
**Pleadings and Depositions in the Duchy Court of
Lancaster, Volume 32**

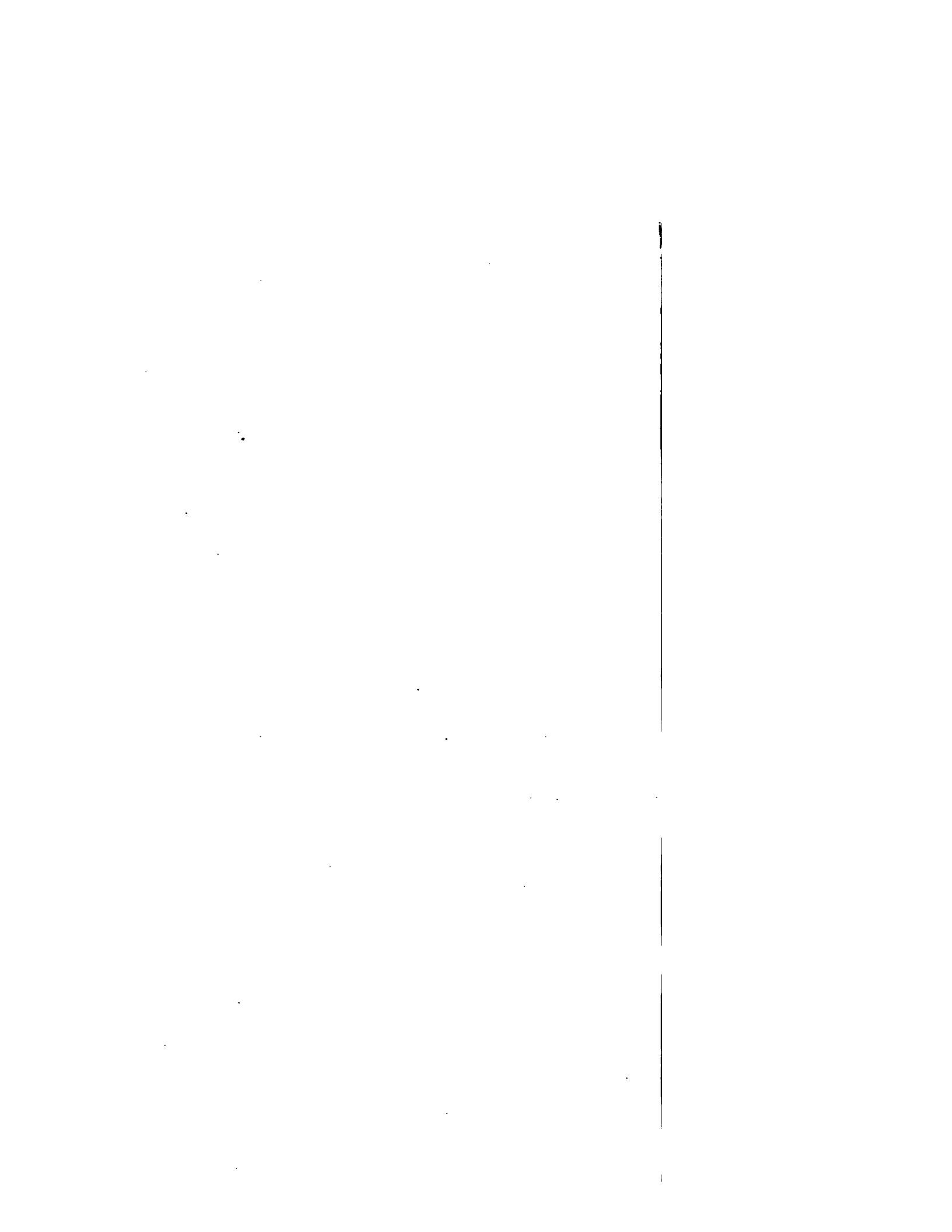
Fishwick Henry

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Author: Fishwick Henry

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Pleadings and Depositions

IN THE

Duchy Court of Lancaster

TIME OF

HENRY VII. AND HENRY VIII.

EDITED BY

LIEUT.-COLONEL HENRY FISHWICK, F.S.A.

PRINTED FOR
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INTRODUCTION.

HENRY IV. in the first year of his reign [A.D. 1399] by charter declared the lands and possessions of the Duchy to be a distinct and separate inheritance from the lands and possessions of the Crown, and for the management of all matters connected therewith special provisions were made, one of which was the establishment of the Chancellor and Council of the Duchy.¹ This court had an equity jurisdiction over all the tenants of the Duchy which included within its boundaries many lands and possessions not situate in the County Palatine. The earliest records of the proceedings in this court which have been preserved commence in the first year of the reign of Henry VII. [1485], from which date they are continued to the present day. These records consist of Pleadings by way of bills and answers, depositions and surveys, and interrogatories relating to the various suits brought before the court. A list of these will be found in "Ducatus Lancastriæ Calendarium Inquisitionum Post Mortem," &c., 3 vols., 1823-34. In another class of documents known as the "Duchy of Lancaster, Decrees and Orders," are found the decisions or verdicts

¹ Dep. Keeper of Public Records Report, xxx., vi.

relating to the Pleadings—these are however very imperfect and only a comparative few have been preserved, but where they have been found I have added them to the Pleadings. The whole of these records in 1868 were transferred from the Duchy office to the Public Record office. The Pleadings, etc., are written on parchment, and those from Henry VII. to Elizabeth (inclusive) are bound in volumes; those from James I. to the present time are in bundles and are referred to by an old MS. calendar. The depositions and surveys are in volumes only from Henry VIII. to Philip and Mary, and are referred to by the calendar in vol. ii. of *Ducatus Lancastriæ*; from Elizabeth to present time they are in bundles to which there is an old MS. calendar, but a new one is in preparation for the reign of Elizabeth. All these records are in English, the custom of recording all legal transactions in Latin having fallen into disuse in the Chancery and other courts in the time of Henry VI. The mode of conducting the suits brought before the Duchy courts varied according to circumstances, in some instances a *vivâ voce* examination appears to have been sufficient whilst in others carefully drawn up depositions were placed on record. The reasons given for the appeal to the Chancellor for justice were often of an ingenious character. A few examples will illustrate this: William Plumtrie (in 1525-26) having had a jury summoned at

Lancaster, found they were so "ner of kyndred" to the defendant that he challenged them all, and he therefore pleads that he "can have no indifferent trial" in Lancashire: the Mayor of Liverpool in 1526-27 says that the defendants were "of gret power, alyance, and frendshippe" in the county, whilst he was not "of abilyte" to maintain his trial, he therefore asks that they may be commanded to appear at Westminster, to answer to the premises, which they were ordered to do. In another case the plaintiff could not get an indictment at Lancaster, because of "suche nere kyn and cosyngage as" was between the defendant and the Sheriff.

Sometimes instead of the accused person being ordered to go to Westminster, a number of local gentlemen were instructed to take the depositions of the parties concerned or to call upon them to answer certain interrogatories bearing on the case. Occasionally the defendant was called upon to find security for the attendance at Westminster, or in default to be kept in prison pending the enquiry. In other cases a precept was directed to the Sheriff to impanel a jury of 24 persons, who were to enquire into the matter in dispute.

The subjects brought before the Chancellor of the Duchy were of a very varied and miscellaneous character, comprising, as illustrated by the suits in the present volume—disputes and charges as to lands, houses, boundaries, tithe crops, the

find a clear account of certain lands called Argarmelys having been "drowned and adnichilate" with the sea, and cut off "oute of the body" of the county: in another similar suit we get a pedigree of four generations of the Ainsworth family; and out of a claim for use of coal [p. 129] we have presented to us a history of the early development of the Burnley coal fields.

The Pleadings in this volume are selected from the Calendars and extend from 1 Henry VII. to 23 Henry VIII. Pleadings in remaining years of Henry VIII. will form part of another volume, and with them will be included a few which, though it is certain that they belong to that period are described in the calendar as of N.D. [No Date], to some of these I have been able to fix the year to which they belong. In making the selection I have endeavoured to avoid printing such Pleadings as have already been used by local historians, and I have been somewhat influenced by a desire to make the extracts cover as large an area of Lancashire as possible, without detracting from the interest of the volume. The extracts from the original MSS. have been carefully made and will, I venture to think, be found to contain all that is of value in the often somewhat wordy documents.

Since the *Ducatus Lancastriæ* was published the Pleadings from 1 Henry VIII. have been rearranged at the Record office, so that the reference