

SUMMARY: This report by Sir James Dyer is of a case heard by himself and other judges in Hilary Term 1571 involving rentals from the manors in which the 16th Earl's widow, Margery Golding, had held a life estate as her jointure. Margery Golding died in 1568, and Oxford, her son, who inherited these manors after her death, did not reach the age of majority until 1571. The issue in the case was whether the Queen had the right to the rentals from these manors between 1568 and 1571, while Oxford was still her ward. The case was complicated by the fact that Somerset's 'spoil and disherison' of the 16th Earl had been reversed by a private Act of Parliament on 8 March 1552, and it was therefore necessary to interpret a provision in that Act in order to determine whether the Queen, or Oxford, had the right to the rentals after Margery Golding's death. It was the opinion of Dyer, and later of a majority of the judges, that the Queen was entitled to the rentals from no more than one-third of Oxford's lands by virtue of his wardship, and that therefore Oxford was entitled to the rentals from these manors from the time of his mother's death in 1568. The report is of additional interest because it mentions explicitly the 'threats, coercion, and other undue means' used by Somerset against the 16th Earl, and sets out the principal provisions of the private Act of Parliament of 8 March 1552 whereby the 16th Earl's lands were restored to him, but which gave him a mere life estate in them, with power to dispose of them only in certain stipulated ways. The provisions of this private Act of Parliament had considerable influence on the 16th Earl's two subsequent wills of 21 December 1552 and 28 July 1562, on his indenture of 2 June 1562 whereby he attempted to set up a use to avoid wardship for his son, as well as an entail, and on the marriage contract of 1 July 1562 whereby a marriage was arranged between his son and heir, Oxford, and a sister of Henry Hastings, 3rd Earl of Huntingdon. The report is printed in Baker, J.H., ed., *The Lost Notebooks of Sir James Dyer*, (London: Selden Society, 1994), pp.196-8.

KING EDWARD VI, having knowledge by information of his council of the great spoil and disherison of John, late Earl of Oxford, by the circumvention, [+commination], threats, coercion, and other undue means of Edward, late Duke of Somerset, governor of the King's person and protector of the realm and people, practised and used in his time of his greatest power and authority with the said Earl, whereby all ancient lands and possessions of the earldom of Oxford within the realm were conveyed by fine and indenture anno 2 Edward VI [=1548] to the said Duke in fee, and yet in fact by a metamorphosis entailed to him and his heirs begotten on the Lady Anne, his wife, by force of a statute made anno 32 Hen. VIII, with divers remainders over, was pleased that it be should be enacted by authority of Parliament that the said indenture of conveyances should be utterly void, and that the said fine should be deemed to be to the use of the same Earl for term of his life without impeachment of waste, the remainder in use to the eldest issue male of his body lawfully begotten, and to the heirs male of the body of that issue male lawfully begotten, and for default of such issue to the use of the right heirs of the said Earl forever and to no other uses save to all persons other than the King and his heirs and successors, and all other lords and their heirs of whom any of the said lands were holden, such right etc., which exception was to take away the escheats or wardships

that might grow to the King or other lords by th' attainder of felony of the said Duke or by his death, dying seised but of a state tail, as doth appear by the Act. And by the same Act certain [+manors] are appointed unto two of the brethren of the said Earl and their wives for term of their lives, and of certain other manors authority given to the Earl to make a jointure by his last will in writing sealed and subscribed to his wife for term of her life, and of some others to dispose to his executors for the term of twenty years after his death for paying his debts and performing his will, and after those estates ended, the same lands to go and remain to the said Earl for term of his life, the remainder over as is afore expressed, and of some part authority given to alien and sell it forever in his lifetime, with this proviso and enacting towards the end of the Act, namely that the King, his heirs and successors, and all other persons of whom the premises or any parcel thereof should be held by any rent or services, shall have and enjoy all and singular such rents, tenths, tenures, seignories and services, wardships, liveries, and primer seisins of, in, out of, and to the premises and every parcel thereof as the said King, his heirs and successors, and the said other persons and their heirs and every of them ought, might, or should have had if the said Earl were thereof seised in fee simple, and should die seised of the third part thereof in fee simple. At the making of which Act the Earl had issue his eldest male Edward, now Earl of Oxford, being still under age and (both for his body and a third part of all the premises) in ward to the Queen. And the said Earl John did by his last will according to the Act appoint the said lands to his wife for term of her life for her jointure and dower, and she is lately deceased. Whether the reversion or the remainder thereof shall be to the Queen during the minority of the now Earl, or else to himself, is the query.

This term the case has been substantially argued by Anderson, Bromley, Solicitor-General, and Gerrard, Attorney-General, for the Queen; by Yelverton, Wilbraham, and Plowden for the Earl; and afterwards by Manwood, sergeant, and by Wray and Barham, the Queen's sergeants.

And it seemed to me that no more than the third part of the whole should be in ward by the intention of the makers of the Act and proviso. The construction thereof ought to divide the words and sentences into two tenses, the present and the future, for the rents and services of the whole land are saved by the proviso which otherwise would be gone by the exception in the previous general saving in the present tense, namely during the father's lifetime. (Nevertheless, query this well.) And to this the copulative 'and ever since' refers, which serves the turn for all other lordships as well as for the King. But for the rest, namely wardships, liveries, and primer seisins, which are only to the King and to no other lord, and are future, namely upon a contingency of the father's death, to which a likeness or resemblance to a dying seised in fee simple of the third part only of the whole refers, the whole sentence 'for rents, services, wardships etc.' cannot refer to this, for then after the death the tenures and services of two-thirds are gone, and the lordship and services saved only in a third part, which is not the intention etc. Furthermore, the rest of all the particular estates and interests of the brothers executed, and of the father's wife, is expressly appointed to the father during his life, remainder to the son etc. as above, and thus by the Act he shall be adjudged in as purchaser, and not as heir by descent according to the proviso in the statute of 32 Hen. VIII, c. 1, which limits the reversions of jointresses and dowagers descending to the heir, during his minority to be in ward etc.

Also, it seems that the meaning of the King was to have only the third part of the whole in ward, which he cannot have if the father had aliened or parted with it, which he had authority and liberty to do by the Act, for of that part the wardship ought to be lost; and so, etc. But of all the lands that were given in tail by King Henry VIII, the Queen shall have the whole in ward etc. But that is not within the case of this statute. And of that opinion was Wilbraham, now Attorney of the Court of Wards. But the opinion of Kelwey, Surveyor of the Liveries, and of the whole counsel of the same court, and the opinion of Saunders, C. B., and of Lord Burghley, Master of the Wards, in the inner chamber of the same court the following Trinity term was against Wilbraham and Dyer. But afterwards the matter was ordered by assent of the Queen that the opinion of Walsh and Southcote, JJ., should be examined in the cause, who gave their opinions with Dyer and Wilbraham, and accordingly the matter was there decreed and ordered.