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Lord Burghley as Master of the Court of Wards: 1561-98

Joel Hurstfield, B.A., F.R., Hist.S. _____ ©



FEATURE of English social life in the sixteenth century which aroused the curiosity of foreigners and the bitterness of Englishmen was the royal right of wardship and marriage. Since 1540 this right had been safeguarded with the full apparatus of a specially constituted court of law under the direction of a high official as its master and judge.¹ Twenty years after the creation of the Court of Wards and Liveries, William Cecil, later Lord Burghley, became its master;² and he held that office from January 1561 until his death in August 1598, a period of more than thirty-seven years. The court itself remained in existence, in spite of an increasing volume of criticism, until the Civil War; when it was formally abolished by the Long Parliament in 1646.³ Thus, for more than a third of its existence of 106 years, Burghley was its Master; and since, after an interregnum of nine months, he was succeeded by his son Robert, the Cecil family in effect controlled its destinies for more than half a century. In the process they, and the court they directed, left their mark upon the society and economy of their age.

Clearly, long before Burghley assumed his office these feudal claims of the Crown had lost every vestige of their initial justification. In the first century after the Norman Conquest it could be argued, on the basis of the contractual relationship between the King and his military tenants, that he had certain legitimate and logical rights when the succession to a piece of land passed to a minor. By the middle of the thirteenth century these rights had already been shorn of their original validity. Wardship had come to mean in practice the authority to seize and exploit the land at the expense of the minor, and his marriage was being sold in the open market. By now, as Professor Plucknett reminds us, "knight service remained as only a troublesome but lucrative anachronism."⁴

By the sixteenth century, even less of the original character of these incidents survived, but the ministers of Henry VII and Henry VIII had zealously, and with considerable success, striven to infuse new life into them.⁵ The periodic searching out and enrollment of the military tenures-in-chief and the increasing use of feodaries for the purpose revived royal demands which had, in some cases, been in abeyance for generations. These powers had moreover long been translated into financial terms. They were being sold and re-sold like merchandise and were much prized. The purchaser gained for one of his relations a desirable marriage, often bringing with it the broad acres and the social standing of a county family, or

the purchaser in turn sold the marriage to someone else with daughters and ambitions. In addition, the guardian usually, though not invariably, obtained the lease of the ward's lands at favourable terms. The ward was, in theory, safeguarded against a marriage below his station and against the abuse of his lands, but it would have been an onerous and expensive process when he came of age to take suit against his guardian. Male heirs under twenty-one or females under sixteen at the time of their father's death were alike liable to at least as heavy a burden as their counterparts had experienced in the heyday of feudalism.

This intensification of the royal authority occurred at a time when the similar rights enjoyed by tenants-in-chief in respect of their tenants were passing into desuetude. Only scanty evidence of the exercise of these rights has survived. So the tenant-in-chief, sometimes a great lord but more often a person of moderate means, was liable to these heavy, although irregular, charges, and to the various other incidents of primer seisin, ouster-livery and livery, while he rarely recouped himself in any comparable fashion at the expense of his tenant. Meanwhile, the great redistribution of land arising from the dissolution of the monasteries had vastly increased the area held by knight service in chief, since that was the tenure most frequently created at the time of the sale.⁶

It is customary to speak of these elements of the royal revenue as feudal exactions, and in the eyes of the victims that is exactly what they were. These "casualties," to use the feudal term, were sudden; they descended upon the stricken family at precisely the time when it needed help, not the aggressive and powerful intervention of a royal official and, after him, of some grasping landlord who used his temporary authority to exhaust the land and enforce a marriage upon the heir. In addition, when he came of age he could not enter upon his estate until he had paid heavy dues to the Crown, dues which recalled the ancient formalities of homage and livery which had long since ceased to be performed. Thus, however small the proportion of a man's inheritance that was held by knight service of the Crown, he was liable to heavy expenditure and, if he was a minor, he had to run the gauntlet of merciless though venal officials, of covetous neighbours, an exploiting landlord and possibly a mercenary guardian. His inheritance might consist, a contemporary tells us, of "woods decayed, old howses, stock waisted, land plowed to the bare."⁷

Before, however, we accept at their face value the contemporary denunciation of these "exactions" we must consider what part they played in the economy of the day. At a time of rising expenditure, whether for defence, administration or display, the Tudor monarchy had

Joel Hurstfield is generally acknowledged as the leading authority on the Tudor Court of Wards and system of wardship. His books are frequently cited in works of scholarship and in articles in leading journals when referring to this institution. Less well known is this paper which was read before the Royal Historical Society, 16 October 1948. We are grateful to the Royal Historical Society for granting permission to reprint it here.

no easy access to the sources of national wealth. There was indirect taxation, in the shape of customs dues, which fluctuated widely with the changing conditions of overseas trade; there was direct taxation, obtained from reluctant parliaments in tenths, fifteenths and subsidies, which were granted only to meet emergencies and which often failed to reach the estimated amounts; there was the royal income from land, but the real value of rents shrank as prices rose; there were loans, either forced or voluntary, which could only bring a short term relief, and which if employed intemperately could consume the royal estate at a galloping pace. There were finally the revenues to which the Crown had access as the greatest feudal landlord. The non-feudal sources of income which I have listed were inadequate, and increasingly inadequate, to enable the Crown to meet its commitments as head of a modern nation state.

The Crown was bearing a heavier financial burden than in the past, but it was unable to obtain an adequate share in the general rise in the national income. This disparity, as we know, obliged the first two Stuarts to indulge in various experiments, both financial and political, which in time plunged the country into civil war and in the end changed the whole fabric of the English kingship. The attention directed to the collection and expansion of the feudal profits, including those coming from wardship and marriage, was part of the attempt to bridge the widening gap between income and expenditure.

But the feudal machine was antiquated in its form and meaning, and perforce inequitable and clumsy in its impact upon the social and economic life of the state. It squeezed the landowning classes at a time when they were feeling the effects of those same economic changes which were driving the Crown along the path it was taking. In attempting to solve a fiscal problem, which had in fact become insoluble in terms of the existing order, the Crown was obliged to employ, as long as it was able, the defective and unpopular feudal means it had to hand.

It was in such a complex situation that William Cecil became Master of the Court of Wards in 1561. He was already Secretary of State and familiar with the grave political and financial problems which faced the new government of Queen Elizabeth. The war with Scotland had just ended, the currency crisis was at its height and, at any moment, the country might be involved in a life and death struggle with France, Spain, or, if the nightmare should materialize, Catholic Europe as a whole. Survival in that case would depend upon armies and allies adequately paid and supplied. Thus his main task was to extract the maximum revenue from the sales of wardships, the leases of wards' lands and other dues, so that the institution which he directed might make a notable contribution to the requirements of government. But there were possible limitations upon his achievements in this respect.

In the first place, in keeping with the spirit of the age, and in view of the purely nominal payments he received for his high offices, he might choose to divert part of the Court's revenues into his private purse. Secondly, he needed to administer the Court, which was a court

of law no less than a financial organ, with efficiency and justice. Though he was bound to press the royal demands, it was still necessary to reform abuses and to reduce legitimate complaints to the minimum. We may perhaps examine the success of his mastership with these considerations in our minds.

Before considering the revenues of the Court of Wards we must notice that it drew its income from various sources. Only part of it came from the sales of wardships, which included the right of marriage; more came from the leasing of wards' lands, which was treated as a separate transaction and which involved an initial fine for the lease as well as an annual rent; and further large amounts came from the payments for suing livery when the heir took over his inheritance. There were also other sums collected by the Court, such as the licences for widows' marriages, the payments for mean rates between the succession to the land and the suit of livery, and the fines imposed upon sheriffs for failing to make proper returns or for other delinquencies. But the sums contributed from these sources were comparatively small.⁸ The Master of Wards was also concerned with the affairs of idiots and lunatics, whose control had been transferred from Chancery for administrative convenience. These were a source of neither great income nor great abuse.

By what means, and to what extent, did Burghley succeed in maintaining or increasing the profits of the Court of Wards? The fundamental problem, of course, was to track down the wardships which in fact had arisen but were not revealed to the Crown officers. This searching out of concealed wardships continued unremittingly under Burghley's direction, but it encountered the skilful resistance of the landed gentry. For example, many tenants-in-chief took the precaution of summoning legal aid to create elaborate conveyances of their land, so that, at their deaths, Crown officials were forced to penetrate through a wilderness of technicalities before they could enter into the promised land of a wardship. The Crown then claimed one-third of the total inheritance, however small the proportion held by knight service, but all manner of devices were adopted to disguise either the real owner or the real tenure. Burghley and the other officers of the Court waged an unending battle against this, but the genius of many a Tudor lawyer made it impossible to bring their evasions within the framework of the law.

In 1571 an act was passed against fraudulent conveyancing.⁹ Legislation was examined by Burghley in 1572,¹⁰ and a further statute was passed in 1585,¹¹ but these measures always proved insufficient to block all the loopholes in what had become a veritable black market in land. Yet many such attempts to defraud the Queen were tracked down, and the successes were recorded in the margins of the feodaries' surveys with a laconic "nevertheless the Queen shall have her third part." These efforts were being made along with the more ambitious programme of the government to discover concealed lands and defective titles from which rents, escheats, wardships and other profits might accrue to the Crown.¹²

But apart from these subterfuges, there existed in some areas a virtual conspiracy of silence to suppress the news that a wardship had arisen. We know this because a number of years sometimes elapsed between the death of the tenant and the holding of the *inquisitio post mortem*. In one case there was a gap of nearly seventeen years between the death of the father and the sale of his son's wardship.¹³ "I will forbear," wrote an early seventeenth-century steward of Lord Bergavenny, "to sett downe either the persons or the particuler names of the lande for that peradventure it may prejudice some in their tenures who had rather holde of mesne Lordes by socage tenure then of the Kinge in capite."¹⁴ To penetrate this veil of secrecy, Burghley relied upon three main groups of people: first, men who were virtually professional informers; secondly, local gentry and others who were anxious to obtain the wardship or some other favour; and, lastly, the feodaries.

The informers were probably the least important of them all. From time to time petitioners approached Burghley for special authority to search out concealed wardships. One of these petitioners, the industrious William Herle, asked that a post to be called "the whole feodariship of Wales" should be bestowed upon him, an office which he disingenuously described as "more painfull than proffitable." By means of it he proposed to remind the Welsh gentry "that they holde in Capite since King Edward of most gloryous memory the first."¹⁵ Another suitor wrote to Burghley asking to be made custodian of records of "descents," and a third to be registrar of births, deaths and marriages.¹⁶ We know that two men were granted a patent in 1575 to search out wardships concealed since 1538.¹⁷

Later, Peter Osborne, an agent of Burghley's, was engaged in this work,¹⁸ and he and others certainly succeeded in bringing a number of wardships to light. As reward, they received either special favours, or the grant of the wardship at reduced terms or, occasionally, payments of money from the revenue of the Court. These payments are to be found amongst the receiver general's accounts¹⁹ but they do not occur very frequently. There is hardly likely to have been much scope for a professional informer if he strayed very far from his native heath. Informers made their contribution in discovering concealments, but it was a comparatively small one.

More valuable as a source of information were the interested parties in the locality who—in their desire to lay claim to a wardship in a highly competitive market—hastened to transmit to London the news that a tenant-in-chief had died, leaving a minor. Indeed they often applied for a wardship while there was still breath in the father's body; and the Court of Wards itself on at least one occasion granted a wardship before the death of the father and then had to cancel its decision when he made an untimely recovery.²⁰ It is not surprising that the recorder of Leicester, excusing himself on account of illness from attending the assizes, added that he was obliged to take especial care of his health "for that I ame informed the wardshipp of my eldest sonne is allreadie begged yf I dye."²¹ The eagerness with which

wardships were sought provided Burghley with a continuous flow of information about changes in the tenants of the Crown; and, as the Hatfield and Lansdowne manuscripts reveal, Robert Cecil and, even more so Burghley's secretary, Michael Hicks, were receiving advance obituary notices of the landowners in the shires. Moreover, the tradition that applications to the Master for wardships usually had to go through a courtier, created in London a vast clearing house of information and served to keep the Court of Wards in close touch with the provinces.

But far more important than either of these channels of information were the feodaries. They had been employed in the duchy of Lancaster as early as the fourteenth century, but it was as officials of the Court of Wards, each responsible for one county,²² that they developed to their fullest stature.

They at once took over from the escheators much of their work, though the latter still nominally retained responsibility for escheats to the Crown and for holding inquests upon deceased tenants-in-chief. The escheatorship was an annual appointment and the office circulated amongst the local gentry, whose interests might naturally conflict with the feudal claims of the Crown. The returns the escheator made to the *inquisitiones post mortem* were suspect; the values he set upon the land were usually far below their market value, while friendship or bribery might altogether deprive the Crown of its wardship.

For all these reasons Burghley, as well as his predecessors, refused to rely upon these returns by inquest. As a check upon them the feodaries were instructed to hold surveys of their own, and the Master would not normally grant a wardship until he was in possession of such a survey. Burghley usually had it before him when selling a wardship, and we find the details of the sales in his own handwriting upon the surveys. The valuations were usually higher than those given in the inquisitions, and the differences in most cases produced corresponding rises in the purchase prices of the wardships as well as in the rents of the lands. Lord Bergavenny's steward, in the passage already cited,²³ justified the secrecy with which he sheltered the tenants in his district on the grounds that "the escheators and feodaries of these times haue Argus eyes peircinge into all conveyances." Peter Osborne, however, argued that more wardships would be discovered "if only the feodaries of the court will be true and honest."²⁴ Clearly they were zealous and loyal in many cases, but they too had their price.

This, then, was one side of Burghley's activities: to use every means and every person for keeping himself informed of wardships which had arisen or were likely to arise. Yet in spite of this the nett income of the Court of Wards showed no increase throughout the whole period of his Mastership. On the contrary, we find a marked fall. In the first year of Elizabeth's reign the nett income stood at £20,290. In the following year, just before Burghley became Master, it rose to £23,285 and in the year after that, in the course of which Burghley assumed office, it reached the figure of £29,552. But in the fourth year of the reign, the first full year

of his Mastership, the revenue dropped sharply to £18,317. Five years later it had declined still further to £15,390, but it rose again five years after that to £17,140. In the twenty-second year, about the middle of his Mastership, it was down to £11,619; in the thirty-ninth year of her reign, his last full year of authority, it had risen again to £16,450. But at no time did the nett revenue reach the figure of £20,000 at which it had stood at the beginning of the reign.

We are thus faced with a contradiction. How was it that Burghley, with all his shrewdness and responsibility (he had been Lord Treasurer since 1572) failed to raise the total income from wardships throughout the long period of his office? In essence we must ask ourselves two questions: was the income limited because this important source of national revenue was being drained away into private pockets, or was it deliberate policy on the part of Burghley to restrict the demands he made upon it?

How far can Burghley be accused of reducing, directly or indirectly, the feudal income of the Queen by corrupt practices? We must first consider his conduct as a guardian before examining his official position as master. A member of his household, whose eulogy²⁶ of him was written shortly after Burghley's death, claimed that he rarely granted a wardship to himself. If we consult the records, the writer tells us, "it will appear that, in all the tyme he was master of the wards, he reserved to his own use but three."²⁷ If we assume that the number of wardships sold per year was about a hundred, then it is correct to say that the number which Burghley received was not large. But the official records do not tell the whole story. According to them he bought only two, and these were not outstanding in their value or importance. One of them he bought for £20 some years before he became Master.²⁸ He bought another in 1570 for £220.²⁹ So much for the official records. We learn from other sources, however, that far more important wardships had come his way. Amongst those to whom he acted as guardian we find Lord Wharton,³⁰ the Earl of Oxford,³¹ Philip Howard, Earl of Surrey, who was heir of the Duke of Norfolk,³² the third³³ and the fifth Earls of Rutland,³⁴ the Earl of Essex³⁵ and the Earl of Southampton.³⁶ In addition, the wardship of Lord Zouche was purchased by Thomas Cecil, but Zouche was brought up in Burghley's household and was, in effect, his ward.³⁷ It will be seen that Burghley, not surprisingly, was interested in quality rather than quantity. Nobody else in Tudor England had the wardships of eight noblemen.

There are a number of interesting features about these wardships. Only two of them, that of Lord Wharton, which the Earl of Sussex held jointly with Burghley, and that of Lord Zouche, bought by Thomas Cecil, were duly entered upon the official documents. For the rest, the records of the Court of Wards which I have been able to consult, exhaustive though they are in many ways, are completely silent about the appointment of their guardians. Since even the smallest payment for the humblest ward was entered in the Receiver General's

accounts, it is unlikely that these would have been omitted if any payment had in fact been made. It is possible that the purchase price went through some other channel, as occasionally happened, and that we have no record of it; but it is unlikely that this would have occurred each time. In any case Burghley would have obtained a letter patent granting the wardship, and a copy would almost certainly have been entered in the Court of Wards patent books. The explanation is rather that the wardships were never sold and that Burghley was exercising his right as Master of the Wards and representative of the Queen to retain the wardship in the possession of the Court of Wards, that is to say, in his own hands. For example, the wardship of the fifth Earl of Rutland was promised to the Earl of Leicester. Leicester died and the project therefore fell through, and we find Burghley acting in effect as the Earl's guardian.³⁸ It may be that Burghley obtained authority from the Queen by word of mouth to retain these wardships in his own hands, but if so they were substantial gifts, and afford us another insight into the Tudor system of payment of royal servants.

Nor can their values be assessed solely in financial terms. Burghley's daughter Anne married the Earl of Oxford; and though there is no evidence that Burghley brought any pressure upon the Earl, since he was perhaps contemplating marrying her to another of his wards, the Earl of Rutland,³⁹ a contemporary thought that heavy pressure came from Anne Cecil herself. "The Erle of Oxenforde hathe gotten hym a wyffe," wrote Lord St. John, "or at the leste a wyffe hathe caught him."⁴⁰ Living in Burghley's household presented the opportunity if it did not provide the cause. It was an ill-starred match, but there is no doubt about the satisfaction Burghley derived when the marriage was first arranged.⁴¹ Later on Burghley offered one of the children of this marriage as a wife to his ward, the Earl of Southampton. The earl declined; and rumour had it that this affront to Burghley cost Southampton £5,000.⁴² Burghley was more successful in other directions. Three daughters of the Countess of Oxford married earls: the Earl of Derby, Lord Norris who became afterwards Earl of Berkshire, and the Earl of Montgomery. Thus, although Camden's efforts to trace a high-born ancestry for Burghley would probably not stand the test of modern historical scholarship, Burghley himself ensured that his progeny would have better claims.⁴³

The retention of these wardships by Burghley could be justified on other grounds. We find him taking a close and personal interest in the education of young men, not necessarily his wards;⁴⁴ he gave a good deal of his time to his duties as Chancellor of the University of Cambridge and his care and consideration for those who joined his service were well known. The Duke of Norfolk, when preparing himself for the scaffold, bequeathed the upbringing of his sons to Burghley, his political enemy,⁴⁵ and the first Earl of Essex, when he lay dying in Ireland, specifically asked that his son should be brought up as Burghley's ward.⁴⁶ Admittedly, entry into Burghley's household was much prized by contemporaries for a number of reasons: professional no less than educational opportunities came into prospect; but the

tribute from the Duke of Norfolk cannot be entirely discounted for these reasons. It may be that there were other non-monetary rewards which Burghley looked for in the detailed care he bestowed upon the distinguished wards in his household. Perhaps through them he would reach out beyond his own time and set the pattern of political life for a later generation; but these are larger issues and beyond the scope of this paper.

The letters from the mothers of the wards of the wards themselves, with one exception, confirm the high estimate generally placed upon his guardianship. Lady Gray, whose son had been a ward of Burghley, asked that her son, since he had gained so much thereby, should remain one of Burghley's "flock," even though he was now out of wardship.⁴⁷ The mother of the Earl of Essex thanked Burghley for caring for her son "who may say he hath happily mett with a seconde father instede of a garden,"⁴⁸ and even the headstrong Earl of Essex himself wrote to Burghley in sober and affectionate terms.⁴⁹ The exception was, of course, the Earl of Oxford, whose mercurial and eccentric temperament contrasted so strongly with that of his father-in-law. Oxford remained a thorn in the flesh of the older man all his lifetime; and, many years after Oxford had come of age, he wrote to Burghley a bitter and insolent letter with a pointed reference to his former status: "I mean not to be yowre ward--nor yowre chyld. I serve her magestie and I am that I am."⁵⁰ But Burghley had the last word in this respect. Years before, the earl had entered into obligations to purchase his marriage from the Court of Wards and had shortly after married Anne Cecil. The full price of his marriage had never been paid and this and other debts had long lain dormant in the Court of Wards. Then, early in 1589, shortly after the death of Anne, Burghley instituted proceedings against the earl for his debt and some of his lands were seized and held for payment.⁵¹ Thus to a limited degree Burghley, in his capacity of Master of the Wards, was able to punish his son-in-law for a whole series of humiliations inflicted upon the Cecil family.

Burghley was not the only member of his household to receive important wardships. Thomas Cecil, his elder son, took a notable part in these affairs. We see in the records that he gained the wardships of Elizabeth Long,⁵² Edward Lord Zouche,⁵³ Edward Denny,⁵⁴ Thomas Grantham,⁵⁵ Vincent Randall (in part)⁵⁶ and the Corbett daughters.⁵⁷ He received the wardship of Elizabeth Long for £250, but before he had paid a penny he had re-sold the wardship for more than five times the price at £1350⁵⁸ to John Manners, who in turn sold it some years later to Charles Morison for £2450.⁵⁹ The wardship of Vincent Randall, which Thomas Cecil held as joint guardian, was bought for £106.13.4⁶⁰ and was re-sold for £400.⁶¹ Yet, in spite of this income, Thomas Cecil was in debt to the Court of Wards in 1595 to the tune of £360, payment for which had to be postponed by his father's decree.⁶² Robert Cecil obtained two wardships in his father's lifetime,⁶³ but at the same time he had bigger fish to fry.

We are not only concerned with the profits Burghley or his family made by obtaining wardships for themselves; there were perhaps greater profits to be derived by other means. It

was the tradition for suitors for wardships to apply to the master through courtiers, who were accustomed to receive payments either in cash or services; we may therefore ask whether the Master himself, with his supreme powers of granting wardships, was immune from these gratuities. Burghley strenuously denied that he received large payments for suits over and above his official fees,⁶⁴ yet it would be fantastic to conceive that these insignificant sums—his annual salary as Master remained throughout the period at 200 marks—would have enabled him to live and build so magnificently. But no large body of evidence has survived to show that the sale of wardships was bringing him handsome gifts *sub rosa*. There are letters to him couched in terms which leave no doubt that a gift was being offered or that the writer believed that Burghley was willing to receive such payments.⁶⁵ But to prove conclusively that Burghley was what contemporaries called a “taker” is difficult, and to establish how much he took is impossible, from the existing material.

Certainly people thought that he was amassing a fortune from wardships. Thomas Wilson estimated that wardship brought in yearly between £20,000 and £30,000 to the Queen, about twice as much to Burghley, and even more, subsequently, to Sir Robert Cecil.⁶⁶ But this is sheer guesswork.

There is, however, one document which has survived, in spite of the intentions of its compiler, which establishes that, at least in the last years of his life, Burghley was being paid substantial sums by the purchasers of wardships. There exists in the Public Record Office a list⁶⁷ of eleven recipients of wardships, with the names of the wards and the sums of money paid, as follows:

A 1 die Januar: 1596 ad 4 Aug: 1598

<i>Lord Buckhurst</i>	<i>Haughton I</i>	<i>166-13-4</i>	<i>in plate</i>
<i>Attorney Generall</i>	<i>Aston</i>	<i>1000</i>	
<i>Sir John Stanhop</i>	<i>Haughton 2</i>	<i>100</i>	
<i>Sir H. Constable</i>	<i>Applegarth</i>	<i>100</i>	
<i>Twisden</i>	<i>Ashburnham</i>	<i>100</i>	
<i>Mr. Surveyor of the Liveries</i>	<i>Gifford</i>	<i>200</i>	
<i>Attorney of the wards</i>	<i>Laborn</i>	<i>20</i>	<i>(100 li. sent but 80 li.</i>
<i>Receaur of the wards</i>	<i>Hewett</i>	<i>200</i>	<i>returned</i>
<i>Hunnings of the reuells</i>	<i>Archdale</i>	<i>150</i>	
<i>Sir Edward Wotton</i>	<i>Barneharn</i>	<i>1000</i>	
<i>Mr. Bowyer</i>	<i>Henley</i>	<i>66-13-4</i>	
		<i>3103-6-8</i>	

This note to be burned

These sums were not the official payments but considerably larger sums paid privately. If we compare the official prices, which I have been able to trace for nine⁶⁸ of the eleven wardships, with the unofficial payments for the same wardships, we find that the total official payment was £906.3.4 and the unofficial one £3016.13.4, well over three times as much.

There can be little doubt that the recipient of these unofficial payments was Lord Burghley. The period covered by the gifts ended on the very day of his death, 4 August 1598. Three of the eleven people who sent them were officials of the Court of Wards. Working as they did within the organization, would they have paid their gratuity to anyone other than the head of the department himself? In two other cases, Attorney-General Coke⁶⁹ and Sir Edward Wotton paid the large sums of £1000 each: they would hardly have given these amounts to anyone but the Master. There is also a letter from Coke to Burghley during this period in which he refers to a sum he is about to pay him for his aid.⁷⁰

Burghley, then, in the space of three years received more than £3,000 from private suitors for wardships when his official salary for those years was less than £400. But we have no reason to believe that the list was complete. During the period, approximately three hundred wardships were sold;⁷¹ in view of the fierce competition of the time it is reasonable to assume that other suitors would have offered some *douceur* to the fountain of such wealth. During Burghley's long tenure there were also administrative offices at the centre and important feodaryships in the provinces which were much sought. For example, Robert Cecil was on one occasion offered £1,000 if he succeeded in helping a suitor to obtain the office of receiver general.⁷² Perhaps we must accept therefore the view of the contemporary writer of "Certain observations concerning the life and raigne of Elizabeth Queen of England," who briefly summed up Burghley's career at the Court of Wards. Since the manuscript was being sent to Thomas Hesketh, the attorney of that Court, it is hardly likely that a grossly inaccurate reference to it would have been included. The writer tells us of Burghley: "After Sir Thomas Parrye's death, he was made Master of the Wards and Liuries by meanes whereof he grew rich and oftimes gratefyed his frends and sernaunts that depended and waited on him."⁷³

But these were not the sole sums which suitors were paying privately for wardships. If we examine the Hicks papers⁷⁴ in the British Museum there is abundant evidence of other transactions. Hicks was one of Burghley's secretaries and appears to have enjoyed considerable influence with him and, for a time, with Robert Cecil. He was one of the principal channels through which applications were made to Burghley for wardships; and men of high estate such as the Earl of Huntington and Lord Sheffield did not hesitate to make their approaches through Hicks,⁷⁵ while humbler folk sometimes approached this intermediary through another intermediary!⁷⁶ These letters almost invariably contained the offer of a private reward, while on one occasion a correspondent asked for the return of a bribe because Hicks had failed him of his object.⁷⁷ Indeed, faced with a growing army of suitors, Hicks cynically drew

up for himself or his superiors a series of replies to be used according to the circumstances as well as some general sentences or adages, such as "Lett nothing be so esteemed of you that it make thee do against honesty or right"; these collected sayings are masterpieces of sanctimoniousness and ambiguity.⁷⁸ Robert Cecil himself, working at this time hand in glove with Hicks, was also involved in the various private negotiations for wardships and offices.⁷⁹ Since these gifts would hardly have been offered so frequently unless there were reasonable hopes that the Master would accede to the recommendations, we may well ask whether one so acute and worldly as Burghley can have been unaware that Hicks and Robert Cecil were being remunerated for their efforts. One of the last official acts of Burghley was to appoint Hicks to the key position of feodary of Essex.⁸⁰

We are not concerned here with Tudor morality or whether the taking of bribes was a necessary evil forced upon Tudor officials by the existing system.⁸¹ We are concerned only with how far these methods diminished the feudal income of the Crown. For example, as we have seen, Coke paid Burghley £1,000 and the Court of Wards £300⁸² for the wardship of Walter Aston, or £1,300 in all. In other words, the Queen received less than a quarter of the total purchase price together with a rent of £166.13.4 for the lands, which was a gross underestimate of their annual value.⁸³ Since Coke made 200 percent profit on the wardship by subsequently selling it to the ward himself for £4,000, we may assume that he would have been willing to pay £1300, the total sum involved in his purchase, to the Court of Wards direct had it not been necessary to pay three-quarters of it to the Master personally. Similarly, when the Court of Wards sold the wardship of Elizabeth Long to Thomas Cecil, it was priced at £250; but the final purchaser paid £450 for it. The Queen in effect got only one-tenth of the price it reached on the open market. Not every wardship was so highly priced, but the principle remains the same, whether the profits were earned by Burghley or by some other member of his family or entourage. In some cases these practices occurred without either Burghley or any other official receiving payment for the favour. The Mastership of the Wards was not only a source of wealth but of power. The patronage which the Master enjoyed over so wide a field was one of the means of creating and sustaining a personal following and, as Professor Neale has shown,⁸⁴ patronage rather than party principles determined the political alignments of the Elizabethan age.

Nor was it always a simple division of the total price between the Queen and one of her officials or courtiers. In some cases the Queen's official share was reduced.⁸⁵ The Earl of Essex obtained a wardship from Burghley, thanked him for the consideration shown him "in the rating of the fine," that is, for fixing the price so low, and promptly re-sold it for what he called a "competent some of monie."⁸⁶ Lady Sidney, soliciting Burghley for the lease of some ward's lands, asked that they be rented "for such fyne resonable as your honour honourably may."⁸⁷ Hicks was asked by the Earl of Nottingham to show favour to Nottingham's daugh-

ter by setting “easie valewes” upon her lands and by other means.⁸⁸ These “favours” could only be granted at the expense of the Queen, since they deprived the Crown of part of its income. Reduced valuations of a ward’s inheritance usually reduced proportionately the price of the wardship and the rent for leasing his lands.

So here at least we have part of the explanation of Burghley’s failure to increase the profits from wardships to meet the mounting costs of government. But that alone is not the explanation.

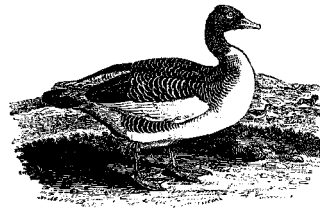
It is impossible as one reads the records of the Court of Wards during the thirty-seven years of Burghley’s mastership to escape the feeling that we are dealing with an influence that was moderate and conservative. His numerous and detailed notes amongst the official records testify also to his remarkable powers of concentration and devotion which lasted virtually to the end of his career. In 1594 he was writing to his son that he had been at work in the Court of Wards “with small ease and much paine.”⁸⁹ In 1597, the year before his death, he was doing his best to expedite the growing volume of work arising within his office.⁹⁰ We find also, amongst the orders and decrees he made as judge of the Court, that same resolution to determine causes, as far as he was able, upon their merits and to protect the interests of wards against their guardians and others. On one occasion, although the heiress was already of age, Burghley seized upon the fact that she had not sued livery to protect her with the full authority of the Court against the seizure of her person and lands.⁹¹ His own grandson was fined £600 during Burghley’s Mastership for marrying a ward without authority.⁹² In 1592 he was trying to safeguard wards against the spoiling of their parks.⁹³ Nor amongst the criticisms which contemporaries levelled against his activities has a single item survived which charges him as a judge in the Court of Wards with the corruption of justice.⁹⁴

Yet when all this has been considered we are still left with the fact that, at the time of his death, there was much in the activities and traditions of the Court of Wards urgently in need of reform. Wardships were still being competed for and granted while the father of the heir was alive. Mothers were still without any special title to be the guardians of their children and could merely take their place in the wild scramble for a profitable wardship. His domestic biographer’s claim that he “preferred natural mothers, before all others, to the custodie of their children”⁹⁵ is not substantiated in the official records. The situation was not redressed until 1611, when mothers obtained one month’s pre-emption over other suitors.⁹⁶ The tradition continued, at the end of his Mastership, that applications for wardships went through courtiers with all the costs that this often involved. The tradition was not ended until 1617,⁹⁷ if indeed it ended then. And corruption within the Court from the Receiver General⁹⁸ downwards continued to diminish the income of the Queen and to prey upon the welfare of her subjects.⁹⁹

This conservatism is reflected also in the charges that Burghley made for wardships.

When Masters sold wardships they tended to fix the price as a ratio of the annual value of the lands, though other matters were taken into consideration. For example, if the lands were estimated at £100 per annum in the feodary's survey, the wardship would probably be sold by Burghley at either £100, £150, £200 or occasionally at £300. Throughout his period the majority were sold at the equivalent of the annual value of the lands or less, or at fifty percent above the annual value. Thus, at the beginning of his Mastership, eighty-three percent of the wardships were disposed of in this way, at the end seventy-nine percent. The fact that mothers or other relatives tried to buy these wardships either directly, or at second or third hand from the original purchaser, meant that the comparative moderation of these charges was of social as well as economic importance. By contrast, soon after Robert Cecil succeeded him, more than sixty percent of the sales were being made at three or four times the annual value of the lands. In the last full year of Burghley's mastership (1596-7) the sales of wardships brought in £2,669.¹⁰⁰ By the last year of Elizabeth's reign (1601-2), under Robert Cecil, they had leapt prodigiously to £8,525.¹⁰¹ Burghley deliberately kept the prices at a fairly low level; Robert Cecil either would not or could not accept his father's interpretation of the situation.

At the time when the Earl of Essex had hopes of succeeding Burghley as master, Essex was considering how to raise the revenue from wardships.¹⁰² When Robert Cecil in fact succeeded Burghley, he at once issued the order that in all surveys of wards' lands they were not to be passed under values, but their values raised if they could bear it.¹⁰³ The policy pursued by Burghley of limiting the price of wardships was probably based upon a shrewd estimate of how far he could go. He brought to his office a large measure of efficiency, but he tempered it with judgement and moderation. In this way, while criticism was not suppressed, it was at least kept within bounds. Though he obtained for the Crown a good deal of revenue, he correctly assessed the limits of this source. The deepening financial crisis led to the adoption of measures by later masters which Burghley was unwilling to employ, though aware of the acuteness of the situation in his own day. It is clear that the changing social and political structure of England was, in any case, hastening the abolition of the Court of Wards. In spite of this, the masters were obliged to extract the maximum income from the institution they directed and it was left, therefore, to Robert Cecil and his successors in the seventeenth century to kill the goose which was laying the golden eggs. _____ ©



Notes:

¹ 32 Hen. VIII, c. 46. In 1542 the granting of liveries was brought into the jurisdiction of the Court of Wards (33 Hen. VIII. C. 22).

² P.R.O. Court of Wards Miscellaneous Books (Wards 9, 104, fos. 114v-115r).

³ *Acts and Ordinances of the Interregnum*, ed. C. H. Firth and R. S. Rait. (1911), i. 833.

⁴ *A Concise History of the Common Law* (2nd edn., 1936), p. 477.

⁵ Cf. D. M. Brodie, "Edmund Dudley: minister of Henry VII" (Trans. R. Hist. Soc., 4th ser. xv (1932), 133-61); Helen M. Cam, "The decline and fall of English feudalism" (History. N.S. xxv (1940-41), 216-33); W. C. Richardson, "The surveyor of the king's prerogative" (Eng. Hist. Rev., lvi (1941), 52-75). I am also indebted to Professor Richardson for lending me the relevant sections of his . . . book on early Tudor chamber administration.

⁶ Cf. the present writer's article on "The Greenwich tenures of Edward VI's reign" (*Law Quarterly Review*, lxxv. 72-81).

⁷ Brit. Mus., Lansdowne MS. 121, fo. 30r.

⁸ If we take the income of the Court of Wards for the first year of Queen Elizabeth's reign, the revenues were as follows: sales of wardships, £5,003.10.0; feodaries' payments (consisting largely of rents for wards' lands), £10,124.12.5; fines for leases, £350.10.21; payments for liveries, £5,760.13.11; mean rates, £624.16.11; sheriffs' fines, £115.5.6; licences for widows' marriages, £18; arrears, £404.10.11. The gross revenue thus amounted to £22,401.19.11, the nett revenue, after expenses had been paid, to £20,290.1.10 (Wards 9,369).

⁹ 13 Eliz. c. 5.

¹⁰ S.P. Dom. Eliz. 88, nos. 14-16. One copy of the draft bill (No. 15) has various alterations in Cecil's hand, but the statute dealing with collusion in conveyancing passed in that year (14 Eliz. c. 8) was not the result of this draft bill.

¹¹ 27 Eliz. c. 4

¹² Cf. the returns to the enquiries into concealments in the P.R.O. Records of the Exchequer, Augmentations Office (E. 302/I).

¹³ Court of Wards Feodaries' Surveys (Wards 5, 11), No. 1960.

¹⁴ *The Book of John Rowe*, ed. W. H. Godfrey (Sussex Rec. Soc., xxxiv, 1928), pp. 136-7.

¹⁵ Lansdowne MS. 18, fos. 87v-88r.

¹⁶ Lansdowne MSS. 43, fos. 61r-62v; 64, fo. 82r.

¹⁷ Wards 9, 106, fos. 517v-521v; S. P. Dom. Eliz. (Addenda) 24, no. 37.

¹⁸ Hist. MSS. Comm., Cal. of Hatfield MSS., ii. 171.

¹⁹ E.g. Wards 9,369, fo. 53r; 9,388, fo. 228v; 9,517, fo. 169r.

²⁰ Wards 9,154; Dorset (Strangeways), 27 Aug. 38 Hen. VIII.

²¹ *Records of the Borough of Leicester*, ed. Mary Bateson (Cambridge, 1905), iii. 278.

²² Except in the case of Yorkshire, which had one for each riding, and in the case of the smaller counties where two might be joined under one feodary.

²³ Above

²⁴ Cal. of Hatfield MSS., ii. 171.

²⁵ The figures in this paragraph are based upon the Receiver-General's Accounts. Series C, Wards 9,369 ff., and are given to the nearest pound. The nett income is obtained by subtracting from the gross income the expenditure upon fees, diet, annuities, jointures and repairs. From the remainder the "arrearages" with which the receiver-general annually "charged himself" have also been deducted, since they were, in fact, his cash in hand and had been counted in the total for past years. The same applies to the "arrearages" of George Goring, receiver-general from

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1584 to 1594, some of whose money was collected after his death. All other debts, since they had not been included in previous years' totals, are counted as part of the income of the current year.

²⁶ Printed in Peck, *Desiderata Curiosa* (1732), i. I-66.

²⁷ *Ibid.*, p. 27.

²⁸ Arthur Hall of Lincolnshire (Wards 9,369, fo. 171v, and 9,187, fo. 115v).

²⁹ Thomas Strickland (Wards 9,373, Rec.-Gen. Accts., Receipts for Wards. 12 Eliz. and Wards 9,380, fos. 33v and 106r).

³⁰ He held this guardianship jointly with the Earl of Sussex, Lord Chamberlain. (*Acts of the Privy Council*, ed. J. R. Dasent, viii. 282-3: 16 August 1574.) Only the name of Sussex appears in the patent book of the Court of Wards (Wards 9,106, fo. 273r).

³¹ *Dict. Of Nat. Biog.*, xx. 225. Cf. also B.M. Ward, *The Seventeenth Earl of Oxford* (1928).

³² S. P. Do. Eliz. 91, no. 22.

³³ *Dict. Of Nat. Biog.* xii, 933. See also Burghley's instructions for his conduct when travelling abroad (S. P. Dom. Eliz. 77, no. 6).

³⁴ See below n. 8.

³⁵ *Dict. of Nat. Biog.*, v. 875.

³⁶ *Cal. Of Hatfield MSS.*, iii. 365; *Dict. of Nat. Biog.*, xxi. 1055.

³⁷ See, e.g., Rec.-Gen. Accts., Exhibitions, 12 Eliz. (Wards 9,373).

³⁸ Hist. MSS. Comm., *Cal. Of Rutland MSS.*, i. 260, 174-5, 283, 293, 327. His "marriage", i.e. the right to marry, was sold to the earl himself for £500 shortly before his twenty-first birthday on 20 November 1597 (Wards 9, 159, fo. 43v). The third Earl of Rutland (Wards 9,380, fo. 28v), and the Earl of Oxford (see below . . .) had similarly bought their "marriages" before coming of age.

³⁹ *Cal. of Rutland MSS.*, i. 95.

⁴⁰ *Ibid.*, i. 94.

⁴¹ *Ibid.*, i. 95.

⁴² H. Foley, *Records of the English Province of the Society of Jesus* (1878), iv. 49 (cited in C. C.

Stopes, *The Third Earl of Southampton* (Cambridge, 1922), p. 86).

⁴³ Thomas Cecil, Burghley's elder son, on one occasion told his father that he could not afford to buy the wardship of Lord Sheffield from the ward's mother for £2,000, and regretted that he would be unable to ennoble his father's descendants in this way (*Cal. of Hatfield MSS.*, ii. 200-1).

⁴⁴ E.g. S. P. Dom. Eliz. 22, no. 14; 35, no. 45; 36, no. 56; Lansdowne MS. 14, fo. 190r.

⁴⁵ W. Murdin, *State Papers* (1759), p. 167.

⁴⁶ W. Murdin, *State Papers* (1759), pp. 301-2.

⁴⁷ Lansdowne MS. 10, fo. 135r.

⁴⁸ Lansdowne MS. 24, fo. 28r.

⁴⁹ W. B. Devereux, *Lives and Letters of the Devereux, Earls of Essex* (1853), i. 171 and 221; see also the letter for the Earl of Rutland (Lansdowne MS. 57, fo. 188r).

⁵⁰ Lansdowne MS. 42, fo. 97r.

⁵¹ Wards 9,118, fos. 234v-235v. See also J. Strype, *Annals* (Oxford, 1824), iii, pt. ii, 191-2.

⁵² Wards, 9,106, fos. 263v-264r.

⁵³ *Ibid.*, fos. 522r-523r.

⁵⁴ Wards 9,107, fo. 29r.

⁵⁵ *Ibid.*, fos. 401v-402r.

⁵⁶ *Ibid.*, fos. 295v-296r.

⁵⁷ Wards 9,109, fo. 68r.

⁵⁸ Wards 9,107, fos. 9r-10r and 100r.

⁵⁹ *Ibid.*, fos. 307r-308r.

⁶⁰ Wards 9,221, fo. 65r.

⁶¹ Wards 9,107, fos. 295v-296r.

⁶² Wards 9,109, fo. 68r.

⁶³ Wards 9,150 B. A1llington (29 Eliz.) and Wards 9,150 A. Bedingfield (37 Eliz.).

⁶⁴ J. Strype, *Annals* (Oxford, 1824), iii, pt. ii, 382-3.

⁶⁵ Lansdowne MSS. 17, fo. 33r; 57, fo. 118r; 107, fo. 142r; 108, fo. 41r. TRANS. 4TH S.-VOL. XXXI.

⁶⁶ *The State of England, 1600*, ed. F. J. Fisher (Camden Miscellany, xvi, 1936, p. 28). Cf. also, Peck, *Desiderata Curiosa*, i. 27: "It was imagined

he made infinite gaine by the wards.”

⁶⁷ S. P. Dom. Eliz. 268, no. 41. Cf. J. E. Neale, *The Elizabethan Political Scene* (British Academy, Raleigh Lecture on History, 1948), p. 7.

⁶⁸ All except Henly and Laborn.

⁶⁹ Professor Neale has shown that he subsequently received four times as much for the wardship from the ward himself (*op. cit.*, p. 7).

⁷⁰ Lansdowne MS. 84, fo. 137r.

⁷¹ Wards 9,159.

⁷² *Cal. of Hatfield MSS.*, iv. 531.

⁷³ Brit. Mus. Add. MS. 22,925, fo. 28v. I am indebted to Professor Neale for the reference.

⁷⁴ Lansdowne MSS. 1-122.

⁷⁵ Lansdowne MSS. 84, fo. 164r; 86, fo. 53r; 87, fo. 39r.

⁷⁶ Lansdowne MS. 77, fo. 180r: Sedley to Marston.

⁷⁷ Lansdowne MS. 107, fo. 205r.

⁷⁸ Lansdowne MS. 98, fos. 215r-217r.

⁷⁹ *Cal. of Hatfield MSS.*, iv. 529, 531-4 vi. 363; vii. 231, 278.

⁸⁰ Wards 9,109, fo. 201r (15 July 1598).

⁸¹ For a full examination of the political consequences of this system, see J. E. Neale, *op. cit.*

⁸² Wards 9,158, fo. 221r.

⁸³ She was even deprived of some of this rent for a time by Coke's servant, who defaulted with the money he should have paid into the Court; but Coke made amends (Wards 9,109, fo. 271r).

⁸⁴ *Op cit.*

⁸⁵ Lansdowne MS. 60, fo. 203r.

⁸⁶ Wards 9,108, fo. 179r.

⁸⁷ Lansdowne MS. 17, fo. 41r.

⁸⁸ Lansdowne MS. 87, fo. 41r. Cf. also the remark of one of Hicks' correspondents: "[The Lord Treasurer told me howe mich my wyffe was beholdinge unto him in sufferinge her sons office to be found at so lowe a rate, which is a testimonye of his meaninge more then I durst remember in my letter" (Lansdowne MS. 108, fo. 41r).

⁸⁹ S. P. Dom. Eliz. 248, no. 84 (cited in M.A.S. Hume, *The Great Lord Burghley* (1898), p.

455, note).

⁹⁰ *Cal. of Hatfield MSS.*, vii. 293-4.

⁹¹ Lansdowne MS. 102, fos. 215r-216r.

⁹² Wards 9,86 [sic], fo. 62v.

⁹³ Wards 9,109, fo. 14v.

⁹⁴ He did, nevertheless, act in his official capacity to protect the interests of Lady Roos, who was married to his grandson, William Cecil, against the Countess of Rutland (*Cal. of Rutland MSS.*, i. 260-3, 267-91, 314, 386-8).

⁹⁵ Peck, *Desiderata Curiosa* (1732), i. 26.

⁹⁶ S.P. Dom. Jas. I, 61, no. 6. This "reform" meant, however, that mothers could hardly hope for a wardship if they failed to report it within one month of the father's death. It was thus a means of discouraging concealments.

⁹⁷ *Ibid.*, 187, no. 51A.

⁹⁸ John Beaumont, receiver-general in Edward VI's reign, deprived the Crown of £21,720 (Wards 9,365, fo. 215r, cited in F. C. Dietz, *English Government Finance, 1485-1358* (Univ. of Illinois, 1920), p. 181). Towards the end of Elizabeth's reign, George Goring succeeded in doing the same thing for a similar amount of money (Wards 9,105. fos. 509v-510v).

⁹⁹ Not all the officers of the Court of Wards were as precise in their estimates of the private profits of their posts as was Hugh Audley, the last clerk of the Court before its dissolution. On being asked the value of his office, he replied: "It might be worth some thousands of pounds to him who after his death would instantly go to heaven; twice as much to him who would go to purgatory; and nobody knows what to him who would adventure to go to hell (*The Way To Be Rich according to the Practice of the Great Audley*, 1662, p.12). He became known to contemporaries as "rich Audley."

¹⁰⁰ Wards 9,388, fo. 363v.

¹⁰¹ Wards 9,394, fo. 259v.

¹⁰² S.P. Dom. Eliz. 268, no.70.

¹⁰³ S.P. Dom. Eliz. 274, no. 43.