobility used the law to limit the risks to family inheritance inherent in noble misalliances, which were occasioned by female property rights and individualism. The Swedish nobility was in an age of transition: lineage was emphasised more than previously, efforts were made to restrict female succession and access to land, evidence of noble descent was increasingly required and the Swedish nobility started to absorb European noble ideology and conceptions of honour. The crown also supervised people claiming tax exemption more closely. Therefore, the nobility had both internal and external incentives for its use of the law as a means of promoting its property strategies.

1 In Swedish, “Elin Tonisdotters fall och oprättelse”, an expression used by Margareta Nilsdotter [Gyllenhierta], in her deposition dated 12 February 1628, Liber causarum [hereafter LC], E VI a 2 aa:53, Huvudarkivet [hereafter HA], Svea Hovrätt [hereafter SH], Riksarkivet, Stockholm, Sweden [hereafter RA]. I wish to acknowledge the Cultural Fund for Sweden and Finland (Kulturfonden för Sverige och Finland) whose grants enabled me to carry out research at Riksarkivet. I would also like to thank Anu Korhonen, Kate Lowe and the two anonymous referees for their useful comments on previous drafts of this essay. Many issues argued in this essay have also been discussed with Anu Lahtinen whom I wish to thank for her valuable collaboration.

Introduction

Elin, daughter of nobleman Tönne Eriksson [Tott of Skedebo],² had a penchant for priests' sons. Twice she defied the conventions of what was expected of a young noblewoman in early seventeenth-century Sweden. In her youth, she had had an illicit sexual relationship with a priest's son by which she risked the loss of her paternal inheritance. She had, however, been pardoned for this offence by her father before his death in 1608. The second incident, a possible prenuptial liaison with Johan Olofsson, another priest's son, whom she married, was perhaps less of an insult to her family: according to some information her half-sister Kerstin also married a priest.³ Yet Elin Tönnesdotter's sisters and brothers claimed her inherited lands on the basis of her behaviour, leaving her out of the division of the family's inheritance. As a result, her husband Johan Olofsson – an official at the Svea Court of Appeal and later a surrogate judge (*lagläsare*) – had to contest the distribution of the estate and sue her siblings at the very court in which he worked.⁴

Elin's is an entertaining tale, but it is much more than a case of mere historical scandal-mongering. The ensuing court case exemplified some seventeenth-century noble property strategies, the success of which was tested in the law courts. Such legal disputes could be protracted and the stakes were high. The case of Elin Tönnesdotter and her family was also more than mere sibling rivalry, because it involved both her paternal and maternal inheritance, and thus her entire fortune. At the core of this dispute and many similar ones in the seventeenth century was the ownership of tax-exempt land.

In this essay, I will use the case of Elin Tönnesdotter and her family to illustrate noble strategies in an age of transition, and to discuss how the law was used either to defend or counter the interests of the individual vis-à-vis those of the family. This case study is based primarily on documents preserved in two lawsuits from the Svea Court of Appeal⁵ concerning the estate of the late Tönne Eriksson [Tott of Skedebo] (1553–1608). The first dispute, in 1615–1616, mainly involved the morning gift property⁶ of Tönne's second wife and widow Elin Johansdotter [Måneskiöld] on one side, and her

2 Only during the first half of the seventeenth century did all members of the Swedish nobility start to use family names instead of patronymics. For this reason noble surnames are usually included in brackets unless they were actually used by the individuals themselves. For more on this issue, see the essay by Anu Lahtinen also in this book.

3 Gustaf Elgenstierna 1934. *Den introducerade svenska adelns ättartavlor med tillägg och rättelser*, VIII. Stockholm: P. A. Norstedt & Söners Förlag, 343.

4 The Court of Appeal was the nobility's *forum privilegiatum*, and their property disputes were standard cases at the tribunal.

5 The Svea Court of Appeal was founded in 1614 as the royal higher court dealing with appeals from assizes, municipal courts and *lagman's* courts. Originally, its judgements were intended to be final, but in practice its decisions were often appealed directly to the king. Since the Court of Appeal was the privileged forum of the nobility, all civil and criminal suits involving the nobility were brought there as the court of first instance. This practice mirrored the ideology that nobles were to be judged only by their peers since some two thirds of the members of the tribunal were aristocrats.

6 It was customary for a husband to give his newly wedded wife a morning gift on the morning after the wedding night.

children and stepchildren on the other. The second dispute, in 1627–1629, my focal point, concerned the inheritance rights of Elin Tönnedotter that had been denied by her siblings. The parties' legal arguments reveal the attitudes of the seventeenth-century nobility, who interpreted the law to favour their interests. The nobility also managed to influence the law, which they could then use to their advantage. The case of Elin Tönnedotter further demonstrates the equivocal role of noblewomen in the property strategies of the nobility and the supplementary legal measures.

The Tott family

Elin Tönnedotter was born into a Swedish noble family of Danish origin. The Totts, having become perhaps the wealthiest and the most influential family in Sweden, had been at the peak of their power in the second half of the fifteenth and the early part of the sixteenth centuries.⁷ Later their position was slowly reduced, especially after Sweden broke away from Danish supremacy under the Kalmar Union.

According to the medieval laws of Sweden, it was easy to become a nobleman. All that was necessary was to provide a horse and rider plus equipment (for cavalry service).⁸ In addition, would-be nobles had to perform such service as the king required and participate in the annual provincial reviews of the nobility, either in person or by way of a proxy. In principle, anyone who could fulfil these conditions and had enough property to maintain a cavalryman (either himself or a proxy) became part of the noble or freed (*frälse*) estate – that is, freed from taxes on land. Once achieved, a person's noble privileges and tax exemption were secure as long as the necessary cavalry service was performed.⁹ There was therefore considerable fluidity between nobles and peasants that mainly depended on affluence. The differences of wealth, power and status between a poor nobleman and a prosperous peasant or burgher, royal bailiff or official were much less marked in the late fifteenth century than a century later. Yet it is worth noting that the Swedish nobility was tiny vis-à-vis a European perspective: it comprised less than one percent – perhaps markedly less – of the population, and was mainly concentrated in central and southern Sweden. Because much of the royal income was based on taxes on land, mainly paid by a collective of landowning peasantry, it was in the interests of the Swedish kings to limit the amount of tax-exempt land owned or acquired by the nobility.¹⁰

7 Tuula Hockman 2006. *Kolmen polven perilliset. Ingeborg Aakentytär (Tott) ja hänen sukunsa (n. 1460–1507)*. Bibliotheca Historica, 104. Helsinki: SKS, 28–29 et passim.

8 The necessary equipment contained, for instance, arms (e.g., swords, battle axes), a bascinet, chain mail and possibly body armour for both horse and rider.

9 Kuningas Kristoferin maanlaki 1442 [hereafter KrML], the chapter on the king, 22–22 §1, Martti Ulkuniemi (ed.) 1978. *Kuningas Kristoferin maanlaki 1442*. SKS: n toimituksia, 340. Helsinki: SKS, 36–37. In the sixteenth century, the nobility and their troops were organised into special cavalry troops (*fana*), but companies of conscripted footsoldiers (*fänika*) of peasant origin (who nevertheless received wages) formed the bulk of the military.

10 M. L. Bush 1988. *Rich Noble, Poor Noble*. Manchester and New York: Manchester University Press, 5–11, 16, 22.

Both of Elin Tönnesdotter's paternal grandparents, Erik Tönnesson [Tott] of Benhammar and Ermegård Larsdotter [Sparre], undoubtedly belonged to the very highest of aristocratic circles. Tönne Eriksson's wedding to Brita Henriksdotter [Horn] (who died by 9 October, 1592) in the manor of Kanckas (Kankainen) on 7 September 1578 connected him with one of the most powerful noble families in Finland, then a province of Sweden. Brita's father was knight, royal counsellor and colonel Henrik Klasson [Horn av Kanckas], while her mother was Elin Arvidsdotter [Stålarml].¹¹ The match between Tönne and the daughter of a member of the royal council seems to have been advantageous to him.

The couple had many children, whose dates of birth are unknown, although from other documents it can be ascertained that Erik was the oldest of the brood. Then came his sisters Karin, Gunilla (d. by 1664), Ermegård (d. between 1654 and 1664) named after her paternal grandmother in the Sparre family – and Elin.¹² It is highly probable that Elin, named after her maternal grandmother Stålarml, was the youngest of Tönne and Brita's children and that she was born in the late 1580s or early 1590s.

Contrary to what might have been expected, Tönne Eriksson did not enjoy a brilliant military, courtly or official career. In fact, he seems to have held no public office at all. The star of his branch of the Tott family was on the wane. The date of Brita Henriksdotter's [Horn] death is unknown, but Tönne Eriksson remarried on 9 October 1592. His new bride was Elin Johansdotter [Måneskiöld] (d. 1640), daughter of judge and bailiff Johan Karlsson [Måneskiöld af Seglinge] and his first wife Anna Isaksdotter [Banér].¹³ Tönne's second marriage was hardly as prestigious as his first. Indeed, even the claim by the Måneskiöld family to nobility seems to have been somewhat dubious, while the wife of one of Elin Johansdotter's uncles was of peasant origin.¹⁴

Intermarriage between the Swedish estates was possible and unions between the three lower estates (clergy, burghers and peasants) frequent, even though nobles usually contracted unions with other nobles. By the late sixteenth century it seems to have been quite rare for members of the nobility – especially noblemen – to marry below their estate. When a commoner married a nobleman, she climbed up the social ladder because women followed the estate of their husbands. Hence through marriage to a commoner, a noblewoman theoretically lost her privileged status, but this was not strictly monitored until the mid-sixteenth century.

11 Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 342–343.

12 Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 343; Tönne possibly had another son, Christer. However, he is not mentioned in any of the documents concerning the division of Tönne Eriksson's estate included in the court files. Therefore, if he did exist, he was presumably dead by 1616.

13 Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 343.

14 Jan Eric Almquist 1960. *Herrgårdarna i Sverige under reformationstiden (1523–1611)*. Skrifter utgivna av Rättsgenetiska institutet vid Stockholms högskola, 3. Stockholm: P. A. Norstedt & Söners Förlag, 67, 71–72.

In late medieval Sweden, entry into the nobility through cavalry service had been relatively easy, and there were no insurmountable barriers to movement between the four estates. Therefore, in the late Middle Ages the marriage of a lesser nobleman's daughter or widow to an upwardly mobile bailiff or wealthy peasant, capable of performing cavalry service for her lands, could be to the advantage of both parties. It could also be a means of networking and obtaining allies at a local level. Lesser noblemen seem to have had nothing against marrying their daughters to well-off commoners until stricter royal policies put noble families on the defensive during the sixteenth century.¹⁵ Simultaneously, the fluidity between nobles and non-nobles diminished, and claims to noble privileges and status became more strictly examined. In the course of the sixteenth century a letter patent was increasingly required as proof of ennoblement.¹⁶

In certain European regions (e.g. Venice, Genoa) there was a tendency towards registration of the nobility in the late medieval and early modern period, while this trend reached other lands (Spain, Russia) in the eighteenth century. The procedure for registration could include presenting evidence of parental status. In 1422 the Venetian state insisted that if a nobleman had entered into marriage with a woman of servile or "vile" status, their sons would not be granted noble status. Maternity thus became "a determinant of nobility", because not just any woman was allowed to become a nobleman's mother.¹⁷ The statute was later supplemented by further legislation. The 1506 law required the recording of all noble male births in Venice in the Golden Books ("Libri d'Oro"). In addition to the names of father and son, the name of the mother and her birthplace were to be included in the official books. In 1526 the law was supplemented by a statute requiring all noble marriages to be registered in the presence of two close relatives from each side, who would swear to the validity of the union and provide information about the bride's status and her father. The evidence provided by this official register would then be a condition sine qua non for the recognition of nobility in Venice.¹⁸

In some Swedish noble families, if a female kinswoman either married a commoner or committed fornication, her lands were seized without compensation by her kinsmen or bought more or less voluntarily – occasionally even at a give-away price.¹⁹ In the late sixteenth century, it was suggested that noblemen as well

15 See also Tor Berg 1920. *Johan Skytte. Hans ungdom och verksamhet under Karl IX:s regering*. Stockholm: Alb. Bonniers boktryckeri, 11; Karl-Heinz Spiess 2001. *Aufstieg in den Adel und Kriterien der Adelszuhörigkeit im Spätmittelalter*. In *Zwischen Nicht-Adel und Adel. Vorträge und Forschungen LIII*, eds. Kurt Andermann and Peter Johanek. Stuttgart: Jan Thorbecke Verlag, 4.

16 Jan Liedgren 1980. *Adelsbrev*. In *Kulturhistorisk leksikon for nordisk middelalder fra vikingetid til reformationstid 1*, København: Rosenkilde og Bagger, 18.

17 Stanley Chojnacki 2000. *Women and Men in Renaissance Venice. Twelve Essays on Patrician Society*. The Johns Hopkins University Press: Baltimore and London, 56, 59.

18 Chojnacki, *Women and Men in Renaissance Venice*, 63–65; Bush, *Rich Noble, Poor Noble*, 21, 23, 76, 80–81.

19 Sven A. Nilsson 1952. *Kampen om de adliga privilegierna 1526–1594*. Skrifter utgivna av Vetenskaps-societeten i Lund, 41. Lund: C.W.K. Gleerup, 26; John E. Roos (ed.) 1958. *Iivar Flemingins maakirja*. Bidrag till Finlands historia, 6. Helsinki: Valtionarkisto, 54, 88–89.

ought to lose their tax-exempt status in the event of misalliances.²⁰ Finally, in 1622, after more than fifty years of lobbying, the nobility succeeded in having the king confirm their privileges. A young noblewoman marrying a commoner would forfeit all her estates to her closest relatives to the extent that even her children lost their rights to the property. The same fate befell her if she did not have the permission of her legal guardian for the marriage. If her father was dead, she needed the consent of two paternal and two maternal relatives in order not to be deprived of her lands and inheritance if her spouse was a commoner. Yet even the children of a nobleman who married a commoner without royal permission lost their right to his immobile property, which went to his closest relatives.²¹

The Swedish system, targeting both male and female nobles who married commoners, seems to have been the strictest regime in Europe in this regard. In other regions, such as Hesse or France, noblemen marrying commoners were exempt from denoblement through a mixed marriage.²² In France, for example, many early modern noblemen, plagued by lack of money, were only too happy to wed non-noble women with handsome dowries. Wealth frequently took precedence over status in noble matrimonial prospects. However, because the emphasis of the French concept of nobility was on the male line, many noblemen were led to marry outside their class.²³ Similarly, purists might disapprove of matches between rich commoners and Dutch noblemen, yet it was not unheard of for heirs to even the most prestigious Dutch noble lines to further their fortunes by marrying into a prosperous official's family.²⁴

Elin Johansdotter, Tönne Eriksson's second wife, gave birth to at least four children: a son Lars and three daughters, Ingeborg, Brita and Kerstin. However, perhaps partly due to tensions between stepmother and stepchildren, the marriage turned so sour that the couple was unable to live under the same roof. Moreover, Tönne appears to have accused his wife of attempting to kill him by poison and sorcery.²⁵ Not only Tönne's estranged second wife, but also his children turned out

20 Hertig Karls betänkande om adliga släkters vidmakthållande (October 1595), *Svenska riksdagsakter jämte andra handlingar som höra till statsförfatningens historia under tidehvarvet 1521–1718*, 1–4, various eds., 1887–1938. Stockholm: Norstedt [hereafter SRA], 3:2, 628–630. See also, for example, the gloss concerning the status and inheritance rights of children born to commoner-noble parents in a law manuscript (King Christopher's Law of the Realm, 1442), B 1, 5, Uppsala University Library [hereafter UUB], Uppsala, Sweden.

21 Summary of the 1622 privileges of the nobility, Johan Schmedeman (ed.) 1706. *Kongl. Stadgar, Förordningar, Bref och Resolutioner 1528–1701*. Stockholm, 217–218. Cf. Bush, *Rich Noble, Poor Noble*, 92.

22 Bush, *Rich Noble, Poor Noble*, 92–93.

23 Donna Bonahan 2001. *Crown and Nobility in Early Modern France*. European History in Perspective. Basingstoke and New York: Palgrave, 8–9; Ronald G. Asch 2003. *Nobilities in Transition 1550–1700. Courtiers and Rebels in Britain and Europe*. Reconstructions in Early Modern History. London: Hodder Arnold, 40.

24 Asch, *Nobilities in Transition*, 36–37. See also Norbert Kersken 2001. Der Kleinadel in Polen im 15. und 16. Jahrhundert. In Kurt Andermann and Peter Johanek (eds.) *Zwischen Nicht-Adel und Adel*. Vorträge und Forschungen LIII. Stuttgart: Jan Thorbecke Verlag, 230–231.

25 Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 342–343.

to be quarrelsome, which may have been partly a cause and partly a consequence of their downward mobility. Thus, the atmosphere was ripe for deterioration in family relations, and the Svea Court of Appeal became the locus of the showdown between various members of the family in several bouts of litigation from 1616 to the 1650s.

Tönne Eriksson died at his manor of Berga on 10 May 1608, and the division of his estate came into dispute. His widow claimed the manor of Skeboholm [Skedebo], the family seat, as hers by virtue of her morning gift. Her right to the manor was highly controversial. She could show no morning gift letter, which she claimed was due to the malice of her husband, who had destroyed it in his "evil affection" in order to put her at a disadvantage.²⁶ Her stepchildren, however, denied that Skeboholm or any other manor had ever been promised to her. Marshal Claes Horn (1583–1632) and his brother, Royal Chancellor Henrik Horn (1578–1618), two very distinguished soldiers and royal officials, represented their maternal cousins, the Totts, in the litigation against Elin Johansdotter. Both parties had attended the wedding of Tönne and Elin some twenty years earlier, and later presented conflicting evidence concerning the morning gift. Witnesses testifying in Elin Johansdotter's favour were outnumbered by those contradicting her claim. Even two of her paternal uncles testified against her.

The division of the estate naturally depended on the number of legal heirs. On a broader scale the property strategies of the nobility were framed by the inheritance system. Sweden was a country practising partible inheritance. By law, there was no primogeniture, although in practice, the eldest son might be favoured by various arrangements. All children inherited equally according to their sex, a daughter's inheritance being half of a son's lot. Daughters inherited everything in default of sons. Property given in advance as dowry or gifts could be taken into consideration at the division of the inheritance.²⁷ However, especially during the seventeenth century, a tendency – particularly among nobility – to emphasise patrilineal inheritance rights was discernible. For instance, the noble estate tried to insist that the morning gift and female inheritance portions be given in money instead of in family land.

Even though noble men and women could and did acquire new property and fiefs, such acquisitions did not necessarily compensate for loss of the inherited land that formed the core of the family wealth. Fiefs could be revoked by the king, they were not necessarily hereditary and the conditions could be less advantageous than the ordinary cavalry service for noble estates and lands. Moreover, royal grants and fiefs tended to benefit certain already powerful and favoured families or individuals. In 1577, for example, King John III (reigned 1568–1592) donated to the

26 Answer to Elin Johansdotter's plea, LC, 228, E VI a 2 aa:2, HA, SH, RA.

27 Amy Louise Erickson 2005. *The Marital Economy in Comparative Perspective*. In Maria Ågren & Louise Erickson (eds.) *The Marital Economy in Scandinavia and Britain 1400–1900*. Aldershot and Burlington: Ashgate, 7–9; Anu Pylkkänen 2005. *Forming the Marital Economy in the Early Modern Finnish Countryside. The Marital Economy in Comparative Perspective*. In Maria Ågren & Louise Erickson (eds.) *The Marital Economy in Scandinavia and Britain 1400–1900*. Aldershot and Burlington: Ashgate, 76–77.

aristocratic Bengt Ribbing a dozen farms. These farms had previously been owned by four women or their children, but the lands had been confiscated because of the misalliances of these gentry women.²⁸ To the petty nobility such estates, forming the bulk of their property, were essential for survival, while such donations played a lesser role for the wealthiest and more powerful segment of the nobility whose property it helped to augment. Some families stood to lose and others to gain from such redistribution of resources. Yet, as will be discussed below in more detail, the nobility as an estate felt strongly that its success would be promoted by limiting the access of women to family land.

This Swedish trend was part of a larger European development that was probably caused partly by warfare necessitating military leadership, partly by an increase in a monetary economy and a growing shortage of land, partly because of the state-building process that emphasised royal rights and authority.²⁹ It has been observed that “[...] stem households and entails usually go with a strengthening of the inheritances of patrilineal lines at the expense of the property rights of females”.³⁰ Limiting dower rights, excluding daughters who had received a dowry from the estate, restricting the size of marriage portions of daughters and trying to avoid giving land as part of a daughter’s marriage portion were all closely linked to the development.³¹

Moreover, from the sixteenth century there was a growing body of French, German and Spanish legal literature favouring and arguing for primogeniture. While the inequalities of primogeniture could be argued, lawyers still identified it as a central means of ensuring the preservation of noble families against the “morcellation” of estates. Even in practice primogeniture was simultaneously gaining ground in various regions – hence the popularity of the literature – alongside entails.³² An example of this trend was the reception of the institution of entail (*fideicommissum*) in later seventeenth-century Sweden.³³ Indeed, the growing influence of Roman law in the sixteenth century has been seen as promoting patriarchal power, increasing

28 King John III’s open letter to Bengt Ribbing, 12.5.1577, Johan III:s koncept, vol. 10, Kungliga koncept, etc., RA.

29 Jennifer C. Ward 2000. Noblewomen, Family, and Identity in Later Medieval Europe. In Anne J. Duggan (ed.) *Nobles and Nobility in Medieval Europe. Concepts, Origins, Transformations*. Woodbridge: The Boydell Press, 252–253.

30 J. P. Cooper 1976. Patterns of Inheritance and Settlement by Great Landowners from the Fifteenth to the Eighteenth Centuries. In Jack Goody, Joan Thirsk & E. P. Thompson (eds.) *Family and Inheritance. Rural Society in Western Europe. 1200–1800*. Cambridge: Cambridge University Press, 300.

31 Cooper, Patterns of Inheritance, 300–301; Ward, Noblewomen, Family, and Identity, 246, 248–252.

32 Joan Thirsk 1976. The European Debate on Customs of Inheritance, 1500–1700. In Jack Goody, Joan Thirsk & E. P. Thompson (eds.) *Family and Inheritance. Rural Society in Western Europe. 1200–1800*. Cambridge: Cambridge University Press, es 177–183; Cooper, Patterns of Inheritance; Asch, *Nobilities in Transition*, 42–44.

33 Göran Inger 1986. *Svensk rättshistoria*. Malmö: Liber Förlag, 30–34, 95–98; Åsa Karlsson Sjögren 1998. *Kvinnors rätt i stormaktstidens Gävle*. Acta Universitatis Umensis, 144. Umeå: Department of History, Umeå University, 40–46.

use of entails and advancing the notion that property pertained to the line of descent rather than to the individual.³⁴

As a daughter, Elin Tönnesdotter was entitled to an inheritance lot that was half the size of her brother's. However, it was argued that she had forfeited her inheritance right from her father altogether by her scandalous behaviour. The immoral and disobedient conduct of young unmarried women had already been penalised in Swedish medieval laws, but the discussion was gaining impetus, partly from changes related to the efforts of the noble estate in distinguishing itself from commoners. While the nobility was granted privileges by the monarchs, the economic position of the nobles and their accumulation of wealth was threatened by the system of partible inheritance unrestrained by primogeniture, the custom of giving morning gifts of land and the misalliances of noblewomen. These issues will be discussed in more detail below.

Staining her immemorial nobility: noblewomen, honour and sexual crime

At some point before 1608,³⁵ Elin Tönnesdotter had a sexual relationship with a student (*diäkn*), an anonymous son of the priest Sveno Andreae of Häfverö,³⁶ thereby losing her virginity. There is no mention of the affair in the records of the chapter of the archdiocese of Uppsala, but these records are gravely defective for the period. Moreover, faux pas of the nobility were rarely mentioned in court records. The liaison was known in family circles and among friends, and it was not disputed by Elin or her husband Johan Olofsson at any stage. In fact, Johan Olofsson omitted any mention of his and Elin's relationship before their marriage and referred to the errors of her youth as her "fall".³⁷

According to the law, what happened between Elin and the student was a violation of a "maiden" (*mökränkning*). This was a more serious crime than mere fornication, as it was also an insult to the woman's marriage guardian (*giftoman*), who had the right to give her away. The male culprit's punishment for the offence was a forty-mark fine, but the sum was halved if the offender married his lover.³⁸ Any further sexual indiscretion with a single and unrelated man would thereafter be labelled fornication (*lönskaläge*), punishable for both parties with a relatively

34 Cooper, *Patterns of Inheritance*, 266. Yet, it should be observed that learned jurisprudence also provided counter-measures such as the legitime against the same trends.

35 The exact date is unknown. One witness talked about the event as being a long time after Elin's mother had died and after the remarriage of her father, Margareta Nilsson's [Gyllenhierta] deposition, 12 February 1628, LC, E VI a 2 aa:53, HA, SH, RA.

36 According to Fant's limited information, the priest's name would have been Sveno Olai, and he was vicar of Häfverö in Nordinghundra at least during the years 1593–1599. Joh. Er. Fant 1843. *Uppsala ärkestifts herdaminne II*. Uppsala: Wahlström & Låstbom, 123.

37 Johan Olofsson's brief, 24 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

38 KrML, the chapter on marriage 3:1, Ulkuniemi, *Kuningas Kristoferin maanlaki*, 44.

minor three-mark fine in addition to penance. However, unlike female fornicators, the violated virgin was liable to ecclesiastical discipline only.

In fact, even matrimony between Elin and her lover might have been an eventual possibility, because it was later claimed that after the lover had risen in the world, he could have restored her lost honour by marriage.³⁹ Claes and Henrik Horn described how, with this end in view and through the intercession of many persons, their brother, Fieldmarshal Evert Horn (1585–1615), provided the priest's son with the necessary soldierly accoutrements and placed him in his own company "in order to make a man out of him". But the priest's son was a misguided character in whom no improvement could be effected. Because of the many unspecified offences he committed during his service, and not because of the love affair, the Horns emphasised, Evert Horn finally had the fellow shot (*arcubusera*).⁴⁰

It is not known to what extent Elin Tönnesdotter was a *fille mal gardée*, but as a motherless child, with a stepmother separated from her father, she was probably not raised as carefully or guarded as closely as she ought to have been. Moreover, supposing that she was born sometime between 1587 and 1591, she would have been twenty years old, perhaps younger, if the affair took place around 1605–1607. Nothing, however, is known of Elin's early life or of the liaison, a lacuna which in itself is unremarkable, because the Swedish sources of the period are so fragmentary.

Nevertheless, the family had apparently been furious when the affair became known. It was later alleged that Elin's brother Erik Tönnesson had been so enraged that her paramour had been forced to flee across the sea to Finland and stay hidden for a long time. Moreover, Sveno Andreae, the father of Elin's lover, may later have suspected that Erik Tönnesson and his maternal cousins had conspired to avenge the family honour by having the paramour shot.⁴¹ Later in court, the Horns were successful in ruling out the witness statement of Sveno Andreae as Erik Tönnesson's enemy and ill-wisher.⁴² Elin herself appears to have escaped the wrath of her family by taking refuge elsewhere.⁴³ Despite their initial outrage, the family had obviously tried to minimise the damage to the family reputation by hushing up the affair as much as possible.

The attitudes of the early seventeenth-century Swedish nobility towards sexual sin were branded with a double standard. Numerous noblemen chose to delay marriage and preferred to look around until an advantageous match presented itself. Many a nobleman succumbed to the hazards of that war-ridden era already in his thirties or forties, still unmarried and without leaving legitimate issue. Yet this fate seems to have been preferable to an early marriage to a less wealthy

39 Answer to Elin Johansdotter's plea, LC, 224, E VI a 2 aa:2, HA, SH, RA. On military service as a route to social mobility, see Kyösti Kiuasmaa 1968. *Suomen alempi sotilaspäällystö 1500-luvun loppupuolella (n. v. 1570–1600)*. Historiallisia tutkimuksia, 73. Helsinki: SHS, esp. 79–84.

40 Answer to Elin Johansdotter's plea, LC, 224, E VI a 2 aa:2, HA, SH, RA.

41 Answer to Elin Johansdotter's plea, LC, E VI a 2 aa:2, HA, SH, RA.

42 Memorandum, LC, 164, E VI a 2 aa:2, HA, SH, RA.

43 Margareta Nilsson's [Gyllenhierta] deposition, 12 February 1628, LC, E VI a 2 aa:53, HA, SH, RA.

candidate. Meanwhile, these bachelors could and did have long-term or fleeting sexual relations with non-noble women without provoking much censure. If they had been so moved as to marry these women – a rare but possible occurrence – until 1622 they risked only social censure, not legal penalties.⁴⁴ But since virginity was one of the key virtues of young unmarried noblewomen, any female faux pas brought acute shame to the whole family.

Nevertheless, Swedish society maintained a pragmatic attitude when compared to such societies as Renaissance Italy, for example. There, patrician girls were married off in their mid-teens, partly in order to reduce the risk of dishonour to the family by premarital sexual experiences.⁴⁵ The risk of sexual sin does not seem to have been an important consideration in early modern Sweden, because it was not unusual for noblewomen to marry only in their late twenties or even early thirties. Thus, although the honour of the family naturally suffered as a result of the sexual misconduct of its women if an indiscretion became common knowledge, marriage was frequently delayed and engagements could be long.

Through her liaison, Elin Tönnesdotter had degraded herself, her family and her estate. Years, even decades later, her sisters and brother-in-law still painted her shameful conduct in the blackest colours. Elin was depicted as an unruly, shameless and ungrateful harlot. In 1617, her cousins, the Horn brothers, had described her liaison as “disgracing her” (“skemt henne”). In 1627 her brother-in-law Henrik Stöör⁴⁶ (1585–1654) wrote that by permitting herself to be taken twice, she had “tainted her immemorial noble estate and family”.⁴⁷ It is hardly coincidental that on 13 December 1627, Henrik Stöör matriculated at the House of the Nobility, which had been established the previous year.⁴⁸ In those days, the net controlling entry into the nobility was tightening. Through compulsory registration and investigation at the House of the Nobility, the Swedish nobility was reduced from about 400 to 126 families.⁴⁹

44 Privileges of the nobility 1622, Schmedeman, *Kongl. Stadgar, Förordningar, Bref och Resolutioner*, 218.

45 Chojnacki, *Women and Men in Renaissance Venice*, 188.

46 Henrik Stöör – he wrote his name Hinrich Stör – had come from Germany; by 1610 he had become a gentleman to Prince Carl Philip’s (1601–1621) chamber (*kammarjunker*). That year he received some land in the district of Stockholm as a donation and in 1611 the king enfeoffed some property in Västmanland to him. Stöör married Karin Tönnesdotter before 1614 when she was about thirty and he was perhaps two or three years younger. Later he became the king’s chamberlain, but in 1633 he was released from this post after many complaints about the performance of his official duties. Moreover, in 1637 he had the chancel of the church of Knivsta destroyed, leading to a prolonged case at the Court of Appeal and resulting in 1642 with his being sentenced to pay 200 silver *dalers* for the offence; Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 47.

47 Answer to Elin Johansdotter’s plea, LC, E VI a 2 aa:2, HA, SH, RA; Henrik Stöör’s brief, 5 June 1627, LC, E VI a 2 aa:53, HA, SH, RA.

48 He had first been naturalised by the king, and in front of the assembled nobility, Stöör promised to act in all things in a manner appropriate to a nobleman. He also agreed to donate money according to his means to the House of the Nobility, as was customary; Wilhelm Tham (ed.) 1856. *Sveriges rikets ridderskaps och adels riksdags-protokoll med tillförande handlingar*, I. Stockholm: E. Westrell, 48–49.

49 Bush, *Rich Noble, Poor Noble*, 26.

From the late Middle Ages on, the European nobility had increasingly emphasised its heroic roots and ancient ancestry, its family seats and coats-of-arms. Moreover, the Catholic German nobility was especially strict about the noble progenitors of an aspirant to a noble corporation or a cathedral chapter: the candidate had to prove the aristocratic status of all sixteen of his great-grandparents. Even though the Protestant areas were less strict, the Germans were famous for being sticklers for rules and loath to accept the noble status of foreigners.⁵⁰ Stöör was thus probably particularly prone to emphasising the ancient nobility of the Tott family to which he was allied by marriage, both because of his German roots and owing to his recent matriculation at the Swedish House of the Nobility.

Later Claes Horn claimed that Elin had not once, but twice, shamefully disgraced herself through “the vice of whoredom” (“hordoms last”), “subjecting her siblings to no slight sorrow and scorn”.⁵¹ The fact that her kinsfolk repeatedly described the violation of a virgin or fornication as adultery was a deliberate (mis)use of the blanket term in an exaggerated and pejorative way in order to blacken Elin’s offence.⁵²

In one of their statements, Elin’s sisters Gunilla and Ermegård also dwelt on how they had shed many bitter tears and how often they had been ashamed because of their sister’s double disgrace. However, these spinsters of around forty years old observed coyly in their brief that it was rather improper for them as unmarried women to discuss their sister’s lack of virtue (*odugd*).⁵³ In other statements Gunilla and Ermegård let their mask drop altogether and revealed themselves to be torch-bearers of the increasingly narrow-minded moral climate of the early seventeenth century. It was up to the embittered family to avenge themselves upon their shameless slut of a sister and her uppity accomplice-cum-husband, who was accessory to all the grief their hated stepmother had caused for several decades. They complained to the Court of Appeal that their sister had committed “adultery” with a “loose blackguard” (“letferdigh skalek”), thus greatly insulting God, the authorities, her parents, the family and kin. Gunilla and Ermegård added with venom that Elin had “practised her disgrace and whoredom with the greatest frivolousness with Johan Olofsson before he had wedded the whore”. In their opinion, the court case was a malicious opportunity to cause the family further shame and humiliation.⁵⁴

Elin’s siblings went on to argue that when the king and the Court of Appeal had granted Elin her inheritance more than a decade previously, they must, in fact, have been unaware of her shameless and improper deeds – and her alliance with a

50 Ward, *Noblewomen, Family, and Identity*, 254; Spiess, *Aufstieg in den Adel*, 16–17; Asch, *Nobilities in Transition*, 9–10, 20–21. Even in less hidebound regions such as Poland, a person who claimed noble status had to have two noble parents, Kersken, *Der Kleinadel in Polen*, 214–216.

51 Claes Horn’s letter, dated 22 August 1627, LC, E VI a 2 aa:53, HA, SH, RA.

52 See the discussion in Mia Korpiola 2004b. *Kyrkotukt för hela folket: Hertig Gustafs av Saxen “horerij” och luthersk kyrkodisciplin i Sverige på 1590-talet*. In Jukka Kekkonen (ed.) *Norden, rätten, historia – Festskrift till Lars Björne*. Suomalaisen lakimiesyhdistyksen julkaisuja, E-sarja, 11. Helsinki: SLY, 72 n. 30.

53 Gunilla and Ermegård Tott’s undated statement, LC, E VI a 2 aa:53, HA, SH, RA.

54 Gunilla and Ermegård Tott’s statement, 1 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

commoner. They fervently wished that laws and privileges were not powerless in the face of such behaviour so that, in order to distinguish between good and bad, such actions would be punished as a warning to others (“androm til warnagel”). Similarly, distinction was to be made in inheritances between those acting virtuously and those [nobles] tarnishing their estate or disgracing and dishonouring their families.⁵⁵

Indeed, Elin’s siblings openly defended their actions with a desire to punish their sister’s shameless conduct. They wanted the Court of Appeal to pass a sentence that would make an example of such immoral persons “especially in the noble estate”. This, they felt, would also be richly rewarded by Almighty God.⁵⁶ The privileges of the nobility in 1622 referred to the king’s inclination to have “honour and virtue grow in all estates [...] that our knights and nobles remain as pure and untainted as possible”. Consequently, noblewomen marrying commoners forfeited their lands to their nearest kin. The aristocratic marriages of noblemen were also “useful for the respect and reputation of the noble estate”.⁵⁷ Elsewhere in Europe, similar laws designed to prevent interclass marriages between nobles and commoners were justified by a desire to keep the noble estate pure, unblemished and uncontaminated by base blood.⁵⁸ Such legislation has been called building material for “an iron curtain of pedigree” between the aristocracy and the “populace”.⁵⁹ In Sweden, the paramount concern seems to have been the preservation of tax-exempt family lands in noble family hands, but ancestry was becoming increasingly important.

The action and arguments of Elin’s siblings were probably bolstered by these privileges and their expressions. The siblings’ actions indicate that they felt the privileges should have a retroactive effect on their sister. Echoing similar sentiments, Elin’s brother-in-law Henrik Stöör wrote to the Svea Court of Appeal that Elin should be punished in the same manner as other sluts (“quinnes personer”) violating the Sixth Commandment.⁶⁰ This indeed suggests that neither secular officials nor ecclesiastical discipline had originally been involved.

Elin Tönnesdotter’s fall: sexuality, misalliances and tax-exempt land

Even if the legal arguments made by Elin’s siblings had a stringent moral tone, the reality involved concrete material interests. In a long brief relating to the lawsuit between Elin Johansdotter [Måneskiöld] and Stöör, written by Henrik Stöör’s scribe

55 E.g., Gunilla and Ermegård Tott’s undated statement, LC, E VI a 2 aa:53, HA, SH, RA. See also Peter Englund 1989. *Det hotade huset. Adliga föreställningar om samhället under stormaktstiden*. Stockholm: Atlantis, 50–51, 83–89.

56 Gunilla and Ermegård Tott’s statement, 1 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

57 Privileges of the nobility 1622, Schmedeman, *Kongl. Stadgar, Förordningar, Bref och Resolutioner*, 217–218.

58 Chojnacki, *Women and Men in Renaissance Venice*, 56, 59.

59 Chojnacki, *Women and Men in Renaissance Venice*, 171.

60 Henrik Stöör’s undated statement, LC, E VI a 2 aa:53, HA, SH, RA.

and submitted on 5 July 1627, Stöör presented as though in passing his and his co-defendants' arguments against Elin Tönnedotter's inheritance rights. He began by noting that Elin had thoroughly (*nougsamt*) forfeited her inheritance rights through her misconduct. Then he observed that because of this, "the estates could easily have fallen under taxation".⁶¹ It was to the advantage of the Totts to reclaim the land before it lost its tax-exempt status.

Thus, in order to keep the lands in their tax-exempt hands, the Tott family resorted to the ultimate method of denying Elin's birthright altogether. But the nobility also had alternative, less aggressive methods at their disposal. They could redeem the lands by voluntary sale so that the property never left noble possession. Alternatively, some families simulated land purchases that enabled the owner to continue to live at the manor and use the lands. Furthermore, relatives had the right to pre-empt any land that a family member offered for sale.⁶² The pre-emption depended on the proximity of the blood relationship, giving priority to the relative(s) first in line to inherit.

All this demonstrates that the attitude towards noblewomen was dual. On one hand, marriage offered an opportunity to acquire honour and social mobility for members of the early modern Swedish nobility. To marry honourably, to preserve one's estate, or even to augment and bring prestige to the estate, was the aim of every self-respecting nobleman. A wife was the means of maintaining or accumulating wealth through her dowry and inheritance rights. She put at her husband's disposal her network of family and friends, a means of possible advancement. She would also, God willing, give birth to her husband's legitimate issue and heirs.

On the other hand, noblewomen could pose a threat to the preservation of the landed wealth of the kinship group. Although the noble estate tried to insist that the morning gift (and female inheritance portions) be given in money, the bride was often dowered with valuable manors and land as her morning gift for her provision in widowhood. Such property thus belonged to the widow who could freely alienate it, or it could revert to her natal family should she die childless.⁶³ Wives and husbands could not inherit from one another, although each was granted a share of the joint estate of chattels, money and purchased land. Inherited land was kept strictly in the hands of the kinship group, and such immovable property could not be willed or donated away to the detriment of the rightful heirs.⁶⁴ Nevertheless, an unmarried noblewoman lost her right to paternal/maternal inheritance if she fornicated or married without parental consent, unless, of course, she was pardoned.⁶⁵

61 Henrik Stöör's statement, submitted on 5 June 1627, LC, E VI a 2 aa:53, HA, SH, RA.

62 E.g., Almquist, *Herrgårdarna i Sverige*, 174–175, 178, 190.

63 E.g., Inger, *Svensk rättshistoria*, 24, 92; Karlsson Sjögren, *Kvinnors rätt i stormaktstidens Gävle*, 42.

64 E.g., Inger, *Svensk rättshistoria*, 30–34, 95–98; Erickson, *The Marital Economy*, 10–13; Pylkkänen, *Forming the Marital Economy*, 81–82, 85.

65 KrML, the chapter on marriage, 3, Ulkuniemi, *Kuningas Kristoferin maanlaki*, 44. See also the gloss on section 3 of the chapter on marriage of King Magnus Eriksson's Town Law in manuscript B 29, 324, UUB.

Even worse, a noblewoman’s misalliance or illicit affair could cause the tax exemption to be removed.⁶⁶ The king might even insist altogether on the partial or total forfeiture of this immobile property, the bedrock of aristocratic wealth and a key factor in its survival, if no cavalry service had been performed and the crown had been cheated of taxes. In the course of the sixteenth century the Swedish kings did just this, monitoring more closely their own incomes and the services performed by the nobility for their tax exemptions.⁶⁷

Increasing the royal revenues was a challenge common to all kings, but King Gustav I Vasa (reigned 1523–1560) in particular devoted considerable time to devising means of filling the royal coffers. In 1540 he issued an ordinance forbidding his bailiffs and, in general, all non-nobles from marrying noblewomen unless royal permission had been obtained. Indeed, the king himself showed his favour to his trusted non-noble officials by arranging their weddings when they married noblewomen, even though he claimed that such frequent misalliances caused problems and arguments. Nor did he consider such matches good or useful. Anyone disobeying the king on this point was threatened with severe, but unspecified, punishments and royal wrath. The king also warned that noblewomen would lose their tax exemption by marrying outside the nobility.⁶⁸ The practice became even stricter later in the century: if a noblewoman married a commoner and she failed to perform cavalry service, while still enjoying tax exemption, the noblewoman could incur the forfeiture of some or all of her lands. In a word, the action was on a par with embezzling royal revenues. Not content with this, the crown tried to police the rules, for example, by establishing local commissions to investigate any abuses of tax exemptions by the nobility. Noblewomen who were married to commoners but still claimed tax exemption were one of the targets of these commissions.⁶⁹

To restrict the threat caused by the misalliances of noblewomen, beginning in the 1560s the nobility as a class started to lobby for royal privileges that would force all noblewomen who married commoners to sell their lands to their closest relatives for a reasonable price within a certain period; alternatively when such misalliances occurred, their lands would be forfeited to their relatives without compensation. Whereas medieval laws had allowed such noblewomen to keep their lands, but pay normal taxes on them, the late sixteenth-century nobility repudiated the interpretation of the medieval laws as false.⁷⁰ The nobility was also

66 KrML, the chapter on the king, 22–22 §1, Ulkuniemi, *Kuningas Kristoferin maanlaki*, 36–37.

67 Sven A. Nilsson 1947. *Krona och frälse i Sverige 1523–1594. Rusttjänst, länsväsende, godspolitik*. Lund: C.W.K. Gleerup, 227–232.

68 Ordinance of 1540, SRA I:1, 273.

69 Nilsson, *Krona och frälse*, 227–232; Jan Eric Almquist 1974. Rannsakningen i Västergötland 1574–1576 rörande adelskvinnors ofrälse giftermål. In *Rättshistoriska studier*, 4. Stockholm: Skrifter utgivna av Institutet för rättshistorisk forskning grundat av Gustav och Carin Olin. 85–116. Such investigations were commonplace even in certain other parts of Europe, such as Normandy in particular and France in general, mainly for taxation purposes but also as a showcase for royal authority and power, Bush, *Rich Noble, Poor Noble*, 84–85, Asch, *Nobilities in Transition*, 7, 17–18, 26.

70 For the first proposal of the nobility concerning its privileges, see SRA 2:1, 371; for the comments of the Council of the Realm on the proposal of the nobility concerning its privileges, SRA 2:1, 374; 10, *Postulata nobilium* (1594), SRA 3:1, 398.

willing to restrict the inheritance rights of daughters so that all dowries and morning gifts would be paid in chattels. Some propositions would have gone so far as to restrict noblewomen's right to pre-empt family land.⁷¹ While in the sixteenth century some scions of Swedish noble families had cheerfully bartered lands and manors among themselves, there seems to have been a growing sentiment that the lineage was historically tied to a group of inherited manors or castles that ought to be inalienable.⁷² Thus European perceptions of nobility also came to influence the attitudes of the Swedish aristocracy.

The self-image of the Swedish nobility was changing in accordance with the wider, European trend. In general, the old nobility tended to close ranks, and compulsory registration of nobility and noble birth was on the increase. During the second half of the sixteenth century in Sweden it became more difficult to pass oneself off as a nobleman in dubious cases.⁷³ The collective ideology was also strengthened by increasing the emphasis on the honour and purity of the estate. The misalliances and misconduct of noblewomen not only affected the financial interests of noble families but also family honour.⁷⁴ Elin Tönnesdotter was undoubtedly doubly guilty – and with different men – piling offence upon offence. Because married women followed the rank and condition of their husbands, by marrying a commoner Elin became a commoner too, despite her birth. Thus, she lost the tax-exempt status of her lands. This fate also befell noblewomen who committed fornication.⁷⁵ Obviously, such an outcome was not in the interests of her family, who wanted to ensure that the family lands and manors remained tax-exempt.

The restoration: forgiveness on the deathbed and marriage

When news of the love affair became public, Elin Tönnesdotter left her father's manor of Skeboholm and came to stay at the manor Bottna in the parish of Bro, the morning gift property of Margareta Nilsson [Gyllenhierta] (d. 1630/1631), a twice widowed noblewoman.⁷⁶ Margareta may have taken Elin under her wing and allowed her to reside at Bottna because of Margareta's marriage to Elin's step-great-uncle.

71 E.g., the bill for the application of the privileges of the nobility (1590), SRA 2, 1590–1591; The demands of the nobility, 30 October 1593, SRA 3:1, 177. See also G 10, Carl den Niondes lagförslag, *Lagförslag i Carl den Niondes tid*, 1864. Handlingar rörande Sveriges historia, 2:1. Stockholm: Norstedt, 125.

72 See the note of King John III to Hogenskild Bielke, Gustav Banér, Klas Bielke and secretary Andreas Lorich, 19.5.1573, Konung Johan III:s originalbrev 1568–1579, vol. 13, 11 Kungliga koncept, etc., RA.

73 On nobility by assumption, see Bush, *Rich Noble, Poor Noble*, 74–78; Spiess, *Aufstieg in den Adel*; Asch, *Nobilities in Transition*, 12–13, 16–18.

74 Englund, *Det hotade huset*, 42, 229–230.

75 KrML, the chapter on the king, 22–22 §1, Ulkuniemi, *Kuningas Kristoferin maanlaki*, 36–37.

76 Almquist, *Herrgårdarna i Sverige*, 78; Gustaf Elgenstierna 1930. *Den introducerade svenska adelns ättartavlor med tillägg och rättelser*, V. Stockholm: P. A. Norstedt & Söners Förlag, 329.

Margareta later claimed that she had often pleaded with Tönne Eriksson to forgive Elin and that she had finally been successful. In the end, Tönne Eriksson was willing to pardon his daughter and give her his “favour and friendship” (“gunst och wenskap”) once again. He came in a boat to fetch Elin and took her to Stockholm, after which she lived with her father until his death.⁷⁷

Later Elin’s husband Johan Olofsson provided evidence of the father’s forgiveness of his fallen daughter through the witness statement of Petrus Elai, vicar of Ununge. On Sunday evening, 8 May 1608, two days before his death, Tönne Eriksson wanted to partake of the sacrament, and for this purpose he sent for Petrus Elai. On his deathbed, Tönne uttered the words: “Elin, my daughter, has offended both God and me, but I have given her my friendship again (“gifwit henne wenskap igen”). And if God now summons me, she shall have the little manor of Hov and the little croft (*torp*) of Torslunda [...] and she shall inherit equally with her siblings”. Even Tönne’s estranged wife Elin Johansdotter and her father Johan Karlsson [Måneskiöld] had been present and heard what was said.⁷⁸

However, Elin Tönnesdotter’s brother-in-law Henrik Stöör claimed that Tönne had only pardoned Elin’s offence conditionally, on the proviso Elin conduct herself honestly in the future. He went on to claim that she had by no means abandoned her whorish ways, because she had succumbed to another priest’s son, Johan Olofsson, occasionally known by the surname Bagge. Henrik Stöör claimed that the pair had, in fact, pursued a long-term affair and fornicated for two or three years – probably while Johan was studying in Uppsala. Then Johan went to Germany for six months, and the liaison was resumed after his return. Their marriage would have taken place only some years later when Elin became pregnant. Moreover, Elin’s sisters maintained that she had given birth to her firstborn less than three months after her wedding.⁷⁹ These allegations are not corroborated by witness statements, although Johan Olofsson does not seem to have attempted to repudiate the contention of their prenuptial liaison and pregnancy very energetically or presented any contradictory information. In general, nothing else is known of Elin’s life between the time of her father’s death and her marriage to Johan Olofsson.

Johan Olofsson’s father Olaus [Bagge], born in Norway, had long been vicar of Väddö, and Margareta Nilsson had apparently known Johan since he was a child.⁸⁰ According to many testimonies, as a young man Johan Olofsson had studied in Uppsala and later in 1613 at the German university of Helmstadt. He is probably the Johannes Olai Roslagius [for the region of Roslagen, north of Stockholm],

77 Margareta Nilsson’s [Gyllenhierta] deposition, 12 February 1628, LC, E VI a 2 aa:53, HA, SH, RA.

78 Petrus Elai’s deposition, 19 July 1609, LC, E, VI a 2 aa:53, HA, SH, RA.

79 Henrik Stöör’s undated statement, LC, E VI a 2 aa:53, HA, SH, RA; Ermegård Tott’s letter, 28 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

80 According to Fant, Olaus was vicar there since at least 1593, Joh. Er. Fant 1845. *Uppsala ärkestifts herdaminne III*. Uppsala: Wahlström & Låstbom, 439. See also the depositions of Elin Johansdotter [Måneskiöld], dated 22 October 1627, and Margareta Nilsson [Gyllenhierta], dated 12 February 1628, LC, E VI a 2 aa:53, HA, SH, RA.

För allr ädelighe förståndige och wäldsteds godhe män, som ännu i Sverige
 wälse Gendar att förkomma, ta' bekwinnat mig Petrus Elai,
 Guds församlingis ringe nummer of Agrederforske och Luninge
 Döfne i Wärdingsrådets Wärd, of för mig wänteligen gien,
 att afsew Edel of wäldedig Edig Löfwen till Nådabofolme,
 begärer af mig samu berättelse of wänteligen, Guds Sant
 B. Guds saksam taler om sin barn of morgongäsworna i sin
 gylta; ta' han sig för wänteligen skal icke sådana försälla:
 Of saksam den Edel of wäldedig (Selig Guds) Guds
 Guds and ja' warit, ta' han kallade mig till sig, den 8
 Maj om aftonen, of aftenswade den 10 Maj: Elm min
 dotter, saksam försände sig med Guds of mig, of saksam
 inge gifwit ännu wänteligen: Of der Guds mi kallar
 mig, ja' skal son saksam den lilla Guden Guds, samt med
 der lilla Guden Guds och Aluninge Döfne, ligit äfset
 ja' han son Guds sig den med. Of skal son wara
 i Guds Guds med sin Guden. Of kan sin morgongä-
 worna anlangar, skola Guds göra lika ja' både saksam,
 Of swar något mig han sin med, der skal Guds: tw
 millan Guds Guds. Inse war Guds egen of
 som han talade om Döfne aftonen, (Selig Edel
 of wäldedig Guds Elm Guds Guds, samt Guds
 Guds Edel of wäldedig Guds Carlson till Ringarn.
 Gils Guds wänteligen Stad saksam mig ännu mi
 wänteligen med mitt wänteligen Guds, of saksam
 wänteligen den 19 July, år 1609.

Petrus Elai Luninge

Figure 1. Petrus Elai's deposition, 19 July 1609, Stockholm, Svenska riksarkivet (RA) [National Archives of Sweden], E VI a 2 aa:53, Liber causarum.

Svecus, in the register of the university who enrolled on 3 September 1613. That year over twenty Swedes including several noblemen were studying at Helmstadt, an institution reputedly favoured by the nobility. The university there afforded an

excellent opportunity for networking.⁸¹ In fact, some of his former fellow students, Ericus Holstenius Montanus, vicar of Skedvi, and Ericus Fabricius, later testified to Johan’s honesty, good sense and exemplary behaviour as well as his courage, both at Uppsala and in Germany.⁸² Similarly, Margareta Nilsson described Johan as a person who, to her knowledge, had acted “in all matters like a decent and scrupulous person, honestly and well”. Petrus Erici, pastor of Norrmalm, also spoke well of Johan Olofsson’s honest and laudable life.⁸³

Even more importantly, perhaps, the court records demonstrate Johan Olofsson’s useful practical knowledge and sound understanding of the law, which enabled him to pursue litigation on Elin’s behalf against her siblings. Law was also taught at Helmstadt, and Johan might have studied some learned jurisprudence there, but the court records do not tell anything of his knowledge of the *ius commune*, although he occasionally used Latin expressions and phrases. From 1624, we find Johan Olofsson acting as the vice-fiscal, a respectable post at the Svea Court of Appeal, founded in 1614 by King Gustav II Adolf (reigned 1611–1632).⁸⁴ The job required considerable knowledge of the law, because the vice-fiscal assisted the fiscal, whose duties included prosecuting judges for misconduct or negligence and making inspection trips.⁸⁵ It could afford opportunities for climbing the social ladder, since the incumbent of the post of fiscal was regularly appointed a third-class assessor or judge of the Court of Appeal. These non-noble but learned assessors could also be ennobled later in their career.⁸⁶ The salary of the vice-fiscal was perhaps roughly two hundred Swedish dalers a year, consisting of a yearly portion, a weekly portion and an allowance for clothing (*kommis*).⁸⁷ As the Svea Court of Appeal sat at the Castle of Stockholm, an office-holder had to be in regular attendance there during court sessions. Part-time residence in the capital was thus necessary.⁸⁸

Apparently, by having married Johan Olofsson in 1615, Elin had done the best she could under the circumstances, thereby salvaging and restoring her honour.⁸⁹

81 *Album Academiae Helmstadiensis, I. Studentem, Professorem etc. der Universität Helmstedt von 1574–1636*, 1926. Hannover, 232; Berg, *Johan Skytte*, 45.

82 Ericus Holstenius enrolled at Helmstadt on 11 July 1612, and Ericus Fabricius on 6 July 1613, *Album Academiae Helmstadiensis I*, 224, 231; Ericus Holstenius Montanus’s deposition, dated 27 October 1627, and Ericus Fabricius’s deposition, dated 14 November 1627, LC, E VI a 2 aa:53, HA, SH, RA.

83 Margareta Nilsson’s [Gyllenhierta] deposition, dated 12 February 1628, and the deposition of Petrus Erici, pastor of Norrmalm, 28 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

84 A. Anjou 1899. *Kongl. Svea Hofrätts presidenter samt embets- och tjänstemän 1614–1898. Biografiska anteckningar*. Eksjö, 230.

85 Sture Petrén 1964. Hovrättens uppbyggnad 1614–1654. In *Svea hovrätt. Studier till 350-årsminnet*. Stockholm: P. A. Norstedt & Söner, 83–84.

86 Petrén, Hovrättens uppbyggnad, 78–85.

87 Petrén, Hovrättens uppbyggnad, 104.

88 Petrén, Hovrättens uppbyggnad, 43–44.

89 Matrimony was traditionally considered not only to remedy sexual sin, but also to restore a woman’s lost honour even if she did not marry her former lover; see Mia Korpiola 2004. *Between Betrothal and Bedding: The Making of Marriage in Sweden, ca. 1200–1610*. LL. Thesis, University of Helsinki, xix.

The scarlet woman of the family had become a respectable matron with the consent, or at least the lack of protest, of her siblings. The couple seems to have been quite happily married – at least the depositions presented by Johan Olofsson speak of the propriety of their marital life – and they had children together. After the marriage, Elin's unmarried sisters Gunilla and Ermegård lived for three years in the same household with Elin and Johan Olofsson.⁹⁰

King Gustav II Adolf resolved the dispute about the morning gift of Elin Johansdotter [Måneskiöld] in 1616. Elin Tönnesdotter's inheritance rights were discussed at this trial, but the king awarded Elin her lawful share in the paternal inheritance along with her brother, stepbrother, three sisters and three stepsisters. (The maternal inheritance of Tönne's first family had been parcelled out among the offspring previously.) It fell to two of the assessors of the Svea Court of Appeal to perform the actual division among the children. Elin's lot contained only two items: a moiety of the Knivsta mill and an estate called Backebol in Western Gothia.⁹¹ Yet Elin and her family seem to have continued to live at the manor of Hov (in the parish of Almunge in Färinghundra), where her father had intended her to live, but which had been allotted to her sister Ermegård in the division of the paternal estate. It is likely that Elin's share, unlike that of the rest of her siblings, contained very little land and no manor in Uppland, precisely because she had wed a commoner. Through her unequal marriage, any real property belonging to her lost its tax-exempt status as noble land and became taxable "peasant land". Even if the property later came into noble hands, for example, through inheritance, it was uncertain whether it could ever be reconverted into tax-exempt land. The Tott family was unwilling to take such a risk.

The lawsuit at the Court of Appeal, 1627–1629, and the legal arguments

Consequently, things did not proceed very smoothly. Despite the judgement of the Court of Appeal, her siblings deemed that Elin was not entitled to her inheritance. They considered themselves the rightful owners of Hov. On 26 June 1618 they divided their paternal and maternal inheritance among each other as if Elin did not exist. According to them, they had granted Elin lifelong residency at Hov only out of generosity and grace, provided that she and her husband acted gratefully and humbly. Johan Olofsson took legal action at the Court of Appeal in 1627 and demanded that the verdict of 1616 be upheld and that Elin be granted her share of the parental inheritance. For this misbehaviour and ingratitude on the part of Elin and her husband, Elin's siblings had Elin and her family evicted in the autumn – probably with the help of their powerful cousin Claes Horn, who by then had become governor of the castles of Stockholm and Uppsala and chief judge (*lagman*) of Carelia and Ingria.⁹²

90 Ermegård Tott's letter, 28 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

91 Division of the estate of Tönne Eriksson [Tott], 18 September 1616, LC, E VI a 2 aa:2, HA, SH, RA.

92 Claes Horn's letter, 22 August 1627, LC, E VI a 2 aa:53, HA, SH, RA.

The litigation revolved around certain issues. While the affair between Elin Tönnesdotter and the priest’s son was undisputed, whether or not her father had forgiven Elin her sin and offence towards himself was open to discussion. Elin’s sisters and brother seem to have maintained that she had also forfeited her maternal inheritance through her misconduct. This interpretation, however, was not based on law. Elin had already inherited her portion of her late mother’s estate years before the affair, regardless of whether she had actually gained possession of her inheritance. Since her mother had been in her grave a decade before the daughter made her false step, Elin’s action cannot have offended her as the law insisted. Moreover, on behalf of his wife and sisters-in-law, Henrik Stöör claimed at the trial that her family had neither known about nor consented to the marriage. As such, the knowledge or assent of her sisters and brother was legally irrelevant, since only marriage against parental will led to disinheritance. However, there was a growing trend to extend this rule to other guardians and siblings.⁹³

The wedding ceremony of Elin Tönnesdotter and Johan Olofsson had been celebrated on 12 February 1615. Because of the contention that the wedding had taken place without the knowledge and assent of Elin’s kin, the event and its participants were described by witnesses on behalf of Elin. Indeed, as the banns had obviously been read, it is likely that news of the wedding would have spread like wildfire. There is nothing to indicate that the sisters and brother of Elin had not consented. Gunilla and Ermegård had attended the wedding and their sister Karin had promised to be her matron-of-honour (*Brudfrämia*). In the end, Karin had been unable – or unwilling – to attend, and so she had sent her child’s wet-nurse with wedding clothes, decorated drinking vessels and other wedding paraphernalia. Gunilla had requested that in Karin’s absence Margareta Nilsson would dress and adorn the bride, which she did.⁹⁴

In a letter, the noble Cecilia Andersdotter [Rålamb] (d. after 1633), Elin’s step-grandmother after her short marriage to Johan Karlsson [Måneskiöld af Seglinge] (d. 1613), father of Elin’s stepmother Elin Johansdotter,⁹⁵ also testified to the respectability of the wedding. Cecilia Andersdotter wrote that she and many other honest persons testified that the marriage had been concluded honestly and well “according to the customs and practice (“sedwana och bruck”) of our dear fatherland, as well as with ecclesiastical ceremonies [according to] custom”.⁹⁶ The statement of Elin’s brother corresponds to the evidence of the Totts who not only knew of the wedding, but also accepted it. Over ten years later the Court of Appeal asked Erik

93 Mia Korpiola 2005. Marrying Off Sons and Daughters: Attitudes to the Consent of Parents and Guardians in Early Modern Sweden. In Grethe Jacobsen *et al.* *Less Favored—More Favored. Proceedings from a Conference on Gender in European Legal History, 12th–19th Centuries, September 2004*. [Online at <http://www.kb.dk/kb/publikationer/fundogforskning/online/artikler/14_Korpiola.pdf>], 9–12.

94 Margareta Nilsson’s [Gyllenhierta] deposition, 12 February 1628, LC, E VI a 2 aa:53, HA, SH, RA.

95 Almquist, *Herrgårdarna i Sverige*, 59, 113; Elgenstierna, *Den introducerade svenska adelns ättartavlor V*, 328.

96 Cecilia Andersdotter’s [Rålamb] deposition, 13 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

Tönnesson about his prior knowledge of the wedding. Erik asserted that he had learned of Elin's impending wedding to Johan Olofsson a fortnight previously. As to his opinion about the match, he claimed to have said that "since [Johan Olofsson] had had Elin earlier, he might as well have her now".⁹⁷ This obviously referred to the claims made by Elin's family that Elin and Johan had been having a prenuptial affair.

Elin's family also resented very much that Johan Olofsson had represented their hated stepmother Elin Johansdotter [Måneskiöld] at the Svea Court of Appeal in further litigation against them. Even in the court case under consideration, Henrik Stöör repeatedly claimed that Elin Johansdotter was the evil spirit behind the lawsuit. Johan Olofsson had emphatically denied this, blaming instead his dire situation and circumstances, which had forced him to bring the suit.⁹⁸ However, the Måneskiöld connection had not been so repugnant for Erik Tönnesson, Elin's brother, because he had married his stepmother's cousin, Hebla Kristersdotter [Måneskiöld af Seglinge], probably some time after his return from Jena in 1616. The couple had three sons and three daughters, all of whom were alive at the time of their father's death.⁹⁹

Despite the best efforts of Henrik Stöör and Elin's siblings, on 21 April 1629 the Svea Court of Appeal ruled in favour of Elin. She was to gain possession of her inheritance and her lands in accordance with the previous judgement by King Gustav II Adolf himself. However, she had to pay taxes on her land.¹⁰⁰ This was precisely the verdict that Johan Olofsson had been desirous of and arguing for.¹⁰¹

The alliance between Henrik Stöör and Elin's single sisters, Gunilla and Ermegård, lasted only as long as all were united by mutual interests. This soon changed with two deaths in the family. First, in the winter of 1629, less than a year after the sentence of the Svea Court of Appeal, the sisters' brother Erik died, leaving six children.¹⁰² At this point Elin had still not received her inheritance in toto and Johan Olofsson now claimed the chattels included in his wife's inheritance. In February of 1630 Johan Olofsson requested that the court write to the governor to request that the sentence be executed. This was done some weeks later.¹⁰³

Then in late 1631, Elin's sister Karin Tönnesdotter died at Nor after a long illness. Her only child, a son born in 1614 or 1615, had predeceased her in December 1628.¹⁰⁴ Since Karin died without descendants, her siblings stood to inherit. This

97 Overview of the court case, 30 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

98 Henrik Stöör's brief, submitted on 5 June 1627, LC, E VI a 2 aa:53, HA, SH, RA, Overview of the court case, 30 October 1627, LC, E VI a 2 aa:53, HA, SH, RA.

99 Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 342–343.

100 Dombok 1628–1629, 44, B II a:4, HA, SH, RA

101 Johan Olofsson's statement, 30 May 1627, LC, E VI a 2 aa:53, HA, SH, RA. See also KrML, the chapter on the king, 30, Ulkuniemi, *Kuningas Kristoferin maanlaki*, 40.

102 Overview of the court case, 28 January 1630, LC, E VI a 2 aa:53, HA, SH, RA; Elgenstierna 1934, 343: Erik Tönnesson was buried in January 1630.

103 Overview of the court case, 28 January 1630, 10 March 1630, LC, E VI a 2 aa:53, HA, SH, RA.

104 Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 47; Henrik Stöör's statement, 22 March 1631, E VI a 2 aa:53, HA, SH, RA.

made them and the widower Henrik Stöör rivals for her estate. According to Swedish law, husbands received two-thirds of all joint chattels and acquired land, although they were not heirs to the chattels or acquired land of their childless wives unless there was a will. All inherited lands reverted to the family and the closest kin and could not be willed away. However, Karin Tott had made a testament in her husband's favour. Consequently, Johan Olofsson, on behalf of his wife, as well as Gunilla and Ermegård Tott, sued Henrik Stöör for their inheritance from their late sister Karin's estate. Indeed, Gunilla and Ermegård seem finally to have inherited the manor of Nor.¹⁰⁵

In the court case involving Elin Tönnesdotter's inheritance rights, Johan Olofsson's honesty and professional reputation were called into question. Elin's siblings claimed that he had leaked secret information in favour of his brother-in-law Erik Tönnesson during litigation against another nobleman at the Svea Court of Appeal. If true, Johan Olofsson would have broken his oath of confidentiality (“juramentum taciturnitatis”). Johan denied this hotly, and Erik Tönnesson admitted under oath that there was no truth in the accusation. Johan Olofsson pursued the defamation suit at the Svea Court of Appeal until April 1631, when he agreed to accept mediation and considerable compensation (500 dalers) from Stöör for his trouble and expenses. Johan Olofsson was anxious for his honour and name to remain unsullied and requested that his blamelessness be noted down in the court's official records.¹⁰⁶ Elin Tönnesdotter and Johan Olofsson also seem to have gained possession of Elin's inheritance and reclaimed the manor of Hov.¹⁰⁷ In 1630 Johan Olofsson was appointed lawreader or surrogate judge of Kopparberget in the mining region of Dalarna (Dalecarlia). However, he was dead by 1638, the year his wife is mentioned as being a widow.¹⁰⁸

Conclusion

The litigation concerning Elin Tönnesdotter's inheritance rights became a leading case in Sweden and the ruling of the Svea Court of Appeal set a precedent there. It was explicitly cited as such in 1650 in the controversial and disputed affair concerning the division of the estate of the late Per Nilsson Gyllenax, who had been ennobled and whose daughters' inheritance right to his tax-exempt land was under discussion. The discussion of the Gyllenax case in the Svea Court of Appeal turned the noble, recently ennobled and commoner judges against each other because of the class

105 Overview of the court case, 6 March 1633, LC, E VI a 2 aa:53, HA, SH, RA; Johan Olofsson's statement, 6 February 1633, LC, E VI a 2 aa:53, HA, SH, RA; C. G. Bergman 1918. Testamentet i 1600-talets rättsbildning. In *Lunds universitets årsskrift*, avd. 1, 14:8, 123; Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 47.

106 Johan Olofsson's statement, 22 April 1631, LC, E VI a 2 aa:53, HA, SH, RA.

107 Johan Olofsson's statement, 22 April 1631, LC, E VI a 2 aa:53, HA, SH, RA.

108 Anjou, *Kongl. Svea Hofrätts presidenter*, 230; Elgenstierna, *Den introducerade svenska adelns ättartavlor* VIII, 343.

interests involved between the old nobility and the commoners.¹⁰⁹ The case was also included in Magnus Becchius-Palmcrantz's (1653–1703) systematic collection of precedents (c. 1700) as defining the legal consequences of matrimony between nobles and commoners.¹¹⁰ Thus, the legal relevance of Elin Tönnesdotter's fall and restoration extended far beyond the fortunes of the principles in the lawsuit.

Elin Tönnesdotter's case demonstrates how the nobility viewed the role of the law as a means of pursuing their property strategies, namely, keeping tax-exempt land in the hands of the family, and preferably in the patrilineage. While the prominence of lineage did emphasise the domestic position of the woman as a wife and mother, it has been estimated that “[a]t one level the [noble]women could simply be seen as pawns in the marriage market, contributing to the upward or downward mobility of families”.¹¹¹ This estimate is applicable to the Swedish situation, but only partly, because the system of partible inheritance contributed to Elin's sisters becoming her bitterest foes. From the perspective of the Tott lineage, all four sisters were more or less withered branches of the family tree and potential drains on the family fortune, but their property could still potentially revert to and enrich the main line.

Despite the marginal status of unmarried noblewomen, the case also highlights their capacity to act independently and individualistically. This capacity only contributed to the necessity to restrain their behaviour in order to further the honour and success of the family. Elin's conduct, though causing her family shame and vexation, had only instrumental value in the court case. Her “fall” threatened the tax-exempt status of her family lands, which her kin tried to salvage for themselves. The Court of Appeal was the stage where they argued their case in legal and moral terms.

As financial pressure from the crown increased, noble families had to employ a variety of legal strategies to counteract the threat that the individualistic choices of noblewomen caused to the noble line. The measures adopted by the nobility in order to limit the damage caused by noblewomen marrying to disoblige their families – or more generally marrying non-nobles – were by no means restricted to Sweden. Indeed, they were part of a larger European trend, although the Swedish policy may have been the strictest and the most gender-neutral in Europe.

Just as it was the duty of the nobility to serve king and crown, the nobleman or noblewoman was obliged to promote the fortunes of his or her family. Luckily, the law could limit any possible damage caused by excessive individualism, and indeed – as the case at hand demonstrates – it was used precisely for this purpose.

109 Referendbok, 53, HA, A I c:1, SH, RA. On the Gyllenax case, see Mirikka Lappalainen 2005. *Suku, valta, suurvalta. Creutzit 1600-luvun Ruotsissa ja Suomessa*. Helsinki: WSOY, 167–169.

110 Becchius-Palmcranz samlingar 17, 1:17, Juridica I, Riksarkivets ämnessamlingar 753:1, RA.

111 Ward, *Noblewomen, Family, and Identity*, 254–255.

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