

AN ESCHEAT CONCEALED: THE DESPENSER FORFEITURES 1400–61

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ABSTRACT

Warwick the Kingmaker apparently received no advantage from the reversal of the forfeiture in 1461 of his countess' grandfather Thomas Lord Despenser (d. 1400). A re-examination of the evidence reveals that the Despenser lands in Hampshire should have escheated in 1449 and that this was concealed. The reversal of Despenser's forfeiture thus legitimised Warwick's tenure. This case study is another instance of Warwick's success in acquiring and retaining properties to which he had little right.

INTRODUCTION

The great noblemen of late medieval England owed their wealth and power to inheritance rather than to royal birth or distinguished service to the crown. Their estates often seem to have waxed and waned in direct response to the fecundity of their families and to the vagaries of English land law. In actual fact, however, marriages and inheritances were calculated and manipulated. Land law too frequently offered only ambiguous answers to questions of title, leaving force, fraud and politics with important parts to play. This applied especially to the great houses, who gained or suffered from the upheavals associated with King Stephen, Henry III, Edward II, Richard II or the Wars of the Roses. Each successive dynastic revolution allowed the losers, those disinherited last time, to revive claims that had been carefully documented and nurtured with just such an opportunity in mind. Some such opportunities, it is true, never arose: the future Richard III seems to have cherished such ambitions (Hicks 1986, 7–8, 10). Others, really without substance, were fraudulently revived: hence the success of Henry Earl of

Northumberland (d. 1489) in recovering the Yorkshire lordship of Wressle (Bean 1958, 75, 111). Into this category also fall the Despenser properties that are the subject of this article.

THE PROBLEM IDENTIFIED

In 1415 Richard Earl of Cambridge, a grandson of Edward III implicated in the Southampton Plot, was executed for treason by his cousin King Henry V. The king, of course, was the heir of John of Gaunt Duke of Lancaster, third son of Edward III; Cambridge was merely a younger son of Edmund Duke of York, Gaunt's younger brother. In 1461, however, it was Cambridge's grandson Edward IV who was king and Henry V's son Henry VI who was the attainted traitor. This reversal of fortunes changed perspectives on earlier events. The national hero Henry V, like his unfortunate son Henry VI, was now king *de facto* and not *de jure*. The traitor Cambridge, it was realized, had perished pursuing the rightful Mortimer claim of his brother-in-law Edmund Earl of March, heir through the female line of Edward III's second son Lionel Duke of Clarence. It was the Mortimer – Clarence claim that was the basis of Edward IV's own title to the crown. Not surprisingly, King Edward removed the stain on his family honour and simultaneously reinforced his own title by rehabilitating his grandfather at the first opportunity. Late in 1461 parliament reversed the sentence of 1415 against the Earl of Cambridge (RP v. 484).

Rewriting history did not only benefit the royal house. Other traitors of 1400 and 1415 could now be re-presented as loyal supporters of the rightful line. Before the well-known Tudor Myth there

was a Yorkist Myth. It is not therefore surprising that the same act of 1461 also rehabilitated two of the traitors of 1400: John Montagu, Earl of Salisbury and Thomas Lord Despenser, briefly Earl of Gloucester. This was at the petition of their heir Richard Neville, Earl of Warwick and Salisbury, alias Warwick the Kingmaker (Hicks 1980, 145). Warwick was prime-mover of Edward IV's accession and dominated his government in his early reign. Anxious to remove stains from his escutcheon, Warwick doubtless deployed his exceptional political influence to secure favourable treatment for his ancestors, which was denied to others such as John Earl of Huntingdon (1400), Thomas Earl of Worcester (1403), Henry Earl of Northumberland (1408), and Sir Thomas Gray (1415), whose heirs had once again aligned themselves with the losing side. Strangely, however, there were other *personae gratae* to the Yorkist regime who did not have their ancestors formally rehabilitated. Even Warwick failed to restore the reputation of his great-uncle Thomas Earl of Kent, who died with Salisbury and Despenser at Cirencester in 1400. This is unlikely to have been an oversight. Perhaps there was no point, no advantage, to his restoration. That, however, poses the question what was the point or advantage in 1461 to Warwick in restoring Salisbury and Despenser?

Potent for the medieval magnate though honour and reputation are now seen to be as motives, medieval historians look for more concrete advantages to justify such behaviour. After all, the 1461 statute explicitly states that Warwick wanted to recover lands that had been lost as a result of the forfeiture of his ancestors (RP v.484). At first glance and indeed at many further glances, this has appeared to be untrue. John Montagu's son Thomas (d. 1428) had been allowed to retrieve all the family estates in stages and his daughter Alice had been permitted to transmit the earldom of Salisbury itself and the Montagu lands to her husband and thence to their son Warwick after their deaths. The Despenser lands passed via Thomas Despenser's daughter Isabel (d. 1439) to her daughter Anne, Warwick's countess. The Holland earldoms of Kent and Huntingdon, the Percy earldom of Northumberland, the Mowbray earldom of Norfolk, the patrimonies of the Scropes of Masham and Greys of Heaton were all

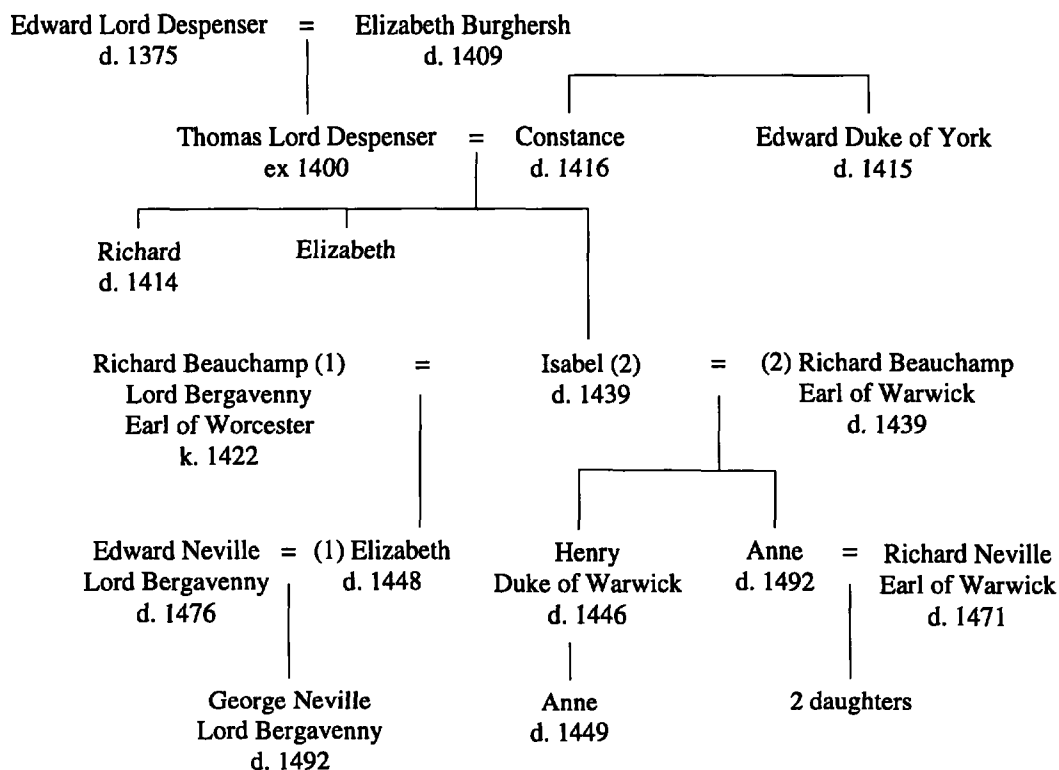
returned to their heirs. Even Cambridge's forfeiture did not stop his son from succeeding his brother as duke of York. In short, therefore, the material justification cited by Warwick and accepted by parliament for the rehabilitation of his ancestors seems incorrect. Warwick could merely have been mistaken but, for reasons cited below, this seems unlikely. Alternatively he could have lied. But why lie where no material advantage accrues?

Some years ago the present author re-examined the devolution of the Salisbury lands and confirmed, as indicated above, that Earl Thomas worked his way back and died in possession of the earldom and all his father's lands. Nothing was permanently lost as a result of Earl John's treason in 1400. On Thomas's death in 1428, however, when most of his lands descended to his daughter, some that were entailed in the male line passed to his uncle Sir Richard Montagu and escheated on his death in 1429. These were sold by Henry VI to his uncle Cardinal Beaufort, who used them to re-endow the hospital of St Cross near Winchester. The reversal of the sentence against Earl John in 1461 was used by Warwick and his mother to wrest these entailed lands from their rightful owner, the hospital of St Cross, whose natural protectors – the Lancastrians Bishop Waynflete of Winchester and the Beaufort Dukes of Somerset – were in political eclipse (Hicks 1980, 145; Belfield 1982, 108–9). Did something similar happen to the Despenser lands?

THE DESPENSER INHERITANCE

The core of Thomas Lord Despenser's lands was a third share of the great de Clare inheritance that had been divided between the three sisters of Gilbert de Clare, last Earl of Gloucester and Hertford, on his death in 1314. Located in ten counties, the Despenser share included the great marcher lordship of Glamorgan and the four manors of Ashley and Mapledurwell on the Hampshire mainland and Thorley and Wellow on the Isle of Wight. These four manors were a significant baronial presence in a county where the greatest magnates were under-represented. Altogether the Despenser share of the de Clare inheritance was

THE DESPENSER FAMILY 1400-61



worth several times the minimum income of 1,000 marks (£666.66) qualification for an earl. Successive lords were interred in the east end of Tewkesbury Abbey, which the Despensers reconstructed as their mausoleum. Their history was recorded in the founders' chronicle, which also contains stylised portraits of the patrons down to Warwick the Kingmaker himself. The devolution of the Despenser estate has often been investigated. Thomas Lord Despenser left a son Richard, who died childless in 1414, and a daughter Isabel born in 1400 who married twice, to the earls of Worcester and Warwick. Following their deaths and those of her son Henry Duke of Warwick in 1446 and his daughter Anne in 1449, Isabel's coheirs were recognized to be her own daughter

Anne, Warwick's countess, and her grandson George Neville, later lord Bergavenny. According to the inquisitions of 1450, all the Despenser lands descended from the last Earl Gilbert and all should have been divided equally between Anne and George. Actually Warwick seized the whole. Perhaps wrongly. He, his countess, and his heirs kept control through all the political crises until the Countess Anne was induced to release her rights to Henry VII (Pugh 1971, 167-94; Storey 1966, appx.vi; Hicks 1979, 125-6). Fraud and injustice there undoubtedly was in this case also, but none of the parties made use of the sentence against Thomas Lord Despenser, which seems to have played no part in the dispute. Or so it has seemed until now.

DEVOLUTION RECONSIDERED

Thomas Lord Despenser never enjoyed full possession of his inheritance. At his death his mother Elizabeth was still in possession of her dower and her own Burghersh inheritance, whilst other properties later to revert to the main line were still occupied by junior members of the family and by retainers (*CIPM* vii, nos. 457, 464, 479). During their lives these properties were exempt from forfeiture, whereas those held directly by Thomas in fee simple or fee tail or in trust for him at his death were taken into the king's hands. Thomas' widow Constance was not entitled to dower and his heirs were his three young children, two daughters and his son Richard, who was not yet four years of age. There was thus no pressing need to establish title and no inquisitions post mortem were held on Thomas' death.

Thomas' forfeiture was not treated as permanent. His heirs were very young and therefore innocent. Moreover his widow was very well-connected. Constance Lady Despenser was daughter of Edmund Duke of York (d. 1402), sister of Edward Duke of York (d. 1415) and Richard Earl of Cambridge (d. 1415), and hence first cousin of the king. Although theoretically excluded from dower, as early as 19 February 1401 she was granted lands to the value of 1,000 marks (£666 13s.4d.) in dower and the custody of her son during his minority. Doubts about her loyalty caused this grant to be revoked, though she had her patent inspected in 1413, but the 1404 parliament explicitly confirmed her right to dower, which apparently took the form of 200 marks a year from Glamorgan (*RP* iii. 533; *CPR* 1401-5, 235, 496; 1408-13, 4, 194; 1413-16, 71). The service of her brother Duke Edward in Aquitaine built up debts of £8,000 to him from the crown for unpaid wages, for which he was compensated on 17 May 1403 by the grant of the wardship and custody of the young Richard Despenser and his sisters and the custody of all their lands without rendering anything to the value of 1,000 marks a year (*CPR* 1401-5, 235). It would have taken twelve years to 1415 to liquidate his debt even if the heirs cost him nothing. In 1412, when the duke committed himself to further costly and risky service overseas, the grant was transferred to

his trustees (*CPR* 1408-13, 401). However much his conduct was influenced by family considerations, such as concern for his sister and nephew, Duke Edward also regarded the custody as a capital investment that he was determined to exploit.

Presumably the elder sister Elizabeth was already dead by the feast of the Seven Sleepers (27 July) 1411, the day after Isabel's eleventh birthday, when Richard Despenser was married to Eleanor Neville daughter of the Earl and Countess of Westmorland and Isabel wed Richard Beauchamp, son of William late Lord and Joan Lady Bergavenny, the future earl of Worcester (Dugdale 1817-32, ii.62; *C* 139/94/2/39). Richard Despenser's match was one of the remarkable sequence of child marriages that reflected the influence of the Nevilles and especially the Countess Joan Beaufort (d. 1440), half-sister of Henry IV, aunt of Henry V and great-aunt of Henry VI. Apart from good connections, such matches were also secured by generous dowries, and there can be little doubt that the duke extracted the full value for Richard's hand from Eleanor's father. Of Isabel's marriage contract we know only that Lord Bergavenny settled the manor of Mereworth in Kent on the young couple jointly and their issue (*C* 139/96/2/16). It seems more likely that he also paid a lump sum to the duke for the hand of this potential heiress rather than receiving the marriage portion that he could have expected had her father been alive. Having thus maximised his profit from sale of the marriages, Duke Edward settled the estate on his feoffees, who could expect to enjoy the income even after the duke's demise until Richard Despenser came of age in 1417. However he died on 7 October 1414. Since his elder sister Elizabeth was already dead, his sole heiress was his sister Isabel, whose husband Richard Beauchamp was entitled to seisin of her estates from St Anne's day, 26 July 1414, Isabel's fourteenth birthday (Dugdale 1817-32, ii.62). Women came of age earlier than men in late medieval England. Richard Beauchamp secured all those de Clare lands entailed in 1290 that had been subsequently allocated to the Despensers. Thus Duke Edward did indeed lose by Richard's death, as he claimed on 16 April 1414.

It was to minimise his losses that on 16 April

1414 Duke Edward secured a royal grant of everything that had been forfeited by Thomas Lord Despenser (*CPR 1413-16*, 192-3). This would have covered any lands in tail male which Isabel could not inherit; more important, however, it was probably intended to cover lands in fee simple and in trust, since it was only entailed lands that Henry IV and Henry V felt obliged to restore to the heirs of traitors. Richard Beauchamp responded on 12 June 1414 by petitioning for writs to establish his title to the Despenser estates (*CCR 1413-19*, 133-4). This need not have been either a hostile act towards the duke or an act of co-operation, but merely evidence that the precise title of the Despenser estates now needed to be established if a proper division was to be made. However it did threaten Eleanor Neville, now a second Despenser dowager, and her father's investment: hence on 1 February 1415 she sued for livery of her dower, complaining at the same time (obviously correctly) that Richard had secured the writs even before Isabel came of age (*CPR 1413-16*, 286-7). By 28 February 1415, Isabel had proved her age (fourteen) before the escheator of Gloucestershire (*CCR 1413-19*, 165-6).

Beauchamp's petition, which was granted, asked that Isabel should be allowed to enter all the lands held by her father in tail, which covered the bulk of her estates, including all the de Clare portion, her inheritance from her grandmother Elizabeth, who died in 1409, and any other reversions in tail from cadets, the last of which materialised in 1416 (*CCR 1413-19*, 133-4, 228, 314-15). That left only the dower of Lady Constance, re-assigned to her on 8 December 1415, who died on 28 November 1416, and the lands in fee simple held by Duke Edward. On 17 February 1415 Richard and Isabel were granted the reversion of these on the duke's death (*CCR 1413-19*, 246, 314-15; *CPR 1413-16*, 286), which occurred eight months later on 25 October 1415 at the battle of Agincourt. By the end of 1416, therefore, the whole Despenser inheritance was re-united in the hands of Richard and Isabel. Nothing had been lost by Thomas' treason and indeed they held more of the inheritance than he ever had. Again, this suggests that there was nothing to be recovered by the act of 1461.

But wait. The grant of 17 February 1415 to

Richard and Isabel had one crucial characteristic. Remember that this land had indeed been forfeited and that the forfeiture had not yet been revoked. It was therefore a new title that was being created. These fee simple and trust lands were granted to Richard and Isabel and to the heirs male of their two bodies (*CPR 1413-16*, 286; *CCR 1413-19*, 339-40). But they were to have no son. Their daughter Elizabeth Beauchamp, later Lady Bergavenny and mother-to-be of George Neville, had no claim to them. Following Worcester's death, Isabel was entitled to the estate for life, with remainder to the heirs male of Isabel's body. By her second husband, also confusingly called Richard Beauchamp, she had indeed a son Henry Duke of Warwick, who inherited without question on her death in 1439. When he died in 1446, his infant daughter Anne definitely should *not* have inherited, and when she died in 1449, her two aunts – Isabel's two daughters – and their issue should also have been disqualified. In 1446 the fee simple estate should have escheated to the crown. It did not. Instead these lands were regarded as the estate of Duke Henry's daughter, then of his two sisters by Isabel's two marriages, to be divided between Warwick and George Neville. Actually Warwick kept them all. The issue here, however, is not whether he did George out of his share; it is that neither had any title. In 1446 these properties should have escheated to Henry VI, who could have bestowed them as he chose on either party or anyone else at his pleasure. He did not because he did not know. Why did he not know?

THE DESPENSER ESTATE IN FEE SIMPLE

We are concerned here with ten manors: a significant estate, if not a substantial part of his whole inheritance. Beside the Hampshire manors of Ashley, Mapledurwell, Thorley and Wellow, there were three in Buckinghamshire (Buckland, Singleborough and Amersham) and three in Wiltshire (Sherston, Broadtown and Winterslow). All ten had been enfeoffed to Lord Despenser's use at the time of his death in 1400 and were therefore forfeited, as correctly stated in his inquisitions in 1415 (*CIPM* vii. 479-80, 483). The three

Buckinghamshire manors were granted for life to the trusted administrator John Nanfan before Isabel's death (SC 12/18/45) and are therefore omitted from the inquisitions of herself, her son and grandson. The Hampshire and Wiltshire properties were conveyed to feoffees to the use of her will by Isabel shortly before her death. Her inquisitions merely record the feoffment, not her original title (*CPR 1436-41*, 360; C 139/96/2/18). So too the returns after Duke Henry's death in 1447. Strictly speaking, the Countess Isabel's trust was nothing to do with her granddaughter Anne and no parts of the enfeoffed estate are recorded in Anne's inquisitions post mortem (C 139/96/2/6, 14; C 139/123/2/21, 33, 34; C 139/135/5). In short, there was no enquiry and hence no return to reveal their real title. Since the Earl and Countess of Warwick were treated by the Despenser feoffees as the sole heirs, they had no incentive to wind up the trust and divide its lands with George Neville. Neither coheir, of course, had any interest in revealing to the crown that part of the inheritance should have escheated.

When the infant Anne died in 1449, it is clear that the initial decisions about all her lands were made without proper investigation of the title. That was what the inquisitions were for, but, as we have seen, they did not. However, that does not mean that everyone remained in a state of ignorance. The Despenser muniments were kept separately from the Beauchamp ones, presumably by the Despenser feoffees, who were able to produce title deeds for inquisitions when required and presumably had all the deeds relevant to the concealed escheats. We cannot tell when they or Warwick learnt of this deficiency in their title. What the 1461 act does show is that Warwick *did* learn of it and took action that was designed both to conceal the nature of the deficiency and to rectify it permanently. These Despenser lands can

now be added to the long list of inheritances – the Neville lordships in the North, the tail male Montagu estate, and the Beauchamp trust – that Warwick secured or retained to the loss of other heirs. However one difference from the other cases is that any deficiency in Warwick's title was removed in 1461, when the act of restoration created a legitimate title for him.

CONCLUSION

It follows that the act of 1461 which revoked the sentence against Thomas Lord Despenser restored to his heirs their title to the lands that had been enfeoffed to his use. It thus removed a deficiency in Warwick's title that his rivals – whether George Neville or other competitors for royal favour – were unaware of and which the latter would certainly have exploited had they known of it. Ironically it also means that Warwick's claim that lands were lost (or should have been lost) by Thomas' forfeiture was precisely right. This act also superseded the inquisitions held since 1449 that had erroneously divided the main Despenser estate between the Countess Anne and George Neville and allowed the former to inherit the whole estate. Warwick was licensed to enter the whole Despenser inheritance in right of his countess as sole heiress (*CPR 1461-7*, 119). By then, or very soon after, the Despenser feoffees conveyed their estate to him. No longer was he coheir with George Neville, who continued to protest, but was henceforth excluded by right rather than merely by force. Right, however, was not absolute, but variable. Clever schemers like Warwick postponed a verdict, not just until the balance of power, but also the criteria for judging were in their favour. Their opponents waited for the chance to reverse the decision: in this case, in vain.

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