

The Mystery of Swarthmoor Hall

THE recent death of Isabel Ross, a former President of the Friends' Historical Society, will have led some readers to turn back to her book *Margaret Fell, Mother of Quakerism* (1949). This admirable biography was the result of many years of research and sifting of records, and there is probably no source touching on the Fell family that Isabel Ross left untapped. There was, however, one problem that continued to baffle her—the problem as to just what view should be taken of the dispute between Margaret Fell and her son George as to the rightful ownership of Swarthmoor Hall.¹

To Isabel Ross this was not a question of purely academic interest. For if in fact her famous ancestress had unfairly deprived the son of what was rightfully his, then this might well affect our whole judgment of Margaret Fell's character. I remember a conversation with Isabel Ross in which she confessed her misgivings, and although this does not appear in her book, there is no doubt that she was troubled by them. I am sorry that I was not able, at the time, to do more than make a few generalizations, which may or may not have comforted her. But recently I have had another look at the problem, and it does seem as though a rather different line of approach might enable us to form a clearer judgment of the rights and wrongs of the case. I offer what follows, therefore, as a tribute to Isabel Ross's memory.

JUDGE FELL'S WILL

The mystery begins with Thomas Fell's Will,² which he made in September 1658, only a week or two before his death. The language of the Will is perfectly plain and straightforward, and it *appears* to do three things:

1. It gives to his widow, Margaret Fell, Swarthmoor Hall, with its gardens, and 50 acres of ground, "so long as she shall continue and remain in my name, and as my widow, and unmarried to any other, and no longer, in hopes that she

¹ The questions involved were previously discussed, and many of the original documents quoted, in three articles by Norman Penney, "George Fell and the Story of Swarthmoor Hall" in the *Jnl.F.H.S.* for 1932-34, xxix, 51-61; xxx, 28-39; xxxi, 27-35.

² Printed in full in Ross, *Margaret Fell*, Appendix Ten, pp. 398-400.

will be careful and loving unto my poor fatherless children.”

2. Except for a number of legacies and bequests, it gives “the residue and remainder of my real and personal estate” equally between his seven daughters.

3. By necessary implication, therefore, it gives nothing whatever, apart from a legacy of books, to the only son George Fell.

Now it has long been recognized that this cannot really have been how Judge Fell’s property devolved. A hundred years ago, John Abraham of Liverpool (Isabel Ross’s grandfather), was voicing his doubts.¹ Apart from anything else, the behaviour of the persons involved in the subsequent dispute is quite inconsistent with the proposition that George Fell’s sole claim derived from the Royal Grant made in 1665 (to be discussed later). In fact, before there was any such grant, there is evidence that George Fell had a considerable interest in the estate; for example, he was in receipt of rents,² and his signature was required to a lease to his sister.³

A lawyer consulted by John Abraham in 1865⁴ suggested that there might have been previous settlements of the estate, under which George Fell derived his interest. This seems to me unlikely, as there is no reference to such documents, either in his father’s Will or subsequently. A simpler explanation is this. In the seventeenth century, although land might legally be left away from the eldest or only son, this was still an unnatural and extraordinary proceeding, which would require the clearest and most positive language to make it effective. When therefore Judge Fell used the words “the residue and remainder of my real and personal estate,” he was not referring to his landed estate, and no one would have taken him as doing so; what he was referring to was his property other than land; the word “real” was inserted to catch any property of this nature which owing to some peculiarity of tenure might technically be realty. Similarly, the gift to his widow was not intended to be an absolute one, but only an interest for life; and this is confirmed by the proviso which was inserted, that it was to cease on her

¹ Ross, *Margaret Fell*, p. 123.

² *Ibid.*, p. 187. Cf. *J.F.H.S.*, xxix, 1932, p. 57, and Ross, *Margaret Fell*, p. 134.

³ *J.F.H.S.*, xxix, 1932, p. 58.

⁴ Ross, *Margaret Fell*, p. 123.

re-marriage. On this hypothesis, Judge Fell's landed estate passed, by the laws of inheritance, to George Fell as heir-at-law (subject to any customary rights of the widow and the other children), and did not pass under the Will at all.

This fits in with what appears to have happened, namely, that a considerable part of the rents of his father's property were paid to the son from the beginning. Just what his sisters' rights or interest may have been we have no certain means of telling. But as to his mother's interests, some facts are clear. At the time of her trial in 1664 she stated positively, when she was threatened with forfeiture of her estate, that "my estate is but a widow's estate," and again "my estate is a dowry."¹ This, in the seventeenth century, would convey a precise meaning, namely, that she had an interest for life in a third of her husband's landed estate.

Normally, this would not have included the use of the husband's mansion or principal dwelling-house, which would have gone at once to the heir; but the provision in the Will made it clear that Judge Fell wished his widow to have this, and the words quoted above imply that she regarded it as part of her dowry, and if so, her other receipts would have been adjusted accordingly. It seems fairly clear that this was the legal position.

George Fell, on his side, appears, at the time, to have accepted the position with a good grace. It probably suited him well to live in London, enjoying the income remitted to him from Swarthmoor by his mother and sisters, and leaving to them the responsibility (which they were quite willing and able to undertake) of managing the estate. Though he had no sympathy with their Quakerism, his personal relations with them remained for some time cordial and affectionate, apart from any friction caused by their disapproval of his and his wife's extravagance.

MARGARET FELL'S *PRAEMUNIRE*

In 1664 Margaret Fell came under sentence of praemunire, of which one of the consequences was that the whole of her estate was forfeited to the King, and could be disposed of at his pleasure. This catastrophe was not unexpected, and it would be likely that any property of which she was free to dispose would already have been made over by her to her

¹ Ross, *Margaret Fell*, pp. 172 and 177.

daughters.¹ But there remained her "dowry," that is, her life interest in Swarthmoor Hall and other parts of her husband's landed estate. Some action with regard to this was urgently needed, as there were many hangers-on of the King constantly on the look-out for forfeited estates which he might be persuaded to grant to them.

The danger was averted when George Fell successfully petitioned the King to have his mother's estate granted to him.² I share the view of those who regard this as a friendly rather than a hostile action on the part of the son. It is true that in his petition he speaks in a somewhat unfilial manner of his mother and her Quaker activities. But he had no doubt been advised that it was essential for him to disavow completely any personal connection with Quakerism, and that the more disparaging he was, the more conviction his disavowal would carry.

After the grant to George Fell, there was some discussion in the family as to whether he would wish to take up residence at Swarthmoor Hall,³ but there is no evidence that he did wish to do this. He continued for some time living in London, still on friendly terms with his sisters,⁴ who retained possession of the Hall during their mother's imprisonment, from 1664 to 1668.

MARGARET FELL'S RE-MARRIAGE

What apparently changed George Fell's attitude was the combination of two events, his coming to live in Furness, and his mother's marriage to George Fox. About six miles west of Swarthmoor Hall was another house, Marsh Grange, which, though originally in Margaret's family, had passed to her husband Thomas Fell as part of his wife's property, and her interest in it after his death was limited to her "dowry" of one third. George Fell's financial difficulties were now presumably such as to make it desirable for him to live out of London, and it was agreed that he and his family should

¹ In 1669, when considering his proposed marriage to Margaret Fell, George Fox asked the daughters whether they would suffer loss if their mother re-married, and whether she had made provision for them. "And the children made answer and said she had doubled it" (*Journal*, Ed. Nickalls, p. 554). This must mean that the daughters had received a good deal of property from their mother, at one time or another; there is other evidence that all the sisters were possessed of independent means.

² *Extracts from State Papers*, edited by Norman Penney, 1913, pp. 227-8.

³ *J.F.H.S.*, 1933, xxx, p. 29.

⁴ *Ibid.*, pp. 30-31.

occupy Marsh Grange. The fact that he regarded this as a matter requiring agreement indicates again that the King's grant was thought of by him not as conferring any personal benefit on him, but as held for the benefit of the family. It is clear that although George Fell afterwards attempted to repudiate it, a written agreement was made,¹ which in some way compensated his mother for the loss of her income from Marsh Grange; it is natural to suppose that this was contained in the two deeds executed at this time, the contents of which we know from the reference to them in a later conveyance,² though the documents themselves are lost. This reference, as it has not previously been printed, should be given in full. It excepts, from the land conveyed:

such parcellls of the said premises as by two severall Indentures made or mentioned to be made the fifth and sixth days of March which was in the Eighteenth yeare of the Reign of his late Majesty King Charles the second [1666] betweene the said George Fell deceased of the one part and the said Margaret Fox mother of the said George Fell of the other part were limited assigned granted and demised to the said Margaret Fell in lieu and satisfaction of the dower of the said Margaret or otherwise for the better and more perfect assuring such annual or yearly payments as are therein mentioned and expressed to be granted and payable to the said Margaret and her assigns.

The "parcellls" comprised in the deed are probably not Swarthmoor Hall, but some minor part of the estate, which, in accordance with current conveyancing practice, would be charged to secure the carrying-out of George Fell's undertaking as to the payment of income to his mother.

The son's change of residence had, however, an unfortunate result. While he was living in London, the doings of his family, at the other end of England, had little importance to him; they would be known to few of his acquaintances, and could be ignored. At Marsh Grange he was thrown into association with the neighbouring gentry, and quickly found that they regarded the Quaker activities of Swarthmoor Hall as something of a public scandal: this feeling was intensified when his mother was released—too speedily as the local gentry thought³—from her imprisonment, and at once resumed her illegal holding of meetings.

¹ See letters of 23rd and 25th December 1669, quoted in *J.F.H.S.*, xxx, 1933, pp. 33-36.

² Conveyance of Swarthmoor estate in 1691 to Daniel Abraham, now at Friends House, London (in the care of Friends Trusts Ltd).

³ *Extracts from State Papers*, p. 277.

The growing antagonism of the son towards the mother found a handle in her marriage with George Fox in October 1669. It has been suggested that the marriage was felt to be a social humiliation; however this may be, it would certainly be regarded as an open defiance of the local opposition to Quakerism. George Fell must have been urged on all sides to end the situation by taking possession of Swarthmoor Hall himself. The threat was made that unless Margaret left Swarthmoor Hall she would be re-imprisoned, under the old *praemunire* sentence, and although it is not certain that George Fell approved of this threat, he certainly reported it to his mother's advisers;¹ he had now determined to eject her, by whatever means he could contrive.

The crucial question therefore arises, and this is the question that caused Isabel Ross concern: had George Fell the right to take this action, and if so, was his mother justified in resisting him? We are hampered, in our consideration of this, by having only one side of the case presented to us; we do not know just what the son's contention was, nor the arguments upon which he based it. The best indication of them is to be found in the reports of John Rous's interviews with George Fell in December 1669.² John Rous seems to have been the only member of the family to have approached his brother-in-law in a "tender" spirit, or to have tried in any way to win his confidence. It is clear that George Fell still did not base any claim on the King's grant; he was apparently prepared to waive this, and to rely on his mother's forfeiture of her interests as a result of her re-marriage.

Even so, he did not claim that she had forfeited *all* her interests. Although he disputed the validity of the agreement mentioned above, he offered to make her an allowance of £200³ a year, a substantial sum for those days, and one that cannot have come far short of a third of the income of the estate, which would represent a widow's full dowry.⁴

¹ *J.F.H.S.*, xxx, 1933, p. 35.

² *Ibid.*, pp. 33-6 (Letters from Rous and Geo. Fox). The information in Rous's own letter is clearer than that in Fox's. No one has yet explained how Margaret could have "lost her right by building," or what building she did!

³ The figure of £100 a year given in Ross, *Margaret Fell*, p. 221, should be corrected.

⁴ By way of comparison, it may be mentioned that the purchase price of the whole estate in 1691 was £4,500. This price did not, however, include Marsh Grange.

But he insisted that she should give up Swarthmoor Hall, his most telling argument doubtless being the expressed wish of his father that she should only have the use of it while she remained unmarried.

WHAT SHOULD OUR JUDGMENT BE?

Having put George Fell's position as well as we can, in the absence of any express statement by him, let us now put Margaret's side of the case. I think this would probably have been summed up as follows:

1. You know well that Swarthmoor Hall is particularly precious to me, not only for its own sake, but as a centre for Friends, and that no monetary payment could compensate me for it. If, therefore, you admit that I am still entitled to some portion of my dowry in spite of my re-marriage, it is unconscionable and unnatural to refuse to let me have it in the form in which it will be of most value to me.

2. The provision in my first husband's Will as to my giving up Swarthmoor Hall was intended to apply to quite different circumstances. If my second husband had been a man with an estate elsewhere, or, alternatively, a man who wished to live at my expense, it would be reasonable, in my daughters' interests, for me to leave Swarthmoor Hall. But as it is, no such question can arise, and I am convinced that Thomas Fell would have approved my continued occupation of it, as my daughters do.

3. When the arrangement was made between us that you should live at Marsh Grange, you appeared entirely satisfied with this. It is only your association with our hostile neighbours that has caused you to change your mind. This shows again that your desire to turn me out is not founded on justice and reason, but on caprice and animosity.

Put in this way, it is difficult to resist the conclusion that Margaret Fox had an unassailable moral case for resisting her son's demand, and we need not hesitate to be glad that she was able to do so successfully. For before George Fell could commence any legal action, he died, on 14th October 1670. He had evidently been ill for some time, and this, together with his financial worries, must mitigate any harsh judgment we might be inclined to pass on him. He left an infant son; and his widow, who had shared his animosity, continued to claim possession of Swarthmoor

Hall, though without attempting any decisive action. The dispute was only finally settled when Daniel Abraham, the husband of Margaret's youngest daughter, purchased the whole estate in 1691, and the interests of all members of the family were bought out.¹

There is one further problem on which a few words may be said. When Margaret Fox was finally released from her imprisonment under the praemunire sentence, in 1671, she was given an official pardon, and a grant was made of her estate to two of her daughters, Susannah and Rachel.² The question has been asked, first, how could this be done when the King had already granted her estate to George Fell, and secondly, why he did not make the grant back to her, instead of to her daughters.

The answer to the first question is clearly that the grant to George Fell had come to an end on his death; it was a grant to him personally, not to him "and his heirs." The second question is more puzzling; I believe the solution may be that any grant back to Margaret would be in effect (as married women could not hold property) a grant to her husband George Fox, and that Fox had always desired to obtain as little financial advantage as possible from his marriage,³ and therefore wished the grant to be to two of the unmarried daughters.

It is interesting that although Fox did not counsel his wife to submit to her son's demands, he was anxious that she should not reach a frame of mind in which she was attaching undue importance to earthly possessions, even so precious a possession as Swarthmoor Hall. The key-note of his advice is in the words:

"As concerning the house, keep over it."

ALFRED W. BRAITHWAITE

¹ I think we must discount the statement, made by James Lancaster, that George Fell admitted that the "title" to Swarthmoor Hall was in his mother and not in him (Ross, *Margaret Fell*, p. 225). We do not know the context of this "admission," nor what George Fell intended to convey by it. He may have meant only that he could not legally dispossess his mother without a court action.

² *Extracts from State Papers*, pp. 329-30.

³ Cf. Ross, *Margaret Fell*, pp. 214-15.