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## RESEARCH NOTE ON JUDGE THOMAS FELL (1598-1658)

Over the years Judge Thomas Fell has received due recognition for his generous and weighty but calculated support of early Quakers. Never a Quaker himself he interceded on behalf of Quakers at critical moments in the evolution of the fledgeling movement.

The Puritan Judge's connection to Quakerism is better known than his remarkable biography. Scion of an ancient Lancastrian family, he was a student at Gray's Inn and was called to the bar in 1631. Elected to the Long Parliament as a recruiter for Lancaster in 1645 he later sat in the Rump Parliament.<sup>1</sup> He was made serjeant at law in the duchy of Lancaster 3 August 1649 and the same year became attorney and serjeant in the county palatine of Lancaster. He was appointed vice-chancellor of the duchy and county palatine of Lancaster<sup>2</sup> in December 1649 and was re-appointed to the same position in 1651. Fell was made a bencher of Gray's Inn in 1650 and subsequently became judge of the assize on the Chester and North Wales circuit, a position shared with John Bradshawe.

It is surprising that one of Judge Fell's most important achievements has escaped notice not only in his wife's brief account of his life in her

letter to Lord Ancram<sup>3</sup> but in the *Dictionary of National Biography*<sup>4</sup> and the unpublished *Dictionary of Quaker Biography*<sup>5</sup> We are informed, in lists of the chancellors of the duchy of Lancaster<sup>6</sup>, that Judge Fell held the office of chancellor from 28 February 1654 until the time of his death in 1658.

The duchy's officers were overwhelmingly parliamentarian in allegiance<sup>7</sup> so its officials were less vulnerable to attack by the Long Parliament. But the duchy did represent a fusion of the Crown with the Dukedom of Lancaster which associated its jurisdiction 'with the exercise of royal prerogative.'<sup>8</sup> Prerogative jurisdiction was abolished in 1641.<sup>9</sup>

The jurisdiction of the duchy was abolished 10 October 1653; that of the county palatine continued until 1 January 1654.<sup>10</sup> This was all part of a post-war parliamentary 'campaign for law reform' which abolished numerous royal offices and courts.<sup>11</sup> However, both jurisdictions were soon restored by the Protector who brought the period of post-war reform to an end,<sup>12</sup> possibly in an effort to ensure more effective justice through 'restoration of the regional tribunals.'<sup>13</sup> The duchy court at Westminster was restored by a Protector's Ordinance in June 1654, although the restrictions imposed by the 'Star Chamber' act of 1641 continued to apply.<sup>14</sup>

As the representative in turn of Royal, Parliamentary and Protectorate authority the chancellor was a high-ranking official and important statesman in the land.<sup>15</sup> At least until the duchy lost its prerogative jurisdiction the chancellorship of the duchy 'ranked above the Exchequer in formal precedence.'<sup>16</sup> Often the chancellor was a privy counsellor<sup>17</sup> and usually sat as an M.P. for the county of Lancashire or for one of the boroughs therein. Fell had all the credentials. A practical lawyer, he was well disposed to the Parliament and the Protector.<sup>18</sup> As early as 1648, when Royalist forces were gathering in Scotland under the leadership of the Duke of Hamilton, Parliament appointed Judge Fell a commissioner for the safety of the county and sent him (along with Colonel Ashton and Major Brooke) into Lancashire in advance of the parliamentary army in order to preserve the parliamentary cause in that strategic part of the country.<sup>19</sup> Well inclined towards reformed religion, he also demonstrated great concern for liberty and toleration, as exemplified by his defence of George Fox at the Lancashire Sessions in 1652 when he used his authority to trounce opponents of liberty of conscience in his jurisdiction.<sup>20</sup>

As Chancellor Judge Fell was the chief administrative officer in the duchy, he would have presided over the duchy council and the duchy court at Westminster. When in London the chancellor would have

resided at Duchy-house in the Strand, the official residence of the chancellor.<sup>21</sup>

There was a significant cash value attached to the office of chancellor. In 1618 the office of chancellor was valued at £8,000.<sup>22</sup> Aylmer drew a link between the value of the office and the desire of other royal officers to secure the position: 'The value of the Chancellorship of the Duchy of Lancaster can be inferred from Lord Newburgh's agreement to transfer to it from the Chancellorship of the Exchequer in 1629; the reversion to it was also eagerly sought after.'<sup>23</sup> Fell's salary, largely to cover costs while performing governmental duties in London, would have been substantial by seventeenth-century standards. He drew further income from duchy seal fees which he received until July 1658.<sup>24</sup> Fees 'paid at every stage in litigation and in all other legal proceedings' were the 'most important single source of income' for the officers of the duchy.<sup>25</sup>

Tenure of the office was usually held through appointment by the King, the Protector or by an Act of Parliament. There were two types of tenure: for life without the possibility of removal (short of invoking statutory provisions) or 'at pleasure' which meant the office could be revoked or renewed. Sometimes there was an added proviso 'during good behaviour' which meant the chancellor could be dismissed for incompetence or misbehaviour.<sup>26</sup> The latter proviso was rare during the Interregnum. One example was the tenure of John Bradshawe after he resumed the chancellorship following the death of Judge Fell in 1658.<sup>27</sup>

Bradshawe was first made chancellor of the duchy 28 July 1649 by an Act of Parliament, just after he had presided at the trial of Charles I. He had successive tenures until 17 September 1653. He then shared the office with Fell until 28 February 1654. Thereafter Fell held the office alone.<sup>28</sup> He probably received his appointment from the Protector. It is not certain why Fell displaced Bradshawe and was given sole jurisdiction but the record is clear that there were no provisos attached to his tenure which, after June 1654, would have carried the added legal responsibilities of the duchy court at Westminster.

Judge Fell held one of the highest, most influential and most lucrative offices in the Kingdom. As chancellor of the duchy of Lancaster he stood in a distinguished lineage that included Sir Thomas More and Sir Robert Cecil. When considering his role in the history of early Quakerism the power and influence of such an important statesman cannot be underestimated.

*Richard G. Bailey*  
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### NOTES AND REFERENCES

- <sup>1</sup> D. Brunton and D.H. Penington, *Members of the Long Parliament* (London, 1954), 231, 20-27.
- <sup>2</sup> The two offices were joined in the mid-fifteenth century.
- <sup>3</sup> 'Margaret Fox to Lord Ancram,' 31 November 1684, A.R. Barclay MSS. 105.
- <sup>4</sup> Entry by A.C. Bickley.
- <sup>5</sup> Typescript, Library of the Religious Society of Friends, London.
- <sup>6</sup> Edward Baines, *The History of the County Palatine and Duchy of Lancaster* (London, 1868), I,51; R. Somerville's more recent *Office-Holders in the Duchy and County Palatine of Lancaster from 1603* (London, 1972), xix, 2; and E.B. Fryde, D.E. Greenway, S. Porter, and I. Roy, eds. *Handbook of British Chronology* (London, 1986), 150.
- <sup>7</sup> G.E. Aylmer, *The King's Servants* (London, 1974), 405-406.
- <sup>8</sup> *Ibid.*, 33.
- <sup>9</sup> *Ibid.*, 407-408.
- <sup>10</sup> Somerville, *Office-Holders*, 2.
- <sup>11</sup> G.E. Aylmer, *The State's Servants* (London, 1973), 44, 322.
- <sup>12</sup> *Ibid.*, 47, 327. 'No full study has been made of the reform movement in the 1640s and 50s ... Nor is it clear how far the pre-war system was consciously being restored under the Protectorate,' (Aylmer, *King's Servants*, 436).
- <sup>13</sup> D. Hirst, *Authority and Conflict: England, 1603-1658* (Cambridge, Mass., 1986), 34.
- <sup>14</sup> Aylmer, *King's Servants*, 436.
- <sup>15</sup> R. Somerville, *History of the Duchy of Lancaster* (London, 1972), I,115-17.
- <sup>16</sup> Aylmer, *King's Servants*, 408, 113. The legal and financial aspects of the duchy were independent of the Exchequer, although in 1642 there was a proposal to amalgamate the financial side of the duchy with the Exchequer in an effort to centralize royal finances (*Ibid.*, 142, 152, 196). G.E. Aylmer's *The King's Servants* and *The State's Servants* provide an excellent description of the shifts in office-holding in the 1640s and 50s.
- <sup>17</sup> He was an *ex-officio* member of the privy council under Charles I (Aylmer, *King's Servants*, 21, 476).
- <sup>18</sup> Somerville, I,325.
- <sup>19</sup> Baines, *op. cit.*, I,228.
- <sup>20</sup> *Journal of George Fox*, ed N. Penney (Cambridge, 1911).
- <sup>21</sup> Duchy-house was also used by the parliamentary accounts committee between 1650 and 1658 (Aylmer, *State's Servants*, 105).
- <sup>22</sup> Somerville, *Office-Holders*, xvii.
- <sup>23</sup> Aylmer, *King's Servants*, 211.
- <sup>24</sup> Somerville, *Office-Holders*, 95, 2.
- <sup>25</sup> Aylmer, *King's Servants*, 174. Total fee income for the duchy in the 1630s was between £7,500 and £10,000 (*Ibid.*, 245).
- <sup>26</sup> Somerville, *Office-Holders*, xxiii.
- <sup>27</sup> *Ibid.*, 2.
- <sup>28</sup> *Ibid.*, 2 and Fryde, *op. cit.*, 150.