

## 2017 George Richardson Lecture

### ‘Idiot’—Questions around Early Quaker Identity in Light of a Legal Dispute

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#### Abstract

Might cognitive impairment, being an ‘idiot’, disqualify you from ‘belonging’ as a Quaker, in an age before membership? What was idiocy in seventeenth-century terms and, as the Age of Reason dawned, where would the idiot have stood among Friends? These and other questions come to mind from study of a case in the Court of Chancery in the early 1680s. It concerned land and property in Glamorgan and the son of a notable dissenter. The case brings into fresh focus some well-known seventeenth-century Quaker names, filling gaps in the known biography about them. Above all, it sheds light on an individual about whom Friends’ records are silent, though he was part of a family of Quaker activists.

#### Keywords

Idiocy and Quakers, Cognitive impairment (seventeenth century), Mordecay Erbury, Henry Fell, Lydia (Erbury) Fell, Dorcas Erbury (Cooke), Quakers Yard (Glamorgan).

#### Introduction

Between 1672 and 1694 the name of Mary Codd appears in the records of Gainsborough Monthly Meeting.<sup>1</sup> Her father, a poor man named Christopher Codd, was probably widowed<sup>2</sup> and first figured in the monthly Meeting minutes

1 Brace, C. E. (ed.), *Gainsborough Monthly Meeting Minutes 1669–1719*, 3 vols, Lincoln Record Society, 1948–51.

2 Christopher Codd appears first in the Minutes on 14th of 10th month 1670.

when Mary was under a year old. He was in 'present necessity', his rent and weekly maintenance already being paid by Friends. On his death some months later his children were passed to the care of the Gainsborough local Meeting and Gainsborough monthly Meeting reimbursed it a number of times thereafter for its work for Mary Codd.

In 1690 Christopher and Mary Codd would have fallen into the first of Stephen Crisp's categories of the many poor who were in Friends' sights when he wrote his *Epistle of Tender Love*, addressed 'To all the churches of Christ throughout the world': that is, those who were made poor by the hand of providence: sick, lame, aged or in some way impotent.<sup>3</sup> Mary Codd was 'impotent' in some way unspecified. Until her death she was provided with care, bed and board, clothing, training and 'nursing', a term used when she was seven,<sup>4</sup> which often in seventeenth-century records signifies repayment for oversight of somebody with above-average care needs.<sup>5</sup> Some Friends had refused responsibility for her or had opted out before the contracted time was complete. We do not know why.<sup>6</sup> Being 'put forth as an apprentice' until she was 18<sup>7</sup> should have equipped Mary Codd for being self supporting. The age of majority was 21, but the age of effective independence as a worker/servant was younger. Yet, in 1693 (when she was nearing 24 years old), Gainsborough Friends still had responsibility for Mary Codd. Her *needs* were to the fore in the record and we are not told what made her needy.

Minuted about and provided for for almost the whole of her short life, Mary Codd was a silent object of Friends' oversight, her condition not even named. That silence is par for the course in the history of the impaired. Mary Codd died in 1693, was buried at Quaker expense and her clothing sold for seven shillings.

All this was conventional enough in Friends' circles<sup>8</sup> and in the populace generally in the second half of the seventeenth century. The physically or intellec-

3 Stephen Crisp, *An Epistle of Tender Love and Brotherly Advice to all the Churches of Christ Throughout the World*, Shoreditch: Andrew Sowle, 1690, p. 12.

4 Minutes of 12th of 4th month and 11th of 7th month 1678.

5 See Jonathan Andrews' discussion in 'Identifying and providing for the mentally disabled in early modern London', in Wright, D. and Digby, A. (eds), *From Idiocy to Mental Deficiency: Historical Perspectives on People with Learning Disabilities*, London and New York: Routledge, 1996, pp. 65–92.

6 The events are outlined in Trevett, C., *Women and Quakerism in the Seventeenth Century*, York: Sessions Book Trust, 1991, pp. 120–23.

7 Minutes of 8th of the 8th month 1679 and 8th of the 2nd month 1687. Informal apprenticeships at younger than the conventional age of 14 were common for the poor in this period: Pelling, M., 'Child Health as a Social Value in Early Modern England', *Social History of Medicine* 1 (1988), pp. 135–64.

8 In 1679 the London *Six Weeks Meeting* was considering how to defray the costs to the women Friends in London who were approached by monthly Meetings for the 'nursing and bringing up Friends' children that died poor and are left to Friends' care to look after'. Anne Whitehead had been required to devise a policy on maintaining the children of poor Friends: *Minutes of the Six Weeks Meeting* Vol. 1, 9th of 1st month 1679, LSF, London.

tually impaired person, if not maintained in the family, would be 'tabled' for a fee with a third party, often at parish or some other local authority expense.<sup>9</sup> Care arrangements often broke down, so records of such support in the community are plentiful.

This Codd case appears here by way of introduction to questions about Quakers and idiocy, or what might now variously be labelled cognitive impairment/disability, learning disability or intellectual impairment. I have not found published research on early (i.e. seventeenth-century) Friends' response to, and care for, those who might be labelled intellectually impaired.<sup>10</sup> In the seventeenth century, though, such impairment was understood in the light of prevailing views of personhood, ensoulment and capacity for salvation.

Idiots or 'natural fools' were much less provided for parochially than were the insane. Idiocy tended to be a domestic rather than a public matter or one for parochial relief, though parish or other support might be needed when families' difficulties were exacerbated by caring for a 'natural'. Quakers tried to look after their own who were in need, but it must have placed considerable burdens on some meetings.<sup>11</sup> It would have been a temptation to encourage those who would be a drain on local and regional funds to live elsewhere.<sup>12</sup>

Intellectual impairment involves limitations in learning, reasoning and problem solving. These impinge on adaptive behaviour, as reflected in one's practical and social skills. Religions often have theologically determined arrangements for, and expectations about, such people, perhaps limiting their rights of participation, so that on theological, doctrinal and practical grounds those with perceived impairments, both physical and cognitive, may be debarred from priestly or teaching and preaching roles, for example, or from

9 Rushton, P. 'Lunatics and Idiots: mental disability, the community and the Poor Law in North-East England, 1600–1800', *Medical History* 32 (1988), pp. 34–50; and 'Idiocy, the family and the community in early modern north-east England', in Wright and Digby (eds), *From Idiocy to Mental Deficiency*, pp. 44–64. On poor relief in Monmouthshire see Allen, R. C., 'The Administration of Poor Relief', in Grey, M. and Morgan, P. (eds), *The Gwent County History*, Vol. 3, Cardiff: Gwent County History Association/University of Wales Press, 2009, pp. 272–84.

10 Language and meanings change in society and in medical circles. I have chosen to write of 'impairment' rather than 'disability'; I retain the word 'idiot' as embracing those also called [natural] 'fool', 'simpleton' etc. and distinct from the lunatic/mad person. See Andrews, J., 'Begging the question of idiocy: the definition and socio-cultural meaning of idiocy in early modern Britain. Part 1', *History of Psychiatry* 9 (1998), pp. 65–95.

11 On the treatment of 'the poor among us', White, W. M., *Six Weeks Meeting 1671–1971: three hundred years of Quaker responsibility*, Six Weeks Meeting: SFL, 1971, pp. 26–30. Care could be a protracted obligation—45 years in one nineteenth-century case of an insane person: Lillie, T., 'Quakers and Disability: theory and practice in the nineteenth century', *Canadian Journal of Disability Studies* 4/3 (2015), pp. 26–49.

12 See Richard T. Vann's discussion in his chapter on membership (pp. 122–57) in *The Social Development of English Quakerism 1655–1755*, Cambridge, MA: Harvard University Press, 1969, especially pp. 150–52.

access to some rituals and marriage within certain categories.<sup>13</sup> What, if any, limitations did Friends have? In an age before Quaker membership how well integrated in the Quaker fold might an idiot have been? Indeed, would he or she have been reckoned a Quaker, either by Friends themselves or by others? Might an idiot experience the Inward Light? Be convinced? Affirm by lifestyle what Quakers affirmed and so be fully acknowledged in the group? Was ever an idiot persecuted as a Friend?

My interest in this aspect of Quakerism and identity came first from an interest in the meanings (including religious meaning) attributed to impairment, in the past and today. I was aware of the many gradations and regular redefinitions of impairments over time and I had also realised that theology had regularly intersected with biology in describing them. Then, secondly, I had read of a case in the Court of Chancery in the early 1680s in which members of a Quaker family were seeking to establish the idiocy of a relative now deceased. What might documentation in The National Archives tell us of how this man had been perceived in his rural South Wales setting in the 1670s? Less than a quarter of a century since Quakerism's arrival in the region, would either his non-Quaker neighbours or his own close family members have regarded him as fully part of the community of Friends, if he were also an idiot? In addition, the Quaker protagonists in the case were well known and easily identifiable in contemporary Quaker sources, but might the case fill gaps in their biographies?

What follows has come of looking for answers to such questions and not necessarily finding them. Before consideration of the case, though, some contextualising discussion is needed, to try to discover where the cognitively impaired person might have stood in the Quaker scheme of things, and in law and public opinion, in the late seventeenth century.

### Question 1.

#### What was the Quaker View of those Cognitively Impaired?

How did seventeenth-century Quakers view idiots, fools or 'naturals'? Stephen Crisp wrote of a Quaker household of faith and of those who belonged in it: 'partakers of the same faith, and walks in the Way of Righteousness with you ... they are of your household, and under your care, both to visit and to relieve as members of one body, of which Jesus Christ is Head'.<sup>14</sup> He said nothing of

13 Marx, T. C., *Disability in Jewish Law* = vol. 3 of *Jewish Law in Context*, London: Routledge, 2002; Miles, M., 'Disability and religion in Middle Eastern, South Asian and East Asian histories: annotated bibliography of selected material in English and French', *Journal of Religion, Disability and Health* 6 (2002), pp. 149–204; Schumm, D. Y. and Stoltzfus, M. (eds), *Disability and Religious Diversity: cross cultural and inter-religious perspectives*, New York: Palgrave MacMillan, 2011.

14 Crisp, *An Epistle of Tender Love ...*, p. 13.

those who might be deemed incapable of discerning the Way of Righteousness or who for whatever reason could not articulate satisfactorily being partakers of the same faith. What might 'the Quaker in the street' in the 1670s have thought about idiocy?

*1i. As Quakers saw matters, was conviction, or that baptism which came of perceiving the moving of the inward light, possible for those who were intellectually impaired?*

What Chris Goodey called 'the central ideological battle of the mid century'—namely who should and should not be admitted to communion—had not been central to Quakers' thinking, though the idiot had fared badly at the hands of all sides in that battle.<sup>15</sup> The extensive debates of the 1600s around predestination, election and personal autonomy cannot be discussed here, but they had embraced questions of human understanding and of a person's capacity for self-examination and so for admission to communion. Among Protestants the individual's comprehension of God had emerged as a key component of personal soteriology and even those with a doctrine of widespread *access* to communion drew the line at the idiot.

Among Friends the rhetoric about Quakers' experience intersected with the lived reality of cognitively impaired persons, even though such persons weren't being discussed. In Quakerism's first decades guilelessness, innocence and childlikeness were qualities advocated, given that they cast into relief the evils and social hypocrisies of the time and so confronted conventional authority with its own culpability. Some among Friends wandered abroad, 'inappropriate' in dress and speech as Quakers were, and not conforming to social expectation or the requirements of clerical and other authorities. This was of course doing what many a 'natural fool' did unselfconsciously and naturally, while Quakers presented it as inspired praxis. The idiot's innocence and harmlessness, in most cases, were what rendered restraint or special housing unnecessary. His or her free movement and social visibility were either markers of society's tolerance and integration or else of its complete indifference and neglect.<sup>16</sup> In either case the idiot/fool was regarded as harmless, an innocent, sometimes not only recognising the true nature of the emperor's new clothes but guilelessly saying so.<sup>17</sup>

15 Goodey, C. F., 'The psychopolitics of learning and disability in seventeenth century thought', in Wright and Digby (eds), *From Idiocy to Mental Deficiency*, 93–117, p. 101.

16 Andrews, J., 'Identifying and providing for the mentally disabled', in Wright and Digby (eds), *From Idiocy to Mental Deficiency*, p. 67. See too Metzler, I., *Fools and Idiots? Intellectual disability in the Middle Ages*, Manchester: Manchester University Press, 2016, especially the chapters 'The infantile and the irrational: mind, soul and intellectual disability', pp. 96–139 and 'Non-consenting adults: laws and intellectual disability', pp. 140–83.

17 On attribution of religious meaning to counter-cultural and challenging behaviour see Trevett, C., 'Asperger Syndrome and the Holy Fool: the Case of Brother Juniper', *Journal of Religion, Disability and Health* 13 (2009), pp. 129–50.

By the end of the seventeenth century innocence and guilelessness had receded as shining virtues among Friends, as they had more widely. As the Age of Reason was dawning, unreason was much less lauded. Indeed, in records generally, post-1700 (so Jonathan Andrews found), very rarely was the person cognitively impaired since birth now referred to as ‘an innocent’.<sup>18</sup>

Quakers had appropriated the Pauline language of the fool for Christ, too (1 Cor. 4:10),<sup>19</sup> just as they made appeals to the ‘plain Plough-men and keepers in their own Tents and Country Cottages’ and to the rustics whose ‘foolishness’ surpassed other men’s wisdom. Those distanced from the hubs of economic activity and learning had their place in the Quaker scheme of things.<sup>20</sup> So we may say that in Quaker rhetoric ‘folly’ was not disdained but the foolishness Quakers were affirming wasn’t that of those who were actually cognitively impaired, who also might not have been able to articulate a transformation in themselves such as the Friends looked for.

For Quakers the presence of the Light<sup>21</sup> and the Seed spoke of potential for spiritual growth and conviction. These had to be nurtured and encouragement offered towards inward experience. God had given to every person a measure of the Light of his own Son, Robert Barclay declared (*Apology* Prop. VI.§11),<sup>22</sup> and in early Friends’ writings the language of spiritual empowerment, perfectability, transformation and victory over sin in them permeated the texts. The Seed, Quakers averred, was present in all from birth.

Puritan concepts of predestination and election did not hold sway among Friends and children were not thought to be tainted with original sin. Barclay declared in his *Apology* of 1678 (Prop IV.§1) that:

18 Andrews, ‘Begging the question of idiocy’, p. 83.

19 E.g. Francis Howgill:

I became a perfect fool, and knew nothing, as a man distracted; all was overturned, and I suffered loss of all. In all I ever did, I saw it was in the accursed nature ... I knew not God ... as I did give up all to the judgement, the captive came forth out of the prison and rejoiced, and my heart was filled with joy ... and the new man was made

from *The Inheritance of Jacob Discovered: after his returne out of Egypt ...* in *Works. The Dawnings of the Gospel Day 1676*, quoted in Barbour, H. and Roberts, A. O., *Early Quaker Writings 1650–1700*, Grand Rapids: Eerdmans, 1973, p. 174. See too Barclay, R., *An Apology for the true Christian divinity*, ed. Peter D. Sippel, Glenside, PA: Quaker Heritage Press, Prop. VI.§24.

20 Angell, S. W., ‘Renegade Oxonian: Samuel Fisher’s Importance in Formulating a Quaker Understanding of Scripture’, in Angell and Pink Dandelion (eds), *Early Quakers and Their Theological Thought 1647–1723*, Cambridge: Cambridge University Press 2015, p. 147.

21 See Hilary Hinds, ‘“As the Light appeared, all appeared”: the Quaker culture of conviction’, in Hinds, *George Fox and Early Quaker Culture*, Manchester: Manchester University Press, 2011, pp. 13–32.

22 Robert Barclay, *An Apology for the true Christian divinity* appeared in English in 1678, from the original Latin of 1676. Hugh Pyper reminds us of its expert negotiation through the theological minefield and strategically placed traps of Barclay’s age: ‘Beyond Depravity: good and evil in the thought of William Barclay’, in Scully, J. L. and Dandelion, P. (eds), *Good and Evil: Quaker perspectives*, Aldershot: Ashgate, 2007, pp. 59–69.

Sin is imputed to none, where is no Law.  
 But, to Infants there is no Law;  
 Therefore sin is not imputed to them.

Barclay did not say, though, that others incapable of knowing about or learning the law—that is, idiots—would also not have sin imputed to them. As Frost observed, Quakers tended to be more focussed 'in denying the consequences of others' doctrines than in formulating the status of their own infants'<sup>23</sup>—or of the impaired among them, one might add.

Barclay had used idiocy along with deafness and infancy as pointers to the absurdity of thinking that being without benefit of the Scriptures signalled lack of knowledge of God, or even damnation (*Apology* Prop. III.§4). Good news for the idiot, one might say. In addition, the light of reason in the individual came second to the 'spiritual and divine light', which was 'not a natural faculty of man's mind' (*Apology* Prop. VI.§16), which faculties might be exercised and mastered, unless a person had 'some physical handicap'. Yet Barclay's defence of the possibility of knowing God without the Scriptures, like his championing of grace above academic learning as 'indispensibly necessary' to being a minister, have to be weighed against his presupposition of what he calls 'a natural capacity, that one be not an idiot' (*Apology* Prop. 10.§XV).

### *1.ii As Quakers saw matters, did the intellectually impaired have souls?*

In times past reason and intelligence had been regarded as faculties of the soul and concepts of a reasonable or rational soul had impinged on views about those intellectually impaired.<sup>24</sup> Impairment and ensoulment had been a topic of debate in religious and philosophical circles for some time. Martin Luther's response to the case of a 12-year-old 'changeling'<sup>25</sup> in Dessau in 1532 has become infamous in the fields of disability theology and disability activism, not entirely fairly,<sup>26</sup> and it was commonplace to liken the intellectually impaired person to the animalistic,

23 Frost, J. W., 'Childhood: as the twig is bent', in Frost, *The Quaker Family in Colonial America: a portrait of the Society of Friends*, St Martin's Press: New York, 1973, pp. 64–92, p. 66.

24 See Metzler, *Fools and Idiots?*, especially Ch. 4, pp. 96–138; Gillian Clark, *Body and Gender, Soul and Reason in Late Antiquity* [Variorum series], London: Routledge, 2011, Preface.

25 Changeling: 'Only in the mid seventeenth century did it start referring to some kind of generic intellectual disability', Chris Goodey and Tim Stainton observed: 'Intellectual Disability and the Myth of the Changeling Myth', *Journal of the History of the Behavioral Sciences* 37 (2001), pp. 223–40, p. 235. At this time 'changeling' might still be a synonym for 'fool' also.

26 M. Miles, 'Martin Luther and Childhood Disability in 16th Century Germany: what did he write? What did he say?' (revised and extended version of a 2001 article in *Journal of Religion, Disability and Health* 5 [2005], pp. 5–36), available at <http://www.independentliving.org/docs7/miles2005b.html> (accessed 25.11.2016); Stefan Heuser, 'The Human Condition as Seen from the Cross: Luther and disability', in Brock, Brian and Swinton, John (eds), *Disability in the Christian Tradition: a reader*, Grand Rapids, MI: Eerdmans, 2011, pp. 184–215

the carnal without reason and soul and to one in whose condition the devil had a hand. Conflicting ideas stretched back centuries, many of their salient points captured in Irina Metzler's study *Fools and Idiots? Intellectual disability in the Middle Ages*, which addressed intellectual disability and its relation to ideas of mind, soul and the infantile.

Negative associations persisted in the common mind and in literature, so that by the time of the court case to be discussed belief in the idiot's *lack* of soul could still be found and some in the seventeenth century believed that idiots gained nothing from religion. At the end of the seventeenth century Daniel Defoe was trying to influence public opinion towards the establishment of a 'Fool House' (in his *Essay Upon Projects*, 1697) and was at odds with the prevalent belief in the immutability of idiocy. In his view God might restore the reasoning faculty to such a person and since the idiot was party to the divine plan of salvation, he argued, a chaplain should be part of a Fool House care plan.<sup>27</sup> There were those who would not have agreed. The early modern period has been described as characterised by 'the vigour of over-arching views of idiocy as a state divorced from natural law, and essentially from humankind'.<sup>28</sup> So where might Quakers have stood?

Where souls were concerned, George Fox had once made a pointed riposte to a man who declared that women had no souls, 'no more than a goose'—had not Mary said that her soul magnified the Lord? (Luke 1:46).<sup>29</sup> Fox also wrote that those in slavery had 'souls for you to watch over and to cure'.<sup>30</sup> In 1674 William Penn had taken on what he regarded as misrepresentations of Fox's statements on souls (in *The Counterfeit Christian Detected and the Real Quaker Justified*), but there shedding no light on the matter of idiocy.<sup>31</sup> If Fox or Penn ever made a defence of ensoulment where idiots were concerned, and in contradiction of what some in the populace might have thought, I have not yet discovered it.

Quakers' belief in the inward Light had consequences and transformed concepts of spiritual equality among them. Not just the understanding of women and their roles but understanding of children too were altered. Within the constraints of family hierarchy children were to be regarded seriously. Nevertheless, even in

and Goodey, C. F., *A History of Intelligence and 'Intellectual Disability'*, Abingdon: Routledge, 2016, pp. 255–56, 318–25.

27 Defoe, D., *An Essay Upon Projects*, Menston: Scholar Press [Facsimile], 1969 [1697], pp. 179–91. For discussion of Defoe's stance see McDonagh, P., *Idiocy: a cultural history*, Liverpool: University of Liverpool Press, 2008, pp. 198–202 and see also Goodey, C. F., "'Souls Drowned in a Lump of Flesh": the excluded', in *A History of Intelligence*, pp. 93–100.

28 Andrews, 'Begging the question of idiocy', p. 67.

29 Nickalls, J. L. rev. edn, *The Journal of George Fox*, Cambridge: Cambridge University Press, 1952, p. 9.

30 Fox, G., *To the Ministers, Teachers and Priests ... in Barbadoes*, n.p., 1672, p. 5.

31 Penn, W., the portion 'Concerning the Soul of Man' in *The Counterfeit Christian detected and the Real Quaker Justified*, London s.n., 1674, pp. 68–70.



William Smith's extensive discussion of the measure of Light in all (in *Universal Love* of 1664, London s.n.) and his consideration of social and pastoral obligations within society, he shed no light on the Light in those taken to be idiots, or how they were to be viewed. By the final decades of the seventeenth century, in any case, the face of Quakerism was changing and perceptions of idiocy were shifting, coloured by changes in the religious and intellectual climate. This must be considered next.

### 1.iii *What of Quakers, the New Reason and Idiocy?*

Now its public figures such as William Penn and George Whitehead presented a smoother Quaker persona and one more inclined to reason. 'Beasts act by sense, man should by reason; else he is a greater beast than ever God made', opined William Penn, and 'Reason, like the sun, is common to all and tis for want of examining all by the same light and measure that we are not all of the same mind.'<sup>32</sup> Arguably reason was not common to all in the same measure, however.

According to Goodey and Stainton, 'dissenters were particularly instrumental in delineating the absence of the new reason in "idiots": 'Since they linked reason with the liberty and responsibility of individuals, the few individuals who completely lacked reason in these terms now constituted a genuine category problem.'<sup>33</sup> Was this true of Quakers? Robert Barclay's theology and William Penn's influence had reduced the 'disparagement of reason' among Friends, Cherry believed.<sup>34</sup> In 1690 a philosopher known to William Penn since their student days opened up fresh and influential avenues of debate about reason and about what it was to be human, idiot and changeling. This was John Locke,<sup>35</sup> born in 1632 and raised a Calvinist. In *An Essay Concerning Humane Understanding* (1690) he neatly encapsulated madness as the mismatch of ideas to reality and idiocy (being 'naturals') as the absence of ideas.<sup>36</sup> As many have read him, Locke also perceived madness as human but idiocy as a state less certainly human. He saw some (such as 'the changeling' kind of idiot) as being soul-less,<sup>37</sup> a non-rational type of

32 Penn, W., *Some Fruits of Solitude in Reflections and Maxims Relating to the Conduct of Human Life*, Harvard Classics Vol. 1, Part 3, section 2 [*More Fruits of Solitude*: 'Of the Rule of Judging'], New York: P. F. Collier and Son, 1909, online edn. New York: Bartleby.com, 2001. Maxims numbers 160 and 169 here quoted.

33 Goodey and Stainton, 'Intellectual disability and the myth of the changeling myth', p. 236.

34 Cherry, C. L., 'Enthusiasm and Madness: anti Quakerism in the seventeenth century', *Quaker History* 73 (1984), pp. 1–24, p. 17.

35 Milton, P., 'John Locke, William Penn and the question of Locke's pardon', *Locke Studies* 8 (2008), pp. 125–69.

36 Locke, J., *An Essay Concerning Human Understanding*, The Scholar Press repr. 1970, from the first edn, *An Essay Concerning Humane Understanding*, London for Thomas Basset, 1690, Bk II ch. 11, p. 71.

37 Seventeenth-century discussions include: C. Cusanus, *The Idiot in Four Books, The First and Second of Wisdom, the Third of the Mind ...* (London, for William Leake, 1650); Thomas

being running counter to the human defined as a species. ‘Idiots’ (Chris Goodey summarised, warning of Locke’s lack of a coherent theory and consistency in his writings), ‘by occupying a niche between genuine humans and other animals, are hierarchically ranked below the madness of genuine humans’ and ‘excluded out of the species of man in Locke’s natural history’. Here were soul-less, non-moral beings, not in conformity with the idea of ‘man’ as that which was rational.<sup>38</sup>

At the time of our legal dispute in the 1680s *responsibility*, beloved of dissenters, so Goodey and Stainton maintained, was starting to accompany the Quaker movement into both reason and institutionalisation. Increasingly Friends would be called on to be strenuously self-examining and self-controlled. Individualistic and prophetic behaviour would be discouraged and Quaker dress, morality, parenting and more were under scrutiny within the group. As Quaker behaviour was policed internally, how would the idiot have fared? Would he or she have fallen short of that group’s standards for belonging? If, in an age before membership, such a person had ever been regarded in Quaker circles as ‘one of us’, in terms of spiritual equality, or as one hated by ‘the world’ (and more study of Quakers, believing, belonging and impairment is needed, I think), would the evolution of ‘membership’ now bring something different?

The enhanced rules about settlement adopted in the Yearly Meeting of 1710 involved certificates of removal that would clarify the ‘standing’ of the Quaker with his/her previous meeting. It would be the person’s subsequent participation in the new Monthly Meeting that determined that they were settled. These rules recognised that some would be unable to contribute financially or contribute to business meetings and such people would be regarded as members of their meeting after three years, provided that they behaved themselves ‘according to Truth and not in any ways chargeable’.<sup>39</sup> A hierarchy of ‘class’, financial status and capability emerges in this, but no answer to the question whether someone deemed an idiot on some grounds might simultaneously be deemed a Quaker on others.

Early English assessment of fools had regarded them as nearer to God, not capable of deceit—given their cognitive deficiencies—and so absolved from sin. In the period we are dealing with, though, not only was the educability of the idiot and her capacity for benefiting from religion in doubt, but the idiot’s very humanity

Willis, *Two Discourses Concerning the Soul of Brutes, which is that of the Vital and Sensitive of Man* (London: Dring et al. 1683 from a Latin original [*De Anima Brutorum*] of 1672. John Locke’s *Essay* was an important contribution to discussion around idiocy. See by Goodey, C. F. the following: ‘John Locke’s Idiots in the Natural History of Mind’, *History of Psychiatry* 5 (1994), pp. 215–50; ‘The Psychopolitics of Learning Disability’, in Wright and Digby (eds), *From Idiocy to Mental Deficiency*, pp. 93–117; ‘What is developmental disability? The origin and nature of our conceptual models’, *Journal on Developmental Disabilities/Le journal sur les handicaps du développement* 8 (2001), pp. 1–19.

38 Goodey, ‘The psychopolitics of Learning Disability’, p. 96.

39 Vann, *The Social Development of English Quakerism*, pp. 150–52 considers the issue of Monthly Meetings incentivising those who lacked ‘capacity’ to move elsewhere, out of the particular meeting’s sphere of responsibility.

was in doubt too. If Quakers pre-1700 were apprised of the many debates around idiocy; if, as a group, they shared or disputed the common association of idiocy with impaired religious understanding or lack of it, with unreason, carnality or even soullessness, it is not to the fore in their writings. Perhaps there was no one answer, no single and simple theological response among Friends, given that the appellation 'idiot' would have covered a variety of conditions and impairments in the seventeenth century and that idiocy tended to be an issue for families. Perhaps, too, there was a tendency to avoid discussion of it.

#### *1.iv Beyond Theology: The Idiot and the Law in the Seventeenth Century*

Not a few early Friends were accused of madness, of being lunatic, 'distracted', 'melancholic' and the like, in an age when certain kinds of religiosity were associated with madness or episodes of it.<sup>40</sup> Lunacy and idiocy were differently understood in law, however. Parish, institutional and legal records from the mid seventeenth century onwards were for the most part clear in the distinction:<sup>41</sup> lunacy was regarded as temporary, with periods of lucidity, and might be curable, whereas idiocy was an intractable reality from birth. John Brydall, in his legal compendium of 1700, put matters like this:

Among the English Jurists, idiot is a Term of Law, and taken for one that is wholly deprived of his Reason and Understanding from his Birth; and with us in our common Speech is called a Fool Natural; of whom there has been given a Description by several of our Law-Authors. Master Fitzherbert describes an Idiot thus: He who shall be said to be an Idiot from his Birth, is such a Person, who cannot account or number twenty pence, or cannot tell who is his Father or Mother, or how old he is, &c. So that it may appear that he hath no understanding of Reason, what shall be for his Profit, or what shall be for his Loss.<sup>42</sup>

40 Godlee, F., 'Aspects of Nonconformity: Quakers and the Lunatic fringe', in Bynum, W. F., Porter, R. and Shepherd, M. (eds), *The Anatomy of Madness*, 3 vols, London and New York: Tavistock, 1985, Vol. 2, pp. 73–85. On the discourse of madness in this period see MacDonald, R., *Mystical Bedlam: madness, anxiety and healing in seventeenth century England*, Cambridge: Cambridge University Press, 1981; Porter, R., *Mind-Forg'd Manacles: A history of madness in England from the restoration to the regency*, Cambridge, MA, 1987; Hayes, T., 'Diggers, Ranters and Women Prophets: the Discourse of Madness and the Cartesian *Cogito* in Seventeenth Century England', *Clio* 26 (1996), pp. 29–50; Lawrence, A., 'Quakerism and approaches to mental affliction: a comparative study of George Fox and William Tuke', *Quaker Studies* 15 (2011), pp. 152–226.

41 The standard work on legal (in)capacity would soon be John Brydall's *Non compos mentis: or, the law relating to natural fools, mad-folks, and lunatick persons, inquisitioned, and explained for common benefit*, London: for Isaac Cleave, 1700, which sheds light on the period covered here. See too Anthony Highmore, *A Treatise on the Law of Idiocy and Lunacy*, London: Butterworth and Cooke, 1807. Jonathan Andrews found considerable consistency in distinguishing lunacy from idiocy in parish and other records: 'Identifying and providing for the mentally disabled', in Wright and Digby (eds), *From Idiocy to Mental Deficiency*, p. 68.

42 Brydall, J., *Non Compos Mentis* (1700), p. 6. The reference is to Anthony Fitzherbert's new *Natura Brevium* of 1534.

Idiocy<sup>43</sup> was recognised (rather than ‘diagnosed’ medically) on the basis of behaviour and of the levels of cognition and adaptive functioning displayed by the person being examined. It was established in law through witness evidence and through questioning of the person concerned, with an eye to determining his/her level in common competencies: did he lack ability in reasoning from first principles and in ‘government of himself what is for his profit or disprofit’?<sup>44</sup> Was there basic facility with coinage; an unimpaired awareness of her parents and her whereabouts; an apprehension of God? Legal decisions were often validations of what family and popular opinion said about the individual. Where an estate was involved, however, and the inheritor lacked the reasoning to take care of it, then it was normally family members who were appointed as guardians. This system was easily open to injustice and exploitation, as court cases indicate. Also the Crown under *Praerogativa Regis* had since 1324 had rights of profits of an estate when an heir was pronounced ‘idiot’, a state of affairs from which the Stuart monarchy had benefited. It led some families (and many juries) to try to avoid such a label, with lunacy being a preferable diagnosis. Clause 11 of *Praerogativa Regis* had declared that

The king shall have the custody of lands of natural fools taking the profits of them without waste or destruction and shall find them their necessaries ... And after the death of such idiots he shall render it to the right heirs, so that such idiots shall not alien nor their heirs ... be disinherited.

Occasionally family members might try to protect their own and seek a guardianship role, suspecting that idiocy should be the diagnosis. A well-known case was that of the esteemed physician William Harvey in 1637, who had requested an examination for idiocy, disadvantageous to the family though that might have been. Harvey petitioned the Court of Wards and Liveries to gain custody of his nephew.<sup>45</sup> In the past that Court had been the setting for determining idiocy. Subsequently it became the Court of Chancery’s task.

Since idiots were vulnerable and susceptible to being duped, then, just as with children and the ‘distracted’, they incurred legal disabilities, such as being debarred from transferring property from their estates.<sup>46</sup> An idiot could not readily, within

43 The terminology of impairment has shifted over time, causing difficulties for the commentator: ‘The path from sixteenth-century folly to nineteenth-century idiocy does not follow a straight line; in fact, the path from early modern legal applications of “idiocy” does not follow a straight line to nineteenth-century medical “idiocy” either, even though the terms are the same’: McDonagh, *Idiocy: a cultural history*, p. 17.

44 *An Exposition of Certain Difficult and Obscure Words and Termes of the Lawes of this Realme* (London: printed for the Company of Stationers, 1615 edn), fol. 117v. John Rastell’s French original of this dictionary, *Expositiones terminorum legum Anglorum*, was published c. 1527 and went through many editions under its altered name, up to 1819.

45 Neugebauer, R., ‘A doctor’s dilemma: the case of William Harvey’s mentally retarded nephew’, *Psychological Medicine* 19 (1989), pp. 569–72.

46 On the legal disabilities incurred by idiots in times past see Anthony Highmore,

the law, participate in the world of business, estate management or the affairs of the parish. The original Greek term had presupposed just that: that here was one distanced from public affairs, reduced to the private and the individualistic. The idiot was impoverished in ontological status and dishonoured, lacking legal and social rights<sup>47</sup> and cultural capital.<sup>48</sup> Fools were 'useless to the Commonwealth', Daniel Defoe conceded in the *Essay on Projects*, but 'they are only so by God's direct Providence and no previous fault'.

### Question 2.

#### How did Cognitive Impairment, Quakers and the Legal Dispute Intersect?

The documentation for the dispute (for the years 1680 onwards) does not include any findings in respect of the person's idiocy or the disputed inheritance in the case, so we do not know its outcome. The Quaker family involved in it was that of William and Mary Erbury (Erbery/Erberie) of Roath, Cardiff, a family which also had links with the parish of Merthyr Tudful. I had previously made some study of William Erbury and his widow and daughters, and I knew that from the mid 1650s Mary Erbury (then widowed) and her daughters Dorcas and Lydia had been activists among Quakers. At the same time I had been curious about the fact that a third sibling, William Erbury's heir Mordecay Erbury (an older son, Nehemiah, had died) seemed to be absent from Quaker records.<sup>49</sup> Then in 2011 a scholarly article by Lloyd Bowen of Cardiff University on the Erbury family ('The seeds and fruits of revolution') examined a case of disputed inheritance which centred on that very person and his possible idiocy. It is that case which follows.

Mordecay's father William Erbury<sup>50</sup> had never been a Quaker, but he had

*Treatise*, pp. 110–91. They were debarred from marriage (though cases attest to the fact that some at least were married), the giving of testimony and the making of wills, as well as decisions regarding estates.

47 On impoverished ontological status and the assumed ineducability of the idiot see Andrews, 'Begging the question of idiocy'.

48 In Goodey, *A History of Intelligence*, see 'Honour, Grace and Intelligence: The Historical Interplay', pp. 77–92 and "'Dead in the Very Midst of Life": the dishonourable and the idiotic', pp. 125–47.

49 In the documentation for this case the names are mostly (but not wholly consistently) spelt as Mordecay (but also Mordecai and Mordechai) and Lidiah, with Erbury as the surname spelling most often found in the Chancery documents. Lydia is the spelling more common in the Quaker records about her, however, and I have used that. Mordecay is retained but in some quotations Mordecai appears.

50 Trevett, C., 'William Erbery and his daughter Dorcas: dissenter and resurrected radical', *Journal of Welsh Religious History* 4 (1996), pp. 36–52; Roberts, S. K., 'Erbery (Erbury), William (1604/1605–1654), clergyman', *ODB* (Oxford: Oxford University Press, 2004), *in loc.*; Bowen, L., 'The seeds and fruits of revolution: the Erbery family and religious radicalism

been a much-published clergyman and dissenter who was ejected from St Mary's, Cardiff in 1638. William Erbury, 'father of the Seekers', was among the bogeymen described in Thomas Edwardes' 1646 *Gangraena*, a work cataloguing the ideas and exploits of those perceived to be troublesome to the country in religious and political terms.<sup>51</sup> Retrospectively R. A. Farmer, in *Satan Inthron'd in his Chair of Pestilence, or, Quakerism in its Exaltation* (London, for Edward Thomas, 1657), described Erbury as 'once a minister' but thereafter 'forerunner and preparer of the way of these deceivers'—that is, Quakers. Quaker writers acknowledged him as a forefather, William Penn among them, recalling Erbury's writings and influence favourably.<sup>52</sup> William Erbury, though, died a few months before the first apostles of Quakerism arrived in South Wales in 1654. It was his family which embraced Quakerism, and quickly.

### 2.i Who were the Protagonists?

Mordecay Erbury had inherited the estate of his father William Erbury (d. 1654) and it was Mordecay's own death and that of his daughter Mary that had led to the legal dispute over what should now happen to it. His mother Mary, William Erbury's widow, and Mordecay's sisters Dorcas and Lydia are well documented as Quakers and around Cardiff and in Merthyr Tudful parish the first converts to the Quaker fold probably came from the independent congregation William Erbury had attracted and also from his longstanding family contacts through business and religiously radical sympathisers in the Merthyr region. Mary and Dorcas were being imprisoned as activists by 1655 and in 1656 both were associates of James Nayler. Indeed, Dorcas was part of the infamous entry into Bristol and claimed that Nayler had raised her from the dead.<sup>53</sup> Dorcas was dead by the time of the legal dispute but her children Lydia, Dorcas and Sarah Cooke (by the London cutler and Quaker Henry Cooke<sup>54</sup>) figure in the Court of Chancery case in the early 1680s.

in seventeenth century Glamorgan', *The Welsh History Review* 253 (2011), pp. 346–73. John I. Morgans has defended Erbury as an intellectual and moral giant in *The Honest Heretique: the life and work of William Erbery (1604–1654)*, Talybont: Y Lolfa, 2012. Some in his day labelled Erbury mad, and 'unbalanced' has been used by the occasional scholar since. On the discourse of madness in the civil war period and Erbury accessing the holy fool tradition see Sawday, J., 'Mysteriously divided: Civil War, madness and the divided self', in Healy, T. and Sawday, J. (eds), *Literature and the English Civil War*, Cambridge: Cambridge University Press, 1990, pp. 127–46.

51 Thomas Edwards, *Gangraena or a Catalogue ... of the Errors, Heresies of the Sectaries of this Time*, in three parts, London: for Ralph Smith, 1646.

52 Charles R. Simpson, 'William Erbury: a forerunner of Quakerism', *Friends' Quarterly Examiner* 54 n. 213 (1920), pp. 21–31.

53 Trevett, C., 'The women around James Nayler, Quaker: a matter of emphasis', *Religion* 20 (1990), pp. 249–73; 'William Erbery and his daughter Dorcas' (both also in Trevett, *Quaker Women Prophets in England and Wales 1650–1700*, Lampeter: Mellen, 2000).

54 The Cookes lived in St Giles Cripplegate in London. Bowen, 'The seeds and fruits',

Mordecay's other sister Lydia lived and was active as a Quaker in the West Indies in the 1660s and 1670s. She had published one item.<sup>55</sup> Lydia had married Henry Fell, a close associate of judge Thomas Fell and Margaret his wife. He had lived at Swarthmoor Hall and possibly had been the judge's legal clerk. It is not known whether Henry was a relative—Fell was a common name in the north. Henry had travelled a good deal in the Quaker cause and in 1656 he first set sail for Barbados, where almost the majority of the population was in slavery.<sup>56</sup> Henry Fell settled in Bridgetown and pursued his business interests. He was not an astute or successful businessman, but for the student of early Quakerism his letters to Swarthmoor Hall and elsewhere are a valuable source of information: 'The most prolific writer in the New World was Henry Fell.'<sup>57</sup>

There can be no doubt, then, that Mary Erbury and her daughters Dorcas and Lydia were Quakers. It is Dorcas's children and Lydia Erbury Fell, with her husband Henry, who represent the Erbury family in the Court of Chancery case. Yet nothing I found in Quaker sources indicated that Mordecay too had been an activist or even a Quaker at all.<sup>58</sup> Mordecay had figured only in a low-key way in his mother Mary's will, but without any suggestion that he was radically estranged from the family. His name appears listed at the close of that will, as also that of Margaret Morgan his mother's cousin, but none had signed personally. The task of 'sole executrix' had been given to Lydia, who was in Barbados at the time, and Margaret Morgan was given a role in seeing the will performed.<sup>59</sup>

This Erbury family was not notable South Wales gentry, but it had not been poor. Since the early seventeenth century Mordecay's grandfather Thomas Erbury (b. 1580), an Englishman, had had interests in iron smelting, wool and cloth

p. 366 n. 92 cites TNA C54.4594.3 on his place of residence. I have not seen this source. A Henry Cooke was among those who had petitioned the Rump parliament of 1659 for the release of incarcerated Quakers.

55 Lydia Fell, *A Testimony and Warning given forth in the Love of Truth, and is for the Governour, Magistrates, and people inhabiting on the Island of Barbadoes ...* c. 1675–6? n.p., n.d.

56 Angell, S., 'Early Quaker women and the testimony of the family 1652–1767', in Tarter, M. L. and Gill, C. (eds), *New Critical Studies on Early Quaker Women 1650–1800*, Oxford: Oxford University Press, forthcoming 2017.

57 Ames, M., *Margaret Fell, Letters, and the Making of Quakerism*, London: Routledge, 2017, p. 50.

58 Mordecay, Dorcas and Lydia would have been children before the public advent of Quakerism and the curriculum of a distinctively Quaker childhood. O'Donnell, E. A., 'Quakers and Education', in Angell, S. and Dandelion, P. (eds), *The Oxford Handbook of Quaker Studies*, Oxford: Oxford University Press, 2013, pp. 404–19, p. 414; Dudaak, J. and Redieha, L., 'Quakers, Philosophy, and Truth' in the same volume, pp. 506–19, pp. 516–17; Frost, W., 'Childhood: As the Twig is Bent', in *The Quaker Family in Colonial America: a portrait of the Society of Friends*, St Martin's Press: New York, 1973, pp. 64–92 and Stephen W. Angell and Elizabeth Bouldin respectively in 'Early Quaker Women and the testimony of the family' and "'The days of thy youth": Eighteenth century Quaker women and the socialisation of children', in Tarter and Gill (eds), *New Critical Studies*, forthcoming 2017.

59 Will of Mary Elbury (sic), NLW LL 1669–27.

in Merthyr parish. He had leased several farms there and was styled variously ‘gentleman’, ‘ironmaster’ and ‘English merchant’. Erbury property in that parish, in St John’s Cardiff and in Roath had then passed to William, Mordecaj’s father. In the troubled 1640s, as the first of Wales’s ‘plundered ministers’, William Erbury had seen his Cardiff property plundered by Royalists and Cromwell’s troops may have had an adverse effect on the family’s furnaces as they passed through the parish of Merthyr.<sup>60</sup> The family fortune would have been diminished.

So the estate of Mordecaj Erbury, our subject, was ‘situate lying and being in the several parishes of merthyr tydvile, Roath, [and] St Johns in Cardiff in the county of Glamorgan’ (TNA C6.413.33 01—an appended scrap on Mordecaj Erbury attached to that page). By 1668 at the latest Mordecaj himself was living in Merthyr Tudful parish, as freeholder of Tir Cefn y Fforest<sup>61</sup> in the hamlet of Fforest Nest. Mary Erbury’s will confirms that her son Mordecaj did live there: ‘I give to my son Mordecaj all my timber stuff ... in the house that he now liveth in Myrthir.’ There were a number of Quakers as freeholders and tenants in the region, some from families that had suffered for their Quakerism in the 1650s and late 1660s.<sup>62</sup> The area is in the vicinity of what became the village of Quakers Yard, named from the burial ground, the origins of which date to 1667.<sup>63</sup>

The fate of Tir Cefn y Fforest, where he lived, and of other Erbury lands and properties stood in the balance after the deaths of Mordecaj and his daughter Mary, however, and the Quakers in the case, namely Henry and Lydia Fell, Henry Cooke

60 Bowen, L., ‘Thomas Erbury: an early seventeenth century iron master’, *Llafur* 10/3 (2010), pp. 8–17; *idem.*, ‘The seeds and fruits of revolution’; James, B. Ll., ‘The evolution of a radical: the life and career of William Erbery (1604–54)’, *Journal of Welsh Ecclesiastical History* 3 (1986), pp. 31–48.

61 In 1668 Mordecaj Erbury was freeholder of both Tir Cefn y Fforest and the adjacent Tir Cook, as it came to be known. Tir Cefn y Fforest had been acquired in July 1653 by Mordecaj’s grandfather Thomas Erbury and according to the hearth tax lists of 1670 and 1672 there were three hearths there and two at Tir Cook. Some history of Erbury dealings in relation to this estate is found in TNA C6. 413.33. See too John Griffiths, *Historical Farms of Merthyr Tudful* (2016) *in loc.* on Cefn y Fforest and Tir Cook. (This 2016 source is a CD updated version of *Rough Sketch Maps of the Farms of Merthyr Tydfil* 2010—available, as formerly, in Merthyr Tudful Reference Library and the National Library of Wales [NLW].)

62 Mordecaj’s mother’s friend Mary Chapman had held the freehold of Pantannas, most southerly of the estates in Fforest Nest hamlet; Lewis Peck (Beck/Beake) had been at Cefn y Cnwc; David William Watkin at Nant y Maen; John Harry Thomas at Hafodtanglwys Isaf; Jenkin Thomas at Hendregron and Penrhiw’ronnen, Harry Thomas Griffith at Nant y Maen (or possibly Harry Thomas at Penyddaugae), to name just some. *Names in Wales* at this period pose problems for the historian and the authors of the two most useful, and unpublished, works for locating farms and Quakers in the region do not always agree: see Davies, T. V. *The Farms and Farmers of Senghenydd Supra Prior to the Industrial Revolution* (Part 1, Merthyr Parish), c. 1991 (available NLW and Dowlais library Merthyr Tudful); Griffiths, *Historical Farms of Merthyr Tudful*.

63 Cefn Fforest farm (its current local name) stands above the former coal mining town of Treharris and a long and very steep climb from the Quaker burial ground in the village of Quakers Yard on the valley bottom.



and the deceased Dorcas's children, were trying to ensure that they remained in Erbury family hands. In this they stood opposed to members of the gentry family of the Morgans, a leading member of which was Thomas Morgan Esq. of Llanrymney near Cardiff, High Sheriff of Glamorgan when the case was ongoing.

The Morgans were not Quakers. Had they been, it is unlikely that such a dispute between Friends would have led to the Court of Chancery. Quakers, being unwilling to swear oaths, did not lightly get involved in disputes. Nevertheless, Quakers 'were careful to show respect for property rights', as Rosemary Moore observed.<sup>64</sup> They were no less pursuant of their rights than were others of their time, in a period when litigation was flourishing.<sup>65</sup>

Tir Cefn y Fforest, where Mordecay Erbury had lived, lay adjacent to a larger estate known as Pencraigtaf. This was one of the properties in the freehold of William Morgan of Coed y Gorres (variously spelt)<sup>66</sup> in Llanedeyrn, near Cardiff. The alleged marriage of this William Morgan's second son Thomas to Mordecay Erbury's daughter, and its aftermath, was at the core of the legal dispute. William Morgan and that son Thomas Morgan, an infant in law, were now pursuing the matter.

Mordecay was said to have made an arrangement in 1670 that would pass his estate through his heirs, and then to have settled his estate on his daughter Mary prior to her marriage in 1678. If proven and shown to be legal, his earlier conveyance would have overridden the settlement of the Erbury properties on Mordecay's father William, made on his marriage in 1631 (see TNA C6.413.33 01; also TNA C10.211.55). It was the latter to which the Fells and Cookes were looking to retain the Erbury inheritance and to counter what they claimed to have been the seizure of land by the Morgans. Who had the documentation? Who should hold the deeds (TNA C6.413.33.01)? The lawyers were active between 1680 and 1682 (TNA C33.255.540; TNA C33.257.103; TNA C33.257.819 and 822).

The Morgans were also accused of pressurising tenants with 'threats and undue practices' to withhold their rents from the Erbury side and deceitfully having schemed to secure the inheritance.

## 2.ii How did the Legal Dispute Unfold?

As the story unfolded it showed that Mordecay Erbury had married one Mary Rees, daughter of Thomas and Elizabeth Rees ('alias Lewis'). The marriage had

64 Rosemary Moore, *The Light in their Consciences: the early Quakers in Britain, 1646–1666*, Pennsylvania State University Press, 2000, p. 118.

65 Bonfield, L., *Devising, Dying and Dispute: probate litigation in early modern England*, London: Routledge, 2016; see too his *Marriage Settlements 1601–1740. The Adoption of the Strict Settlement*, Cambridge: Cambridge University Press, 1983.

66 The 5th Interrogatory in TNA C22.899.14 concerned William Morgan's purchase of Pencraigtaf, the adjacent Twyn y Garreg and other local land. See too TNA C10 211.55 on Pencraigtaf.

happened in the 1660s and they had had a daughter, also called Mary. That would have been around 1670. In 1678 Mordecai, then a widower, was said to have been party to the marriage of that daughter Mary, who was around seven or eight years old, with Thomas Morgan, a boy variously described as nine or 12 or 14 years old. Late in 1678, it was claimed, Mordecai had made settlement of 'a great part of his estate' (TNA C10.211.55: evidence of the Cooke family) on his daughter Mary. The actions would have deprived him of a livelihood, his family argued. Events had moved fast, though, and in 1679, about a year after the marriage, Mordecai Erbury, termed 'gentleman' (TNA C10.211.55), had died. 'About a month' later so had his daughter Mary (TNA C22.899.14).

In September 1679 the proceedings at Caerphilly for the Courts Baron of the Lordship of Senghenydd recorded a due outstanding to the lord of the manor under the name of Mordecai Elbury (sic):<sup>67</sup> 'Mary his daughter was the right heir', it reads, 'who also died since his decease. And who is the right heir ... they know not.'<sup>68</sup> So the rights to the Erbury family's inheritance now hung on whether or not the child Mary's marriage and alleged legal transactions involving Mordecai Erbury had been valid.<sup>69</sup>

His sister and nieces were maintaining that Mordecai had been an idiot or a 'natural (fool)' and that the Morgan family had been conspiring against a vulnerable person, to purloin the family inheritance from somebody who was 'very weak of understanding'.<sup>70</sup> There followed accusations, interrogations and counterclaims (TNA C33.257.819) in respect of said agreements, ownership and entitlement to rents, provision of documentation, Mordecai's capabilities and more. Evidently the first attempt by the Morgans to secure the properties had not worked, for on 24 May 1682 Thomas Morgan (the young bridegroom), legally a minor, counterclaimed to gain possession of the Erbury properties (TNA C10.211.55), and this move had not been at his father's behest.<sup>71</sup> When Lydia Fell,

67 Elbury is also the name on the will of Mary Erbury (NLW LL 1669–27) as catalogued by NLW. The Courts Baron record is an error rather than as with NLW a modern misreading of a seventeenth-century hand.

68 *Senghenith Courts Baron Nov 1674*—for September 1679. NLW Bute M17/197.

69 The estate included the Merthyr Tudful, Roath and St John's property: TNA C6.413.33 01.

70 TNA C6.413.33 records Henry Fell, gentleman of Cardiff and his wife Lydia as plaintiffs, as also the minors in law Lydia, Dorcas and Sarah Cooke, in a Chancery suit against Thomas Morgan Esq. of Llanrumney in December 1680. See too TNA C22.899.14; TNA C6.454.9; TNA C6.211.55.

71 Adjoining Tir Cefn y Fforest were Tir Cook and Tir Tappa. Deeds of the latter for 1684 (in Glamorgan Record Office), GRO D/D xq e 27/14 said of its boundaries that: 'the lands late of Mordecai Erbery deceased and his heirs in the tenure of Elizabeth Lewis on the south part, the lands late of the said Mordecai Erbery and his heirs in the tenure of William Thomas and David Phillip on the West part' (i.e. Tir Cook). It is interesting that in 1684 'the late Mordecai Erbury' was still being recorded as freeholder of these lands. The matter of the estate, it would seem, was still not settled.

now a widow, answered the bill of complaint of Thomas Morgan she stated her belief that:

The said marriage was a contrivance of the said William Morgan [his father] on purpose to get the estate of Mordecai Erbury's father ... to defraud and disinherit this defendant and the other defendants, the Cookes ... and this defendant doth not know or believe that Mordecai Erbury either before or after the marriage did enter into any articles or make any such agreement as in the bill is pretended... but if any such articles or bonds there were, the same were, as this defendant verily believes, fraudulently had and obtained from the said Mordecai he being very weak in his judgement and understanding and easy to be wrought upon and prevailed with. (TNA C10.211.55.09)

The Cookes had been informed that the child Mary Erbury had been living with Elizabeth Rees (Lewis), her grandmother, when she had been 'prevailed upon and persuaded' by William Morgan to go to see Cardiff Fair. Afterwards, 'on pretence of showing her the fair', she was married to his second son Thomas, 'then about the age of 12 years' (TNA C22.899.14.02 Interrogatory 3; see too TNA C10.211.55.10). It would be some years before Mary reached the age of 12, when she would herself have been called on to state her consent to the arrangement.<sup>72</sup>

It would not have been unusual in the seventeenth century for the father of a seven-year-old daughter to have people on the lookout for a suitable future husband for her, but this marriage had not been 'by and with the consent and approbation of the friends and relations on both sides', the Quaker family affirmed. It was:

without the consent or knowledge of the said Elizabeth Rees [the young Mary Erbury's grandmother] ... or of other of the friends and relations of the said Mary except her said father as these defendants have likewise been informed ... though the said Mary had very many relations and kindred who lived very near to the said William Morgan at whose house the said marriage was had. (TNA C22.899)

Not just that, but the girl had been subsequently 'dead under age of consenting' (TNA C6.454.902.01).

As for the other alleged agreements and conveyances Mordecai had made with William Morgan, pre or post this happening, if they were made (and documentation was needed) then whatever had been sealed had been done 'fraudulently, unjustly and by undue and unlawful means', according to the Cooke family. The proof was certainly not 'among the writings of the said Mordecai which by order of this court were brought into court by the said William Morgan', that same Morgan who had seized on 'all his personal estate and took away all his writings'

<sup>72</sup> The minimum legal age for marriage with parental consent was 12 years for women and 14 years for men but the couple might be formally engaged at the age of seven and at the age of 12, when there was right for the girl to express consent, the arrangement might be curtailed. In reality there were marriages at a younger age. A child wife might receive dower from her husband's estate at nine years old.

after Mordecai died (a claim found in TNA C10.211.55 also). Documentation (so TNA C6.413.33.01 showed) had also been in the custody of Thomas Morgan Snr, of Llanrymney. Had Mordecai's mother-in-law also conspired in a deceit around the transfer of land (TNA C10.211.55.10)?

### 2.iii *What did the Witnesses Say?*

Much of the National Archives material concerns deponents' evidence about the events and about Mordecai himself. His family presented him as 'very weak' in terms of judgment and understanding, and easy to prevail upon; incapable of making any bargain; ignorant in contracts, conveyances and deeds; and not able to write or 'read written hand'. The 'unequal and disadvantageous' nature of some of the supposed arrangements was obvious, they said, 'even by the complainants' own showing.' Mordecai would have reduced himself to a tenant (TNA C10.211.55.10).

Were he an idiot he should surely not have been engaging in such matters of estates, but Mordecai was not alive to be tested on his competencies or to argue for himself. Witnesses' responses to a list of questions would have to suffice.

The documentation covered land ownership, the chronology of events and who had witnessed them, as well as the following queries, which notably contained the key words 'weak', 'natural fool', 'idiot' and 'simple':

- 'Was the said Mordecai Erbury in his lifetime weake in his judgement or understanding so as not to know or distinguish one piece of money from another ... ?'
- 'Did you observe his weakness that he could not write or read written hand ... ?'
- 'Was he easy to be wrought upon?' 'Do you know, believe or have you heard what capacity and undstanding the said Mordecai was of ... was he fit and capable of making bargains and contracting ... as another intelligent countryman or did you apprehend him to be a natural fool or idiot?'
- 'Were you often drinking in company of the said Mordecai ... if so how did you find him ... simple or wary ... ?' (all in TNA C22.899.14)

For the Morgan family it was claimed that Mordecai could indeed distinguish money<sup>73</sup> like an ordinary person, that he dealt with his rents, 'was wary and circumspect in his bargains as another intelligent country man might be'. The witness Treharne David, yeoman, had no reason to regard Mordecai as 'a natural fool or an idiot'.<sup>74</sup> Anne David, spinster, said he dealt with accounts 'pretty well',

<sup>73</sup> Daniell Lewis of Merthyr told of Mordecai correctly recognising a coin as valid tender when it was being questioned by others (TNA C22.899.14).

<sup>74</sup> I thought at first that Treharne David, who knew Mordecai, might be that Quaker who was known to belong to the Quaker meeting of John Bevan of Treverrig, pre 1683, as listed in Glenn, T. A., *Early Meetings of the People Called Quakers in North Wales, Monmouthshire and Glamorganshire*, NLW MS 1920, pp. 131–32. Much more probably, and more local to

distinguished and disbursed money and could 'manage and act in his own affairs' as circumspectly as an 'ordinary intelligent countryman'. John Jacob of Gelligaer had lent him money and had been repaid by him 'very exactly', for 'Mordecai was a very just and honest man in his dealing and bargains' (TNA C22.899.14.07).

As for the child Mary Erbury being 'inveigled away' to a 'pretended marriage' (TNA C22.899.14), Mordecai had been present, an unnamed deponent affirmed, and he had given Mary in marriage to Thomas. Some others had seen it, as had the 'minister in orders' who had conducted the proceedings. Rowland Gibbon of Lisvane, yeoman, offered greater detail: three days before the marriage he and William Morgan had travelled to the house of Elizabeth Rees. Mordecai facilitated the child's journey from her grandmother's house to the house of William Morgan ('he set his daughter on horseback wishing her good luck') and the party had stopped at Gibbon's house. There Mordecai and William Morgan supplied 'a note under both their hands' for Gibbon to go to the consistory court of the diocese of Llandaff for a licence. The deputy registrar supplied it to Gibbon and the couple were married the next day by Thomas Griffith, a minister licensed by the Church of England. Others confirmed the marriage and that Mary 'did very readily express and declare her consent ... and was very kind and loving in her behaviour and expression' (TNA C22.899.14).

Thomas Lewis claimed to have seen key documentation about settlements on the young couple by William Morgan and little Mary's grandmother. All had been explained to Mordecai, 'audibly read', and 'other parties' had had the substance declared to them in Welsh. Mordecai was satisfied and would not be dissuaded from setting seal to the arrangement, he said. He and others had seen it. The date had been 12 September 1678. As for Mordecai, Lewis said he 'could tell and well distinguish money ... and would keep his reckonings well in his memory and would recollect them though transacted a twelvemonth before'. He had seen him receiving his rents (TNA C22.899.14). The reference to memory might indicate at least that Mordecai had no strength in *written* accounting, but, like others in this case, Thomas Lewis affirmed that he had no reason to consider him a natural fool or idiot. This, then, was one side of the description of Mordecai Erbury's cognitive ability.

By contrast, witnesses for Mordecai's family, 'produced, sworn and organised on the part and behalf of Lydia Fell, widow ...', offered a different version of Mordecai's abilities. They included Priscilla Morgan of Llandaff (TNA C22.899.14.03). 'Having buried his first wife', Mordecai had courted her and wanted to marry. She had asked him what would happen if they had a son, given that his estate in lands was settled on his daughter Mary. He would marry the son with his daughter, he had allegedly declared. In a tavern Priscilla Morgan had

Mordecai, was another Treharne David of Merthyr parish, who was fined on 25 April 1681 in the monthly Baron Court proceedings in Caerphilly 'for selling Ale and Beere less than measure contrary to the fform of the statute'.

seen that he couldn't distinguish a shilling from a silver sixpence: he was 'a very weak man in his judgement and understanding'.

Gwenllian, wife of Edward David of Llanfabon parish, was not sworn (TNA C22.899.14).<sup>75</sup> She knew of weakness in Mordecay's bargaining and dealing with property. Mary Edward of Merthyr (sworn, TNA C22.899.14) had witnessed his 'simplicity' and gullibility when he had lived in her house for more than nine months. He 'seldom used to make any bargains himself', she said, conscious as he was of his weakness in that respect. He had noticed no difference, for example, when his wife gave him half a pound rather than a pound of tobacco and people laughed at his poor bargaining and livestock purchases. They 'pitied his condition being he did not understand'. She told of William Morgan's intercession on one occasion, paying 40 shillings to that same henchman Rowland Gibbon to take back some 20 sheep Mordecay had purchased from him (TNA C22.899.14.06).

Mordecay's state of mind after the event was also in the frame, for he was reported to have grown remorseful: 'greatly dissatisfied and troubled at the marriage, often declaring that neither the said William Morgan nor the complainant [Thomas Morgan] should enjoy any part of his estate (TNA C10.211.55.10, evidence of Lydia Fell, 1682-3)'. In answer to a question (TNA C22 899.14.02) Mary Edward of Merthyr concurred that Mordecay had repented of marrying his daughter too young and had said that he would not settle his estate on the bridegroom Thomas (TNA C22 899.14.06). He was even said to have absconded rather than surrender his estate (TNA C22.899.14.04), and had taken to avoiding his daughter too, once taking refuge in a cowhouse when she 'and some company that was with her' arrived, according to Mary Jenkin of Merthyr. It had been her father's cowhouse. Her father had told her that Mordecay 'did repent he had bestowed his daughter too young' (TNA C22.899.14.04. See too C22.899.14.05 Item 5).

Such evidence about Mordecay's cognitive ability, judgment and response was of course at odds with that from the Morgan side. The dispute had been seemingly intractable. The Quaker Fells and Cookes would not be moved, however: Lydia Fell 'doth acknowledge she hath refused to execute the articles ...' (TNA C10.211.55.09) and the defendants 'do acknowledge they have refused to execute the articles or permit the plaintiffs to receive the rents of the estate' (TNA C10.211.55.10, see too TNA C10.211.06, May 1682). The Erbury family's hope lay in Mordecay's idiocy being acknowledged.

75 Being recorded as not sworn may indicate Quaker antipathy to oath taking but the documentation is not entirely consistent in recording when those giving out-of-court written evidence had been sworn.

### Question 3: Was Mordecay Erbury an Idiot?

In some respects Mordecay would have been unlike many 'naturals' of the time. He was said not to understand contracts, but a 'natural' or idiot would normally be assumed to lack capacity for contracting something as irrevocable as marriage. The ability to marry and father offspring was regarded by some as evidence against idiocy, and Mordecay Erbury had been both husband and father. There is no indication that his family had arranged the marriage, as sometimes happened where a person was impaired.<sup>76</sup>

His inability to read and write 'written hand' need not indicate that Mordecay could not read at all. Printed material offered greater consistency of form over manuscript, yet in any case illiteracy was not proof of idiocy (otherwise there would have been a glut of such idiots), no more was literacy proof against it. The functionality of one's literacy was what counted.<sup>77</sup> In fact, even on the evidence of those arguing for his idiocy it would seem that Mordecay was capable of functioning so as not to be a major burden on his blood family or the parish or Quakers who knew him. He was not uncommunicative; he had agency in that he conveyed his feelings to others, determined (if not wisely) what was in his interest and went about getting it (such as paying court to a potential second wife). Even if infrequently, and knowing that he was weak in this respect (TNA C22.899.14), Mordecay Erbury did make transactions ('bargains').

We do not know the outcome of this case. Nevertheless, one element in the deponents' evidence (bolstered hazardously by absence of evidence) may possibly point to public recognition that Mordecay Erbury was 'different'. A deponent called William Herbert of 'Fryors' in Glamorgan county (TNA C22.899.14.03)<sup>78</sup> was steward for a court leet in the Lordship of Senghenydd when Mordecay (hitherto unknown to him) appeared to do jury service, being a tenant within that Lordship so 'bound to appear at leet courts and law days held for the Lord of the said manor', Herbert reported on the Fells' and Cookes' behalf. He had been approached as steward, however, and warned that Mordecay was 'an unfit man' for any jury in the court and was excused the service. I have not found

76 In the 1747 Scottish case of Hugh Blair of Borgue his mother had contrived to get him married. His younger brother alleged that Hugh was 'a natural fool' whose marriage should be annulled. The case has been studied extensively in Rab Houston and Uta Frith, *Autism in History: the case of Hugh Blair of Borgue*, Oxford: Blackwell, 2000, pp. 28–47.

77 Hugh Blair could write neatly and could read both printed and handwritten material, but it was not a usable skill. He merely copied passages of writing, as he did even with the questions he was presented with, rather than answering them. He could not compose independently, so he could not answer in writing: Houston and Frith, *Autism and History*, pp. 60–62. Unlike in the case of Hugh Blair, whose own responses were preserved, Mordecay Erbury was being discussed after his death.

78 The Herbert family of 'Cardiff Friars' appears in Cardiff parish registers into the mid eighteenth century.

Mordecay's name in local records of public service, just as I have not found it in Quaker sources.

Yet Mordecay was out and about in the world and found in social situations—in ale houses and receiving rents from his tenants—and no one suggested, as happened sometimes in cases to establish idiocy, that Mordecay Erbury looked different or dressed abnormally or in a manner dishonourable to a gentleman. He seems to have been independent, so that, if the Fell and Cooke families were to be believed, they had no control over his affairs (TNA C10.211.55) and had been ignorant of agreements and a marriage being made, as also of what personal estate Mordecay might have had at his death (though in Lydia Fell's view, rather than being non-existent, such estate would have been seized by William Morgan: TNA C10.211.55.10).

On a scale of 'natural' foolishness or idiocy (terms, we must remember, that would have covered a range of conditions we are familiar with today) Mordecay would have been far from the lowest functioning. Yet if his Quaker family had long considered him an idiot it is hard to escape the conclusion that they should have paid closer attention to what he might do, or fail to do, when he inherited. Should they not have made appropriate provision for oversight, or even for a legal hearing on the matter?

Perhaps his impairments had seemed such that, with a modest income from his estates, care from a wife and the support of household and farm servants Mordecay would be able to survive in his rural backwater. At the time of the marriage arrangement his daughter had been living with her grandmother, his mother in law, so he wasn't burdened unduly with childcare. Perhaps Mordecay resented and rejected any suggestion of oversight, which would account for the family's lack of knowledge of his affairs. Perhaps, too, family members in the past had been too preoccupied with their dissenting and Quaker activities to pay much attention to such a son. The documents do not tell us. But evidently Mordecay Erbury had over time been drawn into, or freely had become part of, the circle around the Morgan family, a family which held the freehold on estates adjoining his own, in the parish of Merthyr.

#### Question 4.

#### Was Mordecay Erbury a Quaker?

The Chancery documentation refers neither to Quakers nor to religious belief, excepting reference to a marriage before a minister. Neither the Court of Wards nor other Chancery cases show total consistency in discussion of, and tests for, idiocy but assessors not infrequently would ask both the individual and the witnesses about that individual's understanding of religion: whether there was any apprehension of God or if the person knew the meaning of the communion service, for example. In this case Mordecay was no longer alive to be asked and others were not posed such questions by either side in the case,



as far as we know.<sup>79</sup> The 'interrogatories' pinpointed matters of properties and rents, the marriage and Mordecai's ability to function in his business life. The Quakerism, or otherwise, of the Fells and Cookes and of the man himself seems to have been of no account.

But was Mordecai Erbury a Quaker? He had grown up and had died (in 1679) at a time when there was no definition of membership among Friends, but he had married when a distinctive form of Quaker marriage practice already existed and seemingly not according to that practice. From the 1660s to the 1680s Friends increasingly were being counselled to endogamous marriage and to eschew marriage for gain: 'Look not at the sons or daughters of strangers, lest you become one with them', William Smith had written in 1664.<sup>80</sup> Whether Mordecai's wife Mary (Rees) had had any association with Quakerism of her own volition is not known.

The Morgan family was not Quaker, but the case suggested that Mordecai had allowed, perhaps actively encouraged, his only child to marry into that family, 'attending to the laws of the holy church' (TNA C10.211.55). Furthermore, as a widower he had courted Priscilla Morgan, spinster of Llandaff, a woman who was sworn before giving evidence, which suggests that she was not a Quaker. Endogamous marriage was evidently not high among Mordecai's priorities, but even in the 1670s marriage to a non-Quaker, though disapproved of, would not necessarily have meant estrangement from Friends.

The fact that he appeared for jury service does not clarify whether he was a Quaker or not. Evidence from England indicates that sectaries were often found on manorial juries at this time.<sup>81</sup>

Mordecai frequented ale-houses and smoked tobacco, but that did not necessarily put him beyond the pale with Friends. There were Quaker ale-house keepers, and his brother in law, Henry Fell, was no stranger to tobacco. He traded in it. Yet if, as seems implied, Mordecai Erbury also got drunk, that would have been a different matter. We may infer drunkenness from questions put by the Fell and Cook families' side—though this would be just one of competing interpretations of Mordecai's behaviour in this case:

Were you often drinking in company of the said Mordecai. If yea have you seen him drunk made any bargains or had any dealing with him in his drinking. If so,

79 In the case of Hugh Blair of Borgue witnesses indicated that he had 'impressions of the deity' and understood the basics of religion; he knew the Lord's prayer and all the Presbyterian catechism by heart. 'Moral sense and an awareness of religious precepts were components of mental capacity ... an awareness of one's creator and of the nature of the Trinity were fundamentals of humanity': Houston and Frith, *Autism in History*, pp. 87, 97, 66.

80 William Smith, *Joyful Tidings to the Begotten of God in All, with a Few Words of Counsel to Friends Concerning Marriage*, London: s.n. 1664, p. 7.

81 Bill Stevenson, "The social integration of post-Restoration dissenters, 1660–1725", in Spufford, M. (ed), *The World of Rural Dissenters 1520–1725*, Cambridge: Cambridge University Press, 1995, pp. 360–87, p. 385.

how did you find him ... simple or wary? ... was he always or at any time such an drunk when you dealt with him. (TNA C22.899.14 Item 8)

Mordecay Erbury does not seem to have lived a conventional Quaker life for the 1670s. More striking, though, is the dearth of local Quakers as witnesses in this case. It seems inconceivable that Mordecay Erbury, a local landowner in an area of sparse population, whose grandfather had first come into the region more than 70 years previously and whose father had been a radical preacher of note, would not have been known to Quaker landowners and tenants on farms in the same parish. Yet names from local families who are known to have been Quaker do not appear in the documentation.

It was not Quakers who were aiding Lydia Fell and Dorcas Erbury's children in retaining the family property. Most of those giving evidence for the Erbury family side were sworn, and so presumably they were not Friends. Possibly local Friends were choosing to avoid legal proceedings or perhaps it was a shrewd move on the Fells' and Cookes' part not to rest the case on the evidence of fellow Quakers, who would be troubled by negotiating oaths and whose impartiality might be doubted. The total lack of interest in the unconventional religious background of the Fells and Cookes is striking nevertheless. For the Morgan family, which needed to establish Mordecay's soundness, his adherence to convention and to the laws of the church—and thus disassociation from, or abandonment of, the peculiarities of Quakerism—might have been used as evidence of his right-thinking. It wasn't.

The case for Mordecay's self-identification with Friends does not seem strong. Had he ever been a Quaker, though? There are no surviving local Quaker records to provide answers about his relations with the group. His closest relatives seem to have been largely ignorant of much that had been happening in his life, though Lydia Fell had returned from Barbados in 1674, five years before her brother's death. That lack of knowledge would be hard to marry with a brother associated through worship and regular meeting with Quakers in Glamorgan.

The question, nevertheless, is not so much whether Mordecay had never related to their new enthusiasm since the family's convincement in the 1650s. Nor is it whether an unQuakerly pattern of behaviour in Mordecay may have alienated Friends over time. The question is whether in early Friends' appraisals of who was 'one of us' an idiot would be counted at all. Such a question about believing, belonging and impairment in seventeenth-century Quakerism needs further research.

## Question 5. Individual Identities: What More do we Learn?

This case allows us to supplement incomplete sources about individuals, and they are considered in this section.

### *5.i Mordecai Erbury*

The legal dispute has brought Mordecai Erbury out of the shadows and has shown that several writers, myself included, were wrong in speculating that he had married a daughter of the Friend Mary Chapman, freeholder of the Pantannas lands<sup>82</sup>—a speculation born of Pantannas and Tir Cefn y Fforest estates being seemingly conflated in some early local records. Mordecai Erbury had 'married out', and would have done so again given the opportunity.

### *5.ii Henry Fell*

It can now be shown that Henry Fell, whose publications, travels and correspondence were reasonably well documented, did not die in Barbados or in America in the mid or late 1670s, which has been generally assumed.<sup>83</sup> He could not have left Barbados later than 1680, for in June and 19 December of that year Henry Fell, 'gentleman' of Cardiff, was named in the lawsuit against Thomas Morgan Esq. of Llanrymney. On return, Henry Fell had lived on his wife Lydia's home territory. By February 1682, though, Lydia was being described as 'widow' in the documentation. Perhaps the threat to the Erbury inheritance had hastened the return of Henry Fell. Given his history of money problems he probably would not have wanted to see Lydia's inheritance lost.

### *5.iii Dorcas Erbury (Cooke)*

Dorcas Erbury was a Quaker whose activism was documented between 1655 and 1659. In 1659 she and her mother were imprisoned in London for their preaching activities in 'the public places of resort and concourse',<sup>84</sup> but her whereabouts and activities after that were not known from Quaker sources. She was alive and married at the time of her mother Mary's will in 1669. That had indicated that Dorcas had children, but like her husband they were unnamed. Our legal

82 Trevett, C., 'Who was the real Lydia Fell? (Quakers Yard 1699)', *Merthyr Historian* 23 (2012), pp. 57–69.

83 On Henry Fell see Nuttall, G. F., *Early Quaker Letters from the Swarthmore MSS to 1660*, LSF: 1952; Carroll, K. L., 'Henry Fell, Early Publisher of Truth', *JFHS* 53 (1973), pp. 113–23; Horle, C. W., 'Henry Fell', in Greaves, R. L. and Zaller, R. (eds), *Biographical dictionary of British radicals in the seventeenth century*, 3 vols, Brighton: Harvester, 1982–4, *in loc.*; Villani, S., 'Henry Fell', in DNB, Oxford: Oxford University Press, 2004, *in loc.*; Gragg, L. D., *The Quaker Community on Barbados: challenging the culture of the planter class*, Columbia and London: University of Missouri Press, 2009, ch. 3.

84 Besse, *Sufferings of Early Quakers* (London and Middlesex), p. 365.

dispute showed Dorcas to have been the wife of Henry Cooke. He was a London Friend and a cutler,<sup>85</sup> and he and Dorcas had had at least four children. One of these, an unnamed boy, had appeared in Mary Erbury's will, but it seems he had not survived to 1680, for only their daughters, Lydia, Dorcas and Sarah Cooke, figured in the case.<sup>86</sup>

At the start of the eighteenth century (1708, according to the deeds of nearby Tir Tuppia) the portion of the Erbury lands adjacent to Tir Cefn y Fforest (known locally as Tir Cook) were in the freehold of a Mr Cooke (with an e). He was not resident. That is intriguing and may be indicative of the Quaker families having retained the land.

#### 5.iv Lydia (Erbury) Fell

The other sister, Lydia Erbury, who was married to Henry Fell, remained so little known to most writers on Quakers that the author of *The Quaker Community on Barbados* wrote of 'Lydia Fell, apparently no relation to Henry Fell.'<sup>87</sup> In 1914 an unnamed author in the *Journal of the Welsh Bibliographical Society* had used Joseph Smith's published catalogues of Quaker and anti-Quaker works to list English-language Quaker writings with a link to Wales.<sup>88</sup> There he referred to Lydia's *Testimony and Warning* to Barbados and he had read that she was William Erbury's daughter. The author also knew that Iolo Morganwg (who in 1816 had seen her name on a gravestone at Quakers' Yard, spelt as Phell: NLW MS 13152A, p. 344) had associated Lydia with provision of the burial ground, though the error, he said (presumably about the burial ground) had been corrected by a Neath Quaker. Rightly so, for the will of Mary Chapman of St Mellons (formerly Mary Williams of Pencraigtaf), who owned the Pantannas estate in Fforest Nest hamlet, shows that the land for Quaker burials was a gift from her (NLW LL 1670–176). Lydia Fell was not the giver. At the same time, though, the Neath Friend had asserted that there was no record of a Fell or Phell among Glamorgan Quakers—an odd conclusion if Iolo Morganwg was right about the gravestone, noting her death in 1699. It may indicate that the Quaker part of the Erbury religious legacy had already been forgotten in South Wales.

In letters from Henry Fell Lydia had been unnamed and was just 'my wife'. Mary Erbury's will had made clear the connection between the two. There had been that one Quaker publication<sup>89</sup> and I discovered her name more than once

85 Trevett, 'William Erbery and his daughter Dorcas'; Bowen, 'The seeds and fruits of revolution'.

86 The Cookes did not live in South Wales, though a number of those giving evidence in the Chancery case said that they knew Henry Cooke.

87 Gragg, *The Quaker Community on Barbados*, p. 50.

88 'Bibliography of Quaker literature in the English language relating to Wales', *Journal of the Welsh Bibliographical Society* 1 (1914), pp. 203–25.

89 Lydia Fell, *A Testimony and Warning given forth in the Love of Truth*.

in the Minutes of the London-based Second Day's Morning Meeting in 1695.<sup>90</sup> I have not yet found other references to her in Quaker sources, so this legal dispute provides a little more insight into her history. It indicates close relations between Lydia and her sister Dorcas's family and an approximate date for her widowhood. It also provides a link with other local, non-Quaker accounts of Lydia Fell.

Local Glamorganshire tradition as recorded by writers in the nineteenth century linked her with Tir Cefn y Fforest and showed hers to have been a Quaker name (in fact the only one) that was remembered in the region. In reality, though, those doing the writing knew very little about her. She was (and sometimes still is) wrongly linked with having given the land for Quaker burials at Quakers' Yard,<sup>91</sup> whereas more probably she had been the person who made that site serviceable, who provided its landscaping, its stone benches and so on, as some nineteenth-century writers claimed. Isaac Craighfryn Hughes wrote of her as 'a lady' (in Welsh *boneddiges*) who had lived at Tir Cefn y Fforest, but he gave no indication that he knew of her Erbury family roots.

Like others in the nineteenth century Hughes knew Lydia Fell's name but he was unaware of her history as a well-travelled, feisty female minister who had published and taken to law in defence of her family's inheritance. Hughes thought she had never married, so he sought to explain away the child who lived with her.<sup>92</sup> The local account that Hughes was transmitting would suggest that if Lydia had indeed lived somewhere on the Tir Cefn y Fforest estate it must have been without Henry Fell—after his death, perhaps, or before he returned from Barbados. Possibly, of course, she and her husband had lived separately in two Erbury properties, in Cardiff and in Fforest Nest hamlet. The fact that Lydia Fell was the person known to most witnesses in the Chancery case may well be indicative of her living around Tir Cefn y Fforest, however. Whether or not she'd ever done so before her brother's death (she had returned from Barbados with her child in 1674), it would have been wise to establish an Erbury presence there after it!

90 Trevett, C., "'Not Fit to Be printed': the Welsh, the Women, and the Second Day's Morning Meeting" [Presidential Address 2002], *Journal of the Friends' Historical Society* 59 (2004), pp. 115–44, pp. 130–32, 144.

91 For example, in 1857 it was reported that 'This place has taken its name from an old burying ground given in the time of Charles II by a Lady called Lydia Fell of Cefn y Fforest': Jones, E. D., 'The Journal of William Roberts ("Nefydd") contd', *The National Library of Wales Journal* 9 (1955–6), p. 468.

92 Isaac Craighfryn Hughes was writing in the 1870s (*Yr Hanesydd: sef Dau Draethawd Buddugol un ar Hanes Mynwent y Crynwyr ...* ['The Historian: namely two winning essays one on the history of Quakers Yard'], Aberdâr: Jenkin Howell, 1877. See T. V. Davies Research Papers 1981–c.1991 [Box 8], NLW GB 0210 TVDAVI). Trevett, 'Who was the real Lydia Fell? Quakers' Yard 1699'; 'Isaac Craighfryn Hughes of Quakers' Yard (1852–1928): culture, colliery and the common man', *Merthyr Historian* 28 (2017), pp. 167–218.

The later history of Tir Cefn y Fforest does not concern us but Isaac Craigfryn Hughes claimed that it was sold in 1688, to the Pritchard family,<sup>93</sup> and that Lydia had moved to relatives at 'Dre Feureg' (also known as Tref y Rhyg or Treverrig), between Tonyrefail and Llantrisant. This was the estate of the Bevan family. They were Quakers, though if he knew this Hughes did not say it. Many of them, with non-family members, had emigrated to Pennsylvania some time before 1688. John Bevan had purchased land there in 1681.<sup>94</sup> Hughes was clearly wrong about the date of Lydia's death, however, which he put at 1690. Lydia Fell was alive and in discussion with the Second Day's Morning Meeting in 1695, about a 'paper' of hers. If it had been intended for publication, it never survived that Meeting's scrutiny.<sup>95</sup> Iolo Morganwg was probably right about the gravestone and a death date of 1699.

Finally it remains to comment on what the case might tell us about Quakers and the wider community in the period in question.

### Question 6.

#### How Were Quakers Viewed by the Wider Populace?

'[B]y 1670, or so, public attitudes toward Quakers had softened considerably', Bill Stevenson wrote, and 'public antagonism at the parish level appears to have diminished dramatically'. Studies of Quakers at the local level have shown them in the closing decades of the seventeenth century as overseers of the poor or acting as constables, witnessing the wills of non-Quakers just as non-Quakers witnessed theirs, bequeathing to the parish poor and not just their own.<sup>96</sup> Among Quakers themselves, Adrian Davies observed, 'by the 1670s the wider community and non-Quaker kin were no longer looked upon with such distrust'.<sup>97</sup> The authorities were not necessarily more amenable towards Quakers, of course<sup>98</sup> despite softened public attitudes.

Quakers were not compact communities divorced from wider society, though some among an earlier generation of scholars had thought in terms of 'the

93 There is clear evidence of Pritchard freehold of Tir Cefn y Fforest into the mid eighteenth century but in 1708 the freeholder was one Isaac Williams.

94 The Quaker community around Llantrisant was much depleted by the emigration. It is possible that Lydia, now a woman of mature years, settled there to help it. Some of the Bevan family, John Bevan included, returned from Pennsylvania in 1704 and Quaker fortunes in the region improved.

95 Trevett, "Not Fit to be Printed", pp. 131–2.

96 Stevenson, 'The social integration of post-Restoration dissenters, 1660–1725', pp. 386, 372.

97 Davies, A., *The Quakers in English Society 1655–1725*, Oxford: Clarendon Press, 2000, p. 199 (quotation), pp. 202–7. The evidence for this co-operative integration comes from English regions. See too Bill Stevenson, 'The social integration of post-Restoration dissenters', pp. 373–76.

98 Allen, *Quaker Communities in Early Modern Wales*, pp. 108–11.

completeness of their separation from their culture and particularly from other religious organizations'.<sup>99</sup> The Erburys had been around Merthyr parish and Cardiff for over 70 years. The documentation showed that many knew them, that Henry Fell the incomer was known and even Henry Cooke, who didn't live in the region but had links with it through the family. Their tenants included non-Quakers who seem to have been loyal to them and some witnessed on their behalf. It was Friends who were absent as witnesses.<sup>100</sup>

In the late seventeenth century pockets of Quakers in pre-industrial south Wales, whether perched on holdings almost a thousand feet above sea level in an area of sparse population, like Tir Cefn y Fforest, or in Cardiff with its maritime trade, would surely have found it impossible to be 'collectives of ostracized social misfits who neither sought nor gained acceptance within their local parish communities', which was how Bill Stevenson described the portrayal of Quakers by some earlier scholars.<sup>101</sup> If for no other reason, the need for economic viability called for good neighbourliness<sup>102</sup> and co-operative working. Richard Allen was surely nearer the mark: 'It was socially and financially important to secure the good regard of the local community and few would have willingly chosen to be outcasts.'<sup>103</sup>

In this case non-Quakers (to judge from the swearing of an oath) had assisted the Quaker Fells and Cookes in giving evidence that supported Mordecai's idiocy, while the religion of Mordecai and that of his blood relatives was not mentioned as an issue. When in the 1670s Mordecai Erbury was short-changed in his business dealings locally it was probably more to do with exploitation of that cognitive impairment his family members spoke of, and the avarice of the unregenerate, than with hostility to his links with Quakers.

99 Vann, *The Social Development of English Quakerism*, p. 201.

100 Refusing involvement could sometimes lead to ill-feeling between neighbours if a Friend chose not to give evidence when needed. As Erin Bell put it, it might lead to a woman or a man who refused 'being labelled as a bad citizen': 'Stock characters with stiff brimmed bonnets: depictions of Quaker women by outsiders c.1650–1800', in Tarter and Gill (eds), *New Critical Studies on Early Quaker Women*, forthcoming 2017. See, for example, Anon., *The Anti-Quaker; or, a compendious answer to a tedious pamphlet entitled A Treatise of Oaths*, London, for R. Royston, 1676, pp. 5–6 and the discussion in Davies, A., *The Quakers in English Society 1655–1725*, Oxford: Clarendon Press, 2000, pp. 201–04.

101 Stevenson, 'The social integration of post-Restoration dissenters', p. 360.

102 In London some (male) Friends might simultaneously be conducting business, serving Quakerism's London-based administrative meetings and also frequenting the Exchange, inns and coffee houses: Dixon, S., 'The Life and Times of Peter Briggins', *Quaker Studies* 10 (2006), pp. 185–202.

103 Allen, *Quaker Communities in Early Modern Wales*, p. 111.

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