Friends and Authority: a consideration of attitudes and expedients with particular reference to Derbyshire

THE constraints facing late-seventeenth and early-eighteenth century Friends in many aspects of their ordinary life were formidable. Devoted to the Society as many of them were, industrious in promoting its welfare and unstinting of their time on its business, Friends were still subject to the authority of the Anglican church in a variety of situations. The payment of tithes and church dues has long been regarded as one of the most severe of these impositions, though recent work has shown that not all Friends deserved the reputation for steadfast refusal to pay the demands which the Society as a whole has enjoyed.[1]

Derbyshire Friends were no different from Quakers elsewhere; in 1759, in one of the more blatant breaches of the discipline, two members of the Quarterly Meeting who visited Breach Monthly Meeting (which covered the southern third of the county) complained that there was difficulty in finding a clerk who was free from tithes.[2] Many were the expedients—devised or allowed to occur—which were adopted over tithe payment, and often for the very reason that many Friends lived side by side with non-Friends with whom they were otherwise on excellent terms. Such neighbours frequently included the incumbent of the parish, the impropriator of the tithes or the officers of either, and any one might be prepared to ease a Friend's conscience by assisting the payment of tithes. Tithes might be taken in conjunction with those of another, they might be taken quietly without warrant in the sure knowledge that Friends would not retaliate in the courts, they might be paid by servants "unknowingly". If such connivance was carried on in one matter which concerned the established church it is hardly surprising that it should be carried on in others.

[1] Eric J. Evans, "Our Faithful Testimony", *Jnl. F.H.S.*, 52 (1969), 106–21.

[2] Nottinghamshire County Record Office, Q 61A, 11.x.1759.

The power of the Anglican priests was considerably curtailed after 1687, the year in which James II made his *Declaration of Indulgence*. No longer had the clergy the power to bring their erring flocks to court in a variety of cases which could be twisted to include dissenters of all descriptions. Only matrimonial cases, testamentary matters, tithe disputes and affairs relating to the parish church and its furnishings were left within the compass of the jurisdiction of the church (apart from its own internal discipline), and the main efforts of the clergy in the ensuing years went towards debating the emasculated position in which they were left. Less energy and opportunity was left for the persecution of Friends.

But how much did the clergy wish to persecute Friends, who might well be proving some of their most stable and respectable parishioners as the eighteenth century wore on? If the tithe problem was sometimes solved by quiet agreement the same might well be true of other matters, such as those surrounding the formalities of death. The Anglican monopoly of procedures concerned with death affected everyone, of whatever denomination. A will, which was taken to the ecclesiastical testamentary court for a grant of probate, had to be attested on oath, yet there is little evidence on how Friends either avoided this dilemma by refusing to make wills or accepted the necessity for swearing. It is quite clear that there were no large-scale prosecutions for refusal to comply with the accepted Anglican procedure. Odd references amongst Quaker records indicate that it was occasionally a problem which merited discipline but there are no lengthy lists of those disowned for having taken an oath in these circumstances. In Berkshire an effort was made to get a will proved without an oath in the Bishop's Court in 1682:

> it was mentioned conserning the Widdow Louch her proving her husbands Will at the Visitation at Newbery: & it was agreed that Martha Weston should endevore to get it done if it might be without an oath: & friends are willing to assist her in it according as she may desire that if possible it may be some enterance for a president . . .[3]

In Nottinghamshire Bore Ellison was reprimanded in 1673 for taking an oath as executor.[4] Yet such minutes

3 Berkshire Record Office, D/F 2B 2/1, 21.ii.1682.
4 Nottinghamshire County Record Office, Q 55A, 29.x.1673.

are comparatively rare and certainly few in relation to the number of wills which were proved according to the established procedure. Only twelve Derbyshire Quaker wills have been found for the period prior to the Affirmation Act of 1696—not everyone made a will at this period—but even with a small number it seems worth investigating how the appointed executors dealt with the problem of taking the oath in the testamentary court.[5] After 1696 the situation was considerably eased by the general acceptance of an affirmation in place of a sworn oath.

In four of the twelve cases the executors were probably not Friends, though all were close relatives of the testators, being sons, or, in one case, a nephew. The second generation of Friends were naturally more inclined to move out of the Society and might have an advantage if they could accept the authority of the ecclesiastical court. This solution was probably the most practical in many cases and one adopted frequently since the ties of kinship were particularly strong over the matter of the disposition of property. It is also clear that, either through circumstance or choice, Friends sometimes used a substitute to swear or negotiate for them (see the episode in Berkshire above). If the executor was too old or infirm to appear in person the normal procedure of the church was to accept a deputy to attend the testamentary court. This substitute was frequently the vicar or curate of the parish and in three of the Quaker wills under scrutiny, when the widow was left as executrix of a Friend's will, this procedure seems to have been adopted. The distinguishing clause in these wills comes at the end of the probate when, in place of the normal entry *Iurat coram me* . . . followed by the name of the surrogate, the entry reads *Commissio* [name of cleric] *clerico*. None of the Quaker wills after 1696 follow this device, though it seems highly likely that there were as many aged or infirm widows after the passing of the Affirmation Act as before. If Friends were prepared to submit to this system and the Anglicans were prepared to act for them in this way, is it surprising that there is no record of prosecution for failure to follow the normal procedure?

Of the remaining five Derbyshire wills, one executrix

5 All the Derbyshire wills referred to are in the Lichfield Joint Record Office, Central Library, Bird Street, Lichfield (LJRO).

renounced her administration in favour of someone who was not a Friend, perhaps another device for easing a potentially difficult situation, and four are recorded as having sworn. Of the latter, three were after 1689 when the possibility of an Affirmation Act of some description must have seemed fairly inevitable. Were these affirmations in fact, and if so did the clergy connive? The clerks were certainly accustomed to write in *Iurat* automatically as, after 1696, the phrase was nearly always crossed out and the phrase about permitted affirmation substituted. Lack of prosecuting evidence amongst the records of the Lichfield diocese certainly suggests that it was possible that the clergy turned a blind eye to the niceties of procedure where their Quaker parishioners were concerned.

After the Affirmation Act of 1696 the majority of executors for Derbyshire Quaker wills affirmed (33) but the fact that 21 swore illustrates the fact that Friends did not rely exclusively on their co-religionists for this last service. In some cases, where there was more than one executor, the non-Quaker swore and the administration was reserved for the other executor, usually a Friend, until he or she attended court. However, this may well have been less a matter of principle than chance, since the compelling need to avoid taking an oath had gone.

Further evidence that Friends went to some length to avoid being put in the position of enforced swearing can be deduced from the lack of disciplinary action taken on this matter by Friends themselves. The loss of records, particularly for the monthly meeting in the north-west part of Derbyshire may be part of the reason but amongst those which do remain, and which are usually quite good, only one Derbyshire Friend was reprimanded for taking an oath in a testamentary court—and that under strained circumstances. A family quarrel broke out over the question of the administration of the estate of Antony Woodward junior who died in 1682. His young wife, Dorothy, felt that she was being passed over in favour of her mother-in-law, Ann, who was named as executrix and both parties gave in papers of self-condemnation, the one for having spoken angry words and the other, Ann, for having been forced to take an oath at the Chesterfield testamentary court.[6]

[6] Nottinghamshire County Record Office, Q 86, 25.iii.1682.

Did other counties have similar experiences? Without detailed studies of wills it is hard to be sure but the presence of a directive to Robert Vaughan by Meeting for Sufferings as late as 1686,7 requesting him to "bring in a short instruction how to make wills safely among Friends for the probate and execution thereof" suggests, perhaps, that up to this date Friends had had some means of circumventing the problem which, for some unstated reason, was now denied them. The following month the Meeting considered a form of clause to be inserted in a will "to Constitute Executors or Administrators". Objections were made against the practical part, it "being not so safe for the Testator" since the estate was put in the power of a stranger.[8] Derbyshire Friends would appear to have met this problem already and to have entrusted their responsibilities to the Anglican clergy. That they were prepared to do so argues a considerable faith in the intentions of the substitutes, but Meeting for Sufferings was equally aware of the possibility of abuse.

One further possibility remains over this vexed question of the part played by non-Friends in assisting Quakers to overcome the problem of making wills according to the established Anglican practice. It might be thought that Friends would prefer to have their co-religionists act as witnesses to their wills. However from a total of 149 witnesses to 54 Derbyshire wills before 1760, only 35 of the witnesses were definitely Friends and 114 were definitely not. The few who are doubtful make little difference to the overwhelming proportion whose ties with the testator were something other than religious. Objections can be raised against using the presence of the latter as evidence of significant intention by Friends. Testators could have been on their death beds and the matter urgent: alternatively they could, in a more relaxed situation, have chosen witnesses from the ranks of those who were fully conversant with the procedures involved and could sign their names adequately to prove it. Taking the last point first it is significant that a high proportion of those acting as witnesses could sign their names and there was little difference in

7 Meeting for Sufferings minutes (Friends House Library), vol. 3, p. 283, 19.ix.1686.

8 Meeting for Sufferings minutes, vol. 3, p. 292, 3.x.1686.

the ability of Friends or non-Friends to do so.[9] If such competence is taken as a measure of literacy (as is usual[10]) the fact that approximately three-quarters of the witnesses were literate suggests that they were, for whatever reason, a slightly select group. They could have been chosen partly because they might have to play a significant part at the ecclesiastical court if the legality of the will was contested before the Anglican authorities.

If this really does indicate a rather careful choice of witnesses it might be expected that Friends would prudently make their wills before they were brought to the last extremity. Yearly Meeting encouraged Friends so to do,[11] and from Derbyshire evidence one sees that they did. The phraseology employed at the beginning of the testaments reveals this. Half of those studied used the common phrase in Anglican wills about being "weak in body but of sound mind"—or words to that effect. The other half gave a variety of reasons for making their wills: seven were in good health, three were in indifferent health but without the immediate threat of death, four were taking precautions "considering the cartinty of death", two considered themselves to be of sound mind and memory without mentioning their physical condition, two were aged and infirm and one was a prisoner

> for profession of religion called Quaker, being in health and body of good remembrance but being about 64 years of age and straitned of my liberty . . .[12]

The remainder vouchsafed no particular reason for making their wills. Thus at least half the testators give evidence of having considered the problem of the disposal of their worldly goods before it became imperative, unlike their Anglican counterparts who were nearly always on their deathbeds. Rough calculations of the time elapsing between the making of a will and the death of the testator confirms this. Only a small proportion died shortly after making

[9] For a fuller discussion of the evidence see Helen Forde *Derbyshire Quakers 1650–1761* (unpub. PhD thesis, Leicester University 1978).

[10] Cf. D. Cressy, "Educational opportunity in Tudor and Stuart Britain". *History of Education Quarterly*, Fall 1976, p. 314.

[11] Yearly Meeting minutes (Friends House Library), vol. I, p. 265, 1691.

[12] LJRO will of Edward Lingard, written 1678, proved 1681.

their wills, and nearly one-third survived for a period of a year or even longer.

These conclusions are based on Derbyshire wills alone and may require re-assessment in the light of evidence from other counties. But for this area at least it would seem that witnesses to wills were mostly chosen carefully and in advance of the moment of death-bed crisis. They appear to have been picked as competent members of the community at large, not as members of the small group of Quakers in the county.[13] As the overwhelming majority were not Friends they could have been relied upon for assistance in the testamentary court if necessary: and if it was necessary then the fact must have been recognized by the Anglican clergy and appears, in the face of evidence to the contrary, to have been accepted.

Certification of "burial in woollen" was another of the formalities associated with death which involved both the civil and ecclesiastical authorities; and again negative evidence suggests co-operation, if not collusion, between Friends and Anglicans. The regulation stemmed from a desire to boost the flagging woollen industry in England against the expanding import of cotton from the East and the increasingly common use of luxury cloths like silk for shrouds. Following the second Act for Burying in Woollen of 1678 (30 Car. II, c.3) an affidavit had to be sworn and produced to the incumbent, confirming that woollen cloth had been used to wrap the corpse. Thus the civil authorities involved the Anglican church in enforcing legislation which was not strictly within the compass of the latter. It also meant that Friends were again put in the position of apparently opposing the authority of the Anglican church when some of them raised an objection to swearing. It can only be supposed from the minute agreed in London Six Weeks Meeting in 1678, the year in which the second Burial in Woollen Act was passed, that Friends at the centre of the Society found the problem as difficult as those in the outlying provinces. The minute read:

[13] At no point during the first hundred years of the Society's history in Derbyshire do there appear to have been more than 600 Quakers spread thinly over the terrain. This is roughly equivalent to the figures calculated nationally by W. C. Braithwaite, *The Second Period* (1921), pp. 457–460.

that the Complyance therewith as to burying in wollen is a civill matter, & fit to be done—and to procuring the makeing oath thereof they meddle not therewith but Leave it to friends freedome in the Truth & this to be sent to each Monthly Meeting.[14]

Some monthly meetings adopted their own solutions and it is clear that the disclaimer by London Six Weeks Meeting resulted in many Friends deciding that swearing, whether in person or by proxy, was the only solution.[15] Some were explicit in their solution offered such as the Vale of White Horse Monthly Meeting which recorded in its minute book:

Wee A.B. of etc. and C.D. of &c do Testifie and declare That to and in our knowledge E.F. of the parish of H or son or daughter of wife of J.K. of &c Lately Interred the 17th day of the month called November instant or last past within the parish of Great Farringdon in the County of Berkes Was not put in wrapt or wound up buryed in any shirt, shift, sheet or shroud made of mingled with flax hemp silke haire gold or silver or other then what is made of sheeps wooll only or in any Coffin lined or faced with any cloth, stuffe or any other things whatsoever made or mingled with flax hemp, silke hayre Gold or Silver or any other material but sheeps wooll onely according to the true intent and meaning of the late Act of Parliament in that case made and provided. In testimony whereof wee have hereunto sett our handes and seales this twentyeth day of the month called November Anno Domini 1678.[16]

This bears the mark of Oliver Sansom, an energetic Friend in Berkshire, and was intended to "serve for friends in place of an oath". The detail given in the date and place suggests that, although it was put in a general form, it had been devised for a specific case. Three months later the women's monthly meeting at Swarthmore recorded its unease over the report

that Emy Hodgson of Swarthmore Meetting, should take an oath, before A Justice of Peace, touching wrapping & burieing old Jane Woodall in Woollen . . .[17]

She subsequently brought a paper owning her transgression to the meeting and later

[14] Six Weeks Meeting minutes (Friends House Library), vol. 1, p. 78, 30.v.1678.

[15] Cf. "Burial in Woollen", *Jnl. F.H.S.*, 18 (1921), 105–6.

[16] Transcript by Beatrice Saxon Snell of Vale of White Horse Monthly Meeting minutes, 11.xii.1678.

[17] Swarthmore Women's Monthly Meeting minutes (Friends House Library), 11.xii.1678.

carried her paper of Condemnation to Myles Doddinge [the magistrate] and read it and shee desired him, that it might goe as farr as the Report of her Transgression had gone . . .[18]

In 1679 the subject was causing some concern in Oxford where Elizabeth Steward presented a paper

concerning a vision which she saw concerning Friends that they should not suffer any oath to be taken concerning the burying of the dead . . .[19]

Fifty years later an entry in the minutes of the Meeting for Sufferings indicates that time had not reduced the problem. In Nottinghamshire an Anglican woman had provided the required testimony that a Quaker burial had followed the prescribed rules in 1728. William Thompson, clerk of Nottinghamshire Quarterly Meeting, asked the advice of the Meeting for Sufferings and outlined the circumstances. The deceased Friend had been poor and had been buried at the charge of the Society:

The Affidavit was sworn by a Churchwoman, a Neighbour to the Deceased and was sent to the Parish where the friend was Buried who refused to take the Affidavit and when the eight days were over past, sent the Certificate to the Churchwardens, constrained them to Inform a neighbouring Justice who issued out his warrant to levy the penalty on a friends Goods in the Town who was no further concerned than he to See the poor Man have decent Burial accordingly Distress was made and all the parson had to alledge was that the Affidavit was not according to the Act haveing onely one deponent whereas the Act requires two.[20]

Because the arrangement had gone wrong it caused trouble and the Nottinghamshire Friends were therefore liable to prosecution. After due consideration Meeting for Sufferings concluded that there was no way of fighting the case.[21]

Since such arrangements only came to light in adverse circumstances it is hard to assess how frequently they were made. However, it must be recalled that in 1678, when the regulation came into force, the persecution of Friends was rising to its highest peak; it was a moment when the authorities, both civil and ecclesiastical, might have been

[18] Swarthmore Women's Monthly Meeting minutes, 11.i.1678/9.
[19] Quoted by Arnold Lloyd, *Quaker Social History* (1950), p. 81.
[20] Meeting for Sufferings minutes, vol. 24, p. 277, 31.xi.1728.
[21] Meeting for Sufferings minutes, vol. 24, p. 282, 14.xii.1728.

expected to grasp with eagerness yet one more excuse for harrying Friends. But where are the prosecutions for refusal to comply in this matter? And where are the disciplinary measures taken by Monthly Meetings against Friends who took an oath for this reason? Can there be any other explanation than indulgence by local clergy and assistance by neighbours to Friends who were put into this predicament? And a predicament over which even Meeting for Sufferings was prepared to equivocate. After 1696, no doubt, some Friends affirmed that the burial was indeed in a woollen shroud, but the example from Nottinghamshire shows that this solution was not always adopted.

Negative evidence, such as an absence of prosecutions or of disciplinary action by Friends themselves, has to be treated with caution. It is easy to assume that because the records do not exist that they were never made. This is patently not true in the case of the Derbyshire Sessions records for which there is no complete series before 1682; this is a gap due to negligence or misfortune. In the case of the Anglican and Quaker records however, it is less likely that the passage of time has created a gap. Records of other court cases brought by the church in the Lichfield diocese, and disciplinary action taken by Friends in Derbyshire, do survive without obvious gaps for at least some areas. It is likely that there was deliberate silence on the part of both Anglicans and Friends in many areas of the country about the technical compliance with the law by Friends over executors' oaths and burial in woollen, and every degree of laxity and rigour in enforcing the law in general.

Evidence over one of the better documented aspects of Friends' testimony, the payment of tithes, shows that eighteenth-century Friends in all parts of the country were frequently party to some connivance.[22] That they also found ways round the problem of swearing testamentary oaths and about burial in woollen would not be surprising. The evidence points towards situations in which Friends took considerable care over the drawing up of their wills, their appointment of executors and their choice of witnesses. Were they likely to do so if there was serious doubt about the eventual grant of probate? Is it possible that it was

[22] Cf. E. J. Evans, *op. cit.*

unwritten custom for Friends to assess the attitude likely to be adopted by the Anglican authorities and act accordingly? The Derbyshire evidence certainly suggests that, prior to the Affirmation Act, a number of solutions were adopted to circumvent the necessity for swearing. Irrespective of individual cases, the decision of Meeting for Sufferings in 1686 to provide "a short instruction how to make wills safely" was new; it was not one which had constantly been before them, although by that date a whole generation of Friends had faced the issues involved. If Friends were relatively certain of a favourable Anglican attitude over oaths taken by Quaker executors, it would be logical for a similarly practical solution to have been devised for the sworn affidavit required concerning burial in woollen shrouds. The alternative in both matters—and one which no doubt occurred—was a sympathetic attitude by neighbours or non-Quaker members of the household. If they were prepared to smooth the path of Friends in administrative matters which involved the established church, the problems of conscience could be solved for all but the very strict. There is plenty of evidence that this was exactly what happened in the case of distrained goods.[23]

Friends were always dependent on the individual attitudes of those in authority and their neighbours, and the reception they got differed from decade to decade and throughout the country. With a minority group this could not be otherwise. However, from the above evidence, and negative evidence, it would be unwise to assume that relations with the established church were unremittingly bad.

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[23] Cf. John Gratton, *Journal* (1720), pp. 85–6.