

Errata.

p.159.para 2, line 6.

'part of' should be retained and not erased.

p.160.note 2.

Amend to read: 'Sir Robert Winde had assigned the lease of New Marsh to Henry Winde his son on 4 Feb.1641/2 and confirmed this on 27 Dec.1646.'

p.163.para 3.

Since Lieutenants Sabbarton and Chamberlen had been promoted, strictly speaking the sentence should read: 'The lots fell to Captains Sabbarton, Chamberlen and Chillenden and to Major Swallow.'

p.163.para 4, line1.

p.164.para 4, line 3.

p.165.para 2, line 2.

} Amend to Captain or Captains.

MASTER COPY.

THE FORTUNES OF THE WHALLEY FAMILY OF SCREVEYTON, NOTTS.:
A STUDY OF SOME OF ITS MEMBERS, c. 1590-1690,
WITH SPECIAL REFERENCE TO MAJOR-GENERAL EDWARD WHALLEY

by

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Thesis presented for the degree of
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ABSTRACT
FACULTY OF ARTS
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Master of Philosophy

THE FORTUNES OF THE WHALLEY FAMILY OF
SCREVEYTON, NOTTS.: A STUDY OF SOME OF
ITS MEMBERS, c. 1590-1690, WITH SPECIAL
REFERENCE TO MAJOR-GENERAL EDWARD WHALLEY

by Geoffrey Jaggard

Edward Whalley (c. 1601-1675), the major figure in this thesis, played a significant part in the chief military events of two civil wars, details of which are already well known.

This study examines some features of his career which are less familiar; thus his early years up to the outbreak of civil war, his two wives and children and his attitude to enclosure - a controversial issue of the time - are given greater emphasis than hitherto. Primarily, however, the purpose has been to describe Edward's major property interests and to set them in their wider context: namely, as part of the landed transactions of certain other members of the family over the period from approximately 1590 to 1690.

During these hundred years, the Whalleys of Screveton, Notts., suffered a decline due to a culmination of adverse circumstances. This decline is the underlying theme of the thesis.

Richard Whalley the elder (1489-1583) was the founder of the family fortune; his grandson, Richard the younger (d. 1632), a wastrel - the principal cause of its demise. When Peniston Whalley (1624-1693), the latter's grandson and heir, succeeded to a much reduced and encumbered estate, he had to shoulder debts which eventually overwhelmed him. Edward Whalley, second son of Richard the younger, attempted to arrest the decline and was temporarily successful, combining where possible with Peniston to regain the family inheritance. Edward's attainder for treason at the

Restoration was a crippling and decisive blow which put paid to his attempts.

This study also shows how closely the family fortunes were bound up with those of the powerful Cavendish family - particularly with the interests of William Cavendish, Earl and later Duke of Newcastle. He it was who triumphed over Edward's son John Whalley (c. 1633-1666) in the litigation concerning Sibthorpe manor, Edward's former principal possession.

Since 'landownership' is the vital factor governing the rise or decline of any family in the seventeenth century, the thesis has necessarily been concerned with the complexities of this subject. It would be an arid account, however, that concentrated solely on this aspect, thus a secondary purpose has been to provide biographical details and to examine genealogical and other relationships of the family where these have been previously insufficient.

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Mr. D. L. Evans of the Public Record Office has been most generous with the time he has given to my problems, and I have benefited greatly from discussions with Mr. A. Searle of Essex County Record Office, who is currently editing some of the Barrington Correspondence.

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Dr. J. Morrill of Trinity, Oxford, was most helpful in the early stages of the work, and Professor J. Toynbee has helped with difficult Latin passages.

Finally, to my supervisor Mr. A. L. Merson of Southampton University, I owe my chief debt of gratitude. He has carefully read and re-read most of the chapters, made many suggestions for improvement and helped me to avoid a number of errors. If I have not always adopted his suggestions, the fault and the remaining errors are entirely my own.

TABLE OF CHIEF ABBREVIATIONS USED

Abbott.	W. C. Abbott ed., <u>The Writings and Speeches of Oliver Cromwell</u> . 4 vols. (1937-1947).
Add. MSS.	British Museum, Additional Manuscripts.
A.P.S.	The Acts of the Parliaments of Scotland. 11 vols. + Index (1814-1875).
B.I.H.R.	Bulletin of the Institute of Historical Research.
F. Blomefield, Norfolk.	F. Blomefield, <u>An Essay Towards a Topographical History of the County of Norfolk ...</u> 11 vols. + Index (1805-1862).
Bodl.	Bodleian Library.
B.M.	British Museum.
J. Burke, Commoners.	J. Burke, <u>A Genealogical and Heraldic History of the Commoners of Great Britain and Ireland</u> . 4 vols. (1833-1838).
C.S.P.D.	Calendar of State Papers, Domestic Series.
Camden Soc.	Camden Society Publications.
Carlyle, (ed. Lomas).	S. C. Lomas ed., <u>Thomas Carlyle, The Letters and Speeches of Oliver Cromwell</u> . 3 vols. (1904).
C.C.C.	Calendar of Proceedings of the Committee for Compounding.
C.H.S.T.	Congregational Historical Society Transactions.
C.J.	Journals of the House of Commons.
Cropper.	P. J. Cropper ed., <u>Bibliotheca Nottinghamiensis. The Sufferings of the Quakers in Nottinghamshire, 1649-1689</u> (1892).
Derbys. Arch. & Nat. Hist. Soc. Journal	Derbyshire Archaeological and Natural History Society Journal.
D.N.B.	Dictionary of National Biography.
Ec.H.R.	Economic History Review.
Eg. MSS.	British Museum, Egerton Manuscripts.
E.H.R.	English Historical Review.
F.M.G.	Familiae Minorum Gentium. (Harl. Soc. vols. XXXVII-LX).

- Firth, Newcastle. C. H. Firth ed., The Life of William Cavendish, Duke of Newcastle ... By Margaret, Duchess of Newcastle (1907).
- Firth and Davies, Regimental History. C. H. Firth and G. Davies, The Regimental History of Cromwell's Army. 2 vols. (1940).
- Firth and Rait, Acts and Ordnances. C. H. Firth and R. S. Rait, Acts and Ordnances of the Interregnum, 1642-1660. 3 vols. (1911).
- Foster, Alum. Oxon. J. Foster ed., Alumni Oxonienses: The Members of the University of Oxford, 1500-1714, 4 vols. (1892).
- Gentles, thesis. I. J. Gentles, The Debentures Market and Military Purchases of Crown Land, 1649-1660. (London Ph.D., 1969).
- J. T. Godfrey, Notts. Churches. J. T. Godfrey, Notes on the Churches of Nottinghamshire, Hundred of Bingham (1907).
- Hardacre, Royalists. P. H. Hardacre, The Royalists During the Puritan Revolution (1956).
- Harl. MSS. British Museum Harleian Manuscripts.
- Harl. Soc. Harleian Society Publications.
- H.M.C. Historical Manuscripts Commission.
- I.P.M. Inquisition Post Mortem.
- M. James, Social Problems. M. James, Social Problems and Policy during the Puritan Revolution, 1640-1660 (1930).
- J.M.H. Journal of Modern History.
- Keeler, Long Parl. M. F. Keeler, The Long Parliament, 1640-1641. A Biographical Study of its Members (1954).
- L.J. Journals of the House of Lords.
- S. J. Madge, Crown Lands. S. J. Madge, The Domesday of Crown Lands ... (1938).
- M.H.S.C. Massachusetts^t Historical Society Collections.
- D. Masson, Milton. D. Masson, The Life of John Milton ... 6 vols. + Index (1871-1894).
- Misc. Gen. et Her. Miscellanea Genealogica et Heraldica.
- P. Morant, Essex. P. Morant, The History and Antiquities of the County of Essex ... 2 vols. (1768).
- J. Nichols, Leicestershire. J. Nichols, The History and Antiquities of the County of Leicester ... 4 vols. in 8 parts (1795-1811).

Noble.	M. Noble, <u>Memoirs of the Protectoral House of Cromwell ...</u> 2 vols. (1787).
N. and Q.	Notes and Queries.
P. and P.	Past and Present.
P.C.C.	Prerogative Court of Canterbury.
Port. MSS.	Manuscripts of the Duke of Portland (uncalendared).
P.R.O.	Public Record Office.
Prob.	Probate.
Rawl. MSS.	Bodleian Library, Rawlinson Manuscripts.
S.P.	Public Record Office, State Papers.
Stone, Crisis.	L. Stone, <u>The Crisis of the Aristocracy, 1558-1641</u> (1965).
S.A.C.	Sussex Archaeological Collections.
Thoroton.	R. Thoroton, <u>The Antiquities of Nottinghamshire ...</u> (1677).
Thor. Soc. Rec. Ser.	Thoroton Society Record Series.
Thurloe.	T. Birch ed., <u>A Collection of the State Papers of John Thurloe ...</u> 7 vols. (1742).
Trans. Essex Arch. Soc.	Transactions of the Essex Archaeological Society.
T.R.H.S.	Transactions of the Royal Historical Society.
Trans. Thor. Soc.	Transactions of the Thoroton Society.
Turbervill ^e g.	A. S. Turbervill ^e g., <u>A History of Welbeck Abbey and its Owners</u> , 2 vols. (1938-1939).
Venn.	J. and J. A. Venn, ed., <u>Alumni Cantabrigienses ...</u> Part 1 to 1751, 4 vols. (1922-1927).
V.C.H.	Victoria County History.
Vis. of Notts. etc.	Visitation of Nottinghamshire, 1569 and 1614; Essex, London, etc. (Harl. Soc. Publications).
Yorks. Arch. Soc. Rec. Series.	Yorkshire Archaeological Society Record Series.

Note: Where titles of other printed works have been shortened, these are given fully in the bibliography.
In quotations from contemporary sources the original spelling and punctuation have been retained, except where to preserve the latter would have obscured the meaning.
Dating is in the Old Style except that the period 1 January-24 March is given as a double date, viz., 10 Jan. 1659/60.

INTRODUCTION

I

At the outset, the original intention was to write a biography of Edward Whalley - the most renowned figure of the family of Screveton, Nottinghamshire.

As the research progressed, however, it became clear that a biography would be impractical for thesis purposes since it would have to cover ground already well-trodden. Whalley's career was so closely concerned with the major military events of the Civil Wars and the crises of the Interregnum that repetition would have been inevitable.¹

To say this, however, is not to deny the need for a much more detailed account of his career than has yet been written - particularly a re-appraisal of his rôle as a military commander and an examination of the ways in which he interpreted his duties at the apogee of power, during the rule of the Major-Generals from 1655 to 1657. His personality emerges especially strongly within these latter dramatic years. Two chapters were, in fact, written with this end in view, but had to be discarded ultimately when the major theme was decided upon.

II

The chief difficulty with Whalley, as indeed with other members of the family described in this thesis, is the lack of family correspondence. No collection of private papers has survived and the letters which exist are thus of a limited nature. Most of Edward's deal purely with military affairs, as for example, the one or two he wrote to Fairfax in June 1647

1. The Clarke Manuscripts in Worcester College, Oxford, which seemed to offer the possibility of fresh material proved disappointing. C. H. Firth was particularly thorough in his use of these. Numerous contemporary newsbooks and pamphlets were also consulted but they revealed little new.

when entrusted to guard Charles I;¹ his relation of the custodianship of that monarch and the latter's escape from Hampton Court on 11 November 1647;² his account of the proceedings against the Essex rebels³ in the Second Civil War, and his brief correspondence with Henry Cromwell.⁴ The fullest and most important are those written to Thurloe whilst serving as Major-General in 1655 and 1656.⁵ Some of these letters where relevant have been used within the body of the thesis. As far as other members of Edward's family are concerned, where correspondence has been available, it has been heavily drawn upon, as for example, the Barrington Letters in Chapters 2 and 3.

III

If a full-scale biography was not possible, it became apparent that there were certain sections of Edward's career which might be described more adequately. It was decided therefore, to examine more closely his early years, his apprenticeship as a woollen draper in London, his first and second marriages and his movements in so far as these were traceable, before he achieved recognition in the first Civil War. This has been attempted in Chapter 4.

More important than this, however, was the necessity to enquire into Edward's landed transactions - a subject which had not been dealt with previously. His property interests were considerably augmented as he

1. C. H. Firth ed., *The Clarke Papers*, 4 vols. (*Camden Soc.*, 1891-1901), I, 122-123; *Worc. Coll. MSS.* 6.1 ff. 65, 66.

2. B. M. *Thomason Tracts*, E 405(4); E 407(36); E 416(23); E 414(10).

3. *Clarke Papers*, II (1894), 24, 26; *Worc. Coll. MSS.* 5.17 ff. 36, 42; B.M. Add. MSS. 15858 f. 194.

4. B.M. Lansdowne MSS. 821 ff. 136, 286; 822 ff. 49, 222; 823 ff. 43, 53, 100.

5. Bodleian, Rawl. MSS. A. 31-37, 40-41 *passim*.

acquired power and wealth - first as a military leader, and then, though less obtrusively, in the realm of politics. These interests are described mainly in Chapters 5 and 6, whilst Chapter 7 attempts to give some attitudes to land in general in the 1650s and Edward's own attitude to one particular problem, enclosure.

It soon became apparent that Edward's property interests could not be isolated from those of his family as a whole over a wider period, and therefore a much broader survey was required. The major theme of the thesis thus presented itself: namely, the family fortunes as these were affected by the landed dealings of some of its members.

It should be emphasised, however, that wherever possible, I have attempted to show the effects of personality in the decline of this family that extended over a period of approximately one hundred years. This task would have been much easier had there been a collection of family papers available.

I have interpreted the word 'fortune' in its broadest possible sense, for my purpose has been not merely to describe financial loss or gain from land, but also to supply biographical and genealogical details where these were inadequate. Numerous family relationships - and indeed connections outside the family - have thus been established which were either unknown before, or which were not given sufficient prominence in earlier accounts of the Whalleys. The Temple-Whalley-Penyston relationship in Chapter 4 particularly, is a case in point. Another is the connection, or perhaps clash is the better word, with the Cavendish family which vitally affected the Whalley fortunes.

IV

The inclusion of particular members in this study was determined to some extent by what had already been written. Thus it was thought unnecessary to give more than a brief outline of the elder Richard Whalley

whose career has been adequately summarised.¹

The major facts of Edward's career are also reasonably well known to the serious student of 17th century history, or at least a starting point for research is supplied by C. H. Firth's article in the D.N.B., though this now needs revision. It is to be hoped therefore, that the aspects of Edward's life which have been emphasised in this thesis will add considerably to the more familiar details available.

No account of the decline of the family could omit the younger Richard Whalley from its pages. To my knowledge, the sum total of information on Edward's father has never exceeded a brief paragraph: thus Chapters 1 and 2 attempt, however inadequately, to make up for this deficiency.

Mary and Jane, Richard's daughters, have been included because they were formerly little more than names on a pedigree. Information about them is, however, so limited that they still remain vague, shadowy figures - particularly is this true of Mary. It is doubtful whether much else of value could be discovered relating to them.

It seemed natural to include biographical details of John Whalley, Edward's eldest son, since his interest in the manor of Sibthorpe was so closely bound up with that of his father.

Finally, although it may be argued that certain details in the rather lengthy outline of Peniston Whalley's career in Section I of Chapter 9 are irrelevant to the main theme, these have been included simply because there was no adequate summary of Peniston before.

V

Underlying the whole body of the thesis, is the decline of the family owing to a combination of circumstances. The reckless extravagance of Richard Whalley the younger in the 1590s was the original cause of mis-

1. See Ch. 1, p. 3 n.

fortune, and this was apparently aggravated by the dissolute nature of his heir Thomas who died at an early age. Edward Whalley, a younger son, achieved great fame and wealth and attempted to repair the breach in the family fortunes, but he too failed when attainted for treason at the Restoration resulted in the forfeiture of all his estates and enforced exile abroad. John, Edward's son, was tainted with the dishonour of his father's 'crimes' and fought a losing battle against the superior forces of the Cavendish family, to try to recover Sibthorpe.

Peniston, the last direct male heir, and in many ways the most unfortunate member of this family, had to suffer the full consequences of his grandfather's folly and eventually succumbed to a burden of debts which originated many years before his birth.

VI

There has been no deliberate intention to contribute to the gentry controversy which has occupied the minds and pens of brilliant historians for the past two decades.¹ Such attempt to do so would be presumption on my part. Many illuminating studies have resulted but the issue has led to widely divergent interpretations, and little seems to have been proved conclusively beyond the fact that some families were rising and others declining.² Until the histories of a great many more individual families have been studied, it would appear that little further can be added to explain the fortunes of the gentry class as a whole.

1. The views of the principal writers in this debate are summarised in L. Stone, Social Change and Revolution in England, 1540-1640 (Lond., 1965. Longman's paperback, 1967), Introduction, pp. xi-xxvi and Bibliography, pp. 179-183; D. C. Coleman, 'The "Gentry" Controversy and the Aristocracy in Crisis, 1558-1641', History LI (1966), 165-178; C. Hill, 'Recent Interpretations of the Civil War' in Puritanism and Revolution (Lond., 1958. Panther paperback ed., 1968), pp. 13-40.

2. On this point see ibid., p. 18; L. Stone, The Crisis of the Aristocracy, 1558-1641 (Oxford, 1965), p. 129; C. Russell, The Crisis of Parliaments. English History, 1509-1660 (Oxford, 1971), pp. 197-198.

The value of this study of the Whalley family is limited by the range of material available. It cannot give a complete account of the family fortunes in the absence of a collection of muniments. Such papers frequently supply records of household accounts, sums spent on buildings and estate improvements, rentals received over a long period, land tenures, and many other items. It is to be regretted that few such details were available for the Whalleys.

Mary Finch has observed¹ that there is a much greater chance to compile a composite picture of a family if it was a successful one and retained its wealth for a number of generations. Its records are more likely to have survived than those of a family which suffered a decline as the Whalleys did.

VII

What has resulted then is a partial picture constructed mainly from the landed transactions of certain members of the family. The Portland Manuscripts in Nottinghamshire Record Office have proved invaluable in this respect, though these have been supplemented by enrolments in Chancery and to a lesser extent in Common Pleas and the King's Bench, which documents are in the Public Record Office. In so far as these directly relate to the history of the Whalley family, they have not previously been used. Herein lies their originality.

The biographical and genealogical details have been obtained from a number of sources to which references are given in the text. One very useful source has been the records of litigation, particularly in Chancery and the Court of Requests.

Though these need to be used with care, they frequently supply valuable items of information not available elsewhere. Thus dates of birth

1. The Wealth of Five Northamptonshire Families, 1540-1640 (Northants. Rec. Soc. Publications, XIX, 1956), p. 1.

and death are sometimes given and reasons for tensions in family relationships help us to formulate ideas of the characters of individuals.¹ The chief fault of these legal records is their incompleteness, for rarely have all the documents relevant to one particular suit survived.

The writer is well aware of the many imperfections of this study - the gaps which have not been satisfactorily bridged where evidence has been lacking, and which has led to more frequent speculation than is normally desirable - the difficulties also of rendering intelligible some of the complicated landed transactions in which the Whalleys were involved.

On the positive side, it does provide a far more detailed account of some members of the family than has yet been attempted; it deals with a theme hitherto neglected within this family and it utilises primary material previously unused.

It is possible that further biographical details might have been discovered about both Richard and Peniston Whalley had longer time been available for research. I am confident, however, that my treatment of the major property transactions of these two and of Edward Whalley himself has been as exhaustive as the material will allow.

1. For an interesting article both on the use and the value of such sources, see R. E. F. Garrett, 'Chancery and Other Proceedings' in The Genealogists' Magazine, XV (1965), No. 3, pp. 97-103; No. 4, pp. 139-144.

Chapter 1

RICHARD WHALLEY THE YOUNGER. (I)

I

The architect of the family fortune was Richard Whalley the elder,¹ (1489-1583), great-grandfather of Edward, the major subject of this study. He was descended from an earlier Richard² of Darlaston, Staffordshire, who by marriage to Elizabeth, daughter and heir of Thomas Leak, had acquired the ancient family seat of the Leaks - Kirkton Hall in Screveton, Nottinghamshire.

A remarkable man of considerable administrative ability, yet greedy, corrupt and of a scheming disposition, he had gained favour at the court of Henry VIII, by his grace and skill in martial sports and by ingratiating himself with that monarch.

Whalley had been employed by Thomas Cromwell in the dissolution of the monasteries and had gained rich pickings from that religious upheaval. On 26 February 1538/9, he had been granted Welbeck Abbey (the former house of the Premonstratensian order of White Canons), Bellers Grange, Hurst Grange and Gledthorpe Grange and other lands belonging to the abbey.³

A few years later on 4 July 1545,⁴ Whalley obtained the dissolved

1. So called to distinguish him from his grandson.

2. Sources vary as to his relationship with Richard (d. 1583). The most probable was that he was grandfather of the latter. See e.g., R. Thoroton, The Antiquities of Nottinghamshire (Lond., 1677), pp. 129-130; M. Noble, Memoirs of the Protectoral House of Cromwell, 2 vols. (Lond. 1787), II, 136 (statement based on Thoroton); Historical Collections of Staffordshire, New Series, XII (1909), 99; J. Nichols, The History and Antiquities of the County of Leicester, 4 vols. in 8 parts (Lond., 1795-1811), II, part II (1798), 736; A. S. Turberville, A History of Welbeck Abbey and its Owners, 2 vols. (Lond., 1938-1939), I, 1539-1755, 4.

3. Letters and Papers, Foreign and Domestic, of the reign of Henry VIII, XIV, Part 1, 1539 (1894), 164-165; Victoria County History, Nottinghamshire, II (1910), 137; Thoroton, op. cit., p. 452; R. White, The Dukery Records (Worksop, 1904), p. 93.

4. Letters and Papers, Henry VIII, XX, part 1, 1545 (1905), 667. (continued)

college or chantry of St. Mary, Sibthorpe, with appurtenances in Sibthorpe itself and in other places in Nottinghamshire and Lincolnshire. One of his most profitable offices was that of Crown Receiver for Yorkshire in the second Court of Augmentations which had been reconstituted in 1546.¹ In this capacity and until the court's dissolution in 1552, Whalley was guilty of appropriating Crown funds to his own use.

He achieved his greatest influence as steward of the duke of Somerset, but his adherence to that nobleman involved him in the consequences of the latter's fall. His intrigues in 1550-1551 to restore Somerset to power led to two periods of imprisonment by the Warwick faction. Under repeated pressure, he finally gave evidence against Somerset, but this did little to mitigate the severity of his own punishment. Released from the Tower in June 1552, he had to surrender the Yorkshire receivership and was fined heavily.

In September he was again imprisoned. Recent evidence² has shown that he was re-arrested for illegal alchemical activities rather than on the charge of peculation as asserted in earlier accounts of his career. Whalley had for some time previously employed an alchemist, Richard Eden, to search for the elusive philosopher's stone which was believed to turn base metals to gold. On Eden's failure to produce Whalley a fortune, the two quarrelled and Eden betrayed his employer.

It was, however, during this third period of imprisonment that Whalley's

(continued) V.C.H. Notts., II, 152. The royal grant of Sibthorpe for the sum of £197.6.7½ was to be held in capite by service of 1/6 part of a knight's fee, rendering 5l/0½ yearly. Welbeck and Sibthorpe were Whalley's major gains from the dissolution. For others, see Turberville, op. cit., I, 5.

1. W. C. Richardson, History of the Court of Augmentations, 1536-1554 (Louisiana State University Press, 1961), pp. 48 n., 50. The first court had been instituted 24 April 1536, ibid., p. 49.

2. C. Kitching, 'Alchemy in the Reign of Edward VI: an Episode in the Careers of Richard Whalley and Richard Eden', B.I.H.R. XLIV (Nov. 1971), 308-315.

maladministration as receiver was investigated, though it has been suggested that such speculation, along with his alchemical practices, was used as a pretext to punish him for his far more serious political activities.¹ He was accused of embezzling the Crown to the tune of £2,000.² Another fine resulted and from these and other causes he was involved in debts of over £48,000.³ In consequence, he was obliged to sell Welbeck, Wimbledon manor (which he had acquired in 1549), and other properties.⁴

At Mary's accession, he was released on 6 August 1553, and set about to repair his damaged fortune. Whalley's resilience and determination was such that he had achieved this before his death. He found favour with Queen Elizabeth who, in July 1561,⁵ granted him the manors of Whatton, Hawksworth and Towton and further property in Hawksworth which had belonged to Rotherham College.

Thrice married, Whalley fathered twenty five children,⁶ and after his death on 23 November 1583, aged 94,⁷ his third wife, Barbara (née Cope),

1. D.N.B. Richard Whalley.

2. W. K. Jordan ed., The Chronicle and Political Papers of King Edward VI (Lond., 1966), p. 129.

3. Noble, op. cit., II, 137-138.

4. For his later interest in Welbeck, see Turberville, op. cit., I, 12-17. This is the fullest account of the abbey until it came into the possession of the Cavendish family.

5. Thoroton, op. cit., p. 136; Noble, op. cit., II, 138.

6. Nichols, Leicestershire, II, part 11, 736 names all of these. There are a number of accounts of Whalley. The best is Turberville, op. cit., I, Ch. 1, 3-17. See also D.N.B.; Richardson, Court of Augmentations, pp. 132-133; Noble, op. cit., II, 136-139; J. and J. A. Venn eds., Alumni Cantabrigienses ..., part 1 to 1751, 4 vols. (Cambridge, 1922-27), IV, 376; C. H. and J. Cooper, Athenae Cantabrigienses, 1500-1611, 3 vols. (Cambridge, 1858-1913), I, 1500-1585, 116, 544; W. K. Jordan, Edward VI. The Threshold of Power (Lond., 1970), pp. 75-76, 80, 111.

7. Will dated 18 Oct. 1583 deals mainly with legacies to some of his daughters and provision for payment of servants. Vol. XXIII f. 159, Borthwick Institute of Historical Research, York.

erected an alabaster tomb to his memory in Screveton church.¹ Despite his former losses, he left a large fortune to his descendants.

Thomas Whalley, his eldest son, predeceased him in 1582;² thus Richard Whalley, his grandson and Edward's father, succeeded to his considerable estates.

II

The exact date of birth of Richard Whalley the younger is not known because the relevant parish register no longer exists. A probable date, however, is circa 1561-1563 if we reckon the common age of matriculation as 15 or 16 years. Richard matriculated from Trinity, Cambridge, at Easter, 1577.³

Little is known of his early career except the bare facts about his legal education and fragments gathered from accounts of his more famous grandfather. Nor is material relating to Richard's adult life much more extensive, though, as explained below, his later years were marked by adversity.

After Cambridge and a short spell at Barnard's Inn, he was admitted at Gray's Inn on 8 November 1583.⁴ His first wife was Ann Horsey, daughter of George Horsey of Diggeswell, Hertfordshire, and descended from an ancient and esteemed family who owned large estates in that county and property in Berkshire, Gloucestershire and Coleman Street, London.⁵ Horsey

1. See photograph and epitaph in J. T. Godfrey, Notes on the Churches of Nottinghamshire, Hundred of Bingham (Lond., 1907), pp. 391-394.

2. Noble, op. cit., II, 139. See also Calendar of Nottinghamshire Wills in the York Registry, 1514-1619 (Worksop, 1890), p. 106. Caveat against administration dated 10 Oct. 1583.

3. Venn, op. cit., part 1, IV, 376.

4. J. Foster ed., Gray's Inn Admission Register, 1521-1889 (Lond., 1889), p. 63.

5. For the Horseys, see J. Hutchins, The History and Antiquities of the County of Dorset, ed. W. Shipp and J. W. Hodson, 3rd ed., 4 vols. (Lond.,

was sheriff of Hertfordshire in 1572.¹ The marriage took place before Horsey's death, for in his will dated 28 July 1587, he left his daughter Ann Whalley 'my other shipp basin and ewer of silver'.² In view of the nature of this bequest, Ann had probably been provided with a sizeable dowry previously. There were no surviving children of this marriage.³

Richard's second marriage established the connection with the Cromwells of Huntingdonshire, for in 1595, he married Frances, one of the younger daughters of Sir Henry Cromwell alias Williams of Hinchinbrook by his wife Joan (née Warren). The parish of St. Benet Sherhog, London, where Richard and Frances were married on 12 July,⁴ was the domicile of Joan Cromwell's father, Sir Ralph Warren, an influential merchant who was warden of the Mercers' Company in 1521, master in 1530 and 1542 and twice Lord Mayor in 1536-37 and in 1544.⁵ Thus began in 1595 that alliance which from the early years of the Civil War until the Restoration was to bring to Richard's son, Edward, honour, wealth and power greater than that which had been enjoyed by the elder Richard Whalley at the court of Henry VIII.

In the same year as he married Frances Cromwell, Richard was pricked

(continued) 1861-1873), IV (1873), 427, 429; R. Clutterbuck, The History and Antiquities of the County of Hertford, 3 vols. (Lond., 1815-1827), II (1821), 321-322; J. E. Cussans, History of Hertfordshire, 3 vols. (Lond., 1870-1881), II (1874-1878), parts XI, XII, 253.

1. D. Warrand ed., Hertfordshire Families, History of Hertfordshire (V.C.H. Genealogical Volume, Lond., 1907), 283.

2. P.R.O. Prob. 11/72/12.

3. Familiae Minorum Gentium, ed. J. W. Clay (Harleian Society XL, 1896), 1230; Nottinghamshire Visitation, 1662 & 1664 (Thoroton Society Record Series, XIII, 1949), 64.

4. G. J. Armytage ed., Allegations for Marriage Licences issued by the Bishop of London, 1520-1610. Extracted by the late Col. J. L. Chester, (Harl. Soc. XXV, 1887), 222; J. Foster ed., London Marriage Licences, 1521-1869 (Lond., 1887), p. 1443.

5. D.N.B.; Rev. T. Warren, A History and Genealogy of The Warren Family (privately printed, Lond., 1902), pp. 95-97.

sheriff of Nottinghamshire.¹ After his year of office he served again as J.P.,² and was noted as one of the Commissioners for the Musters in Nottingham in 1596.³ He twice served as M.P. - for Nottinghamshire in the Parliament of 24 October 1597 to 9 February 1597/8 - and for Boroughbridge, Yorkshire, between October and December, 1601.⁴

Though not as important a figure as his grandfather or his son Edward, he nevertheless for some time enjoyed a considerable local reputation as a leading member of the county gentry.⁵ Among his contemporaries were men of similar rank and influence such as Sir John Byron, Sir Edward Stanhope, John Stanhope, Sir Francis Willoughby, John Holles and Bryan Lascelles.

On the death of his grandfather in 1583, Richard had inherited the major share of the family estates. He had also augmented his patrimony by the purchase of other property. His landed possessions included the family seat and manor of Kirkton Hall alias Screveton, the manor of Sibthorpe (of which the latter was the most profitable acquisition), and other property in Hawsworth, Flintham, East Stoke, Kneeton (Kneveton), Syerston, Elston and Car-Colston in Nottinghamshire.⁶ He had also lands of a lesser extent in Leicestershire and Derbyshire.⁷

1. Venn, op. cit., part 1, IV, 376; Noble, op. cit., II, 140.

2. J. R. Dasent ed., Acts of the Privy Council of England, New Series, XXVII, 1597 (1903), 295-296.

3. Ibid., XXVI, 1596-1597 (1902), 389.

4. Accounts and Papers, LXII, Part 1 (1878), Parliaments of England, 1213-1702, 434, 441. Venn, op. cit., part 1, IV, 376 errs in stating Whalley was knighted in 1597. He never rose beyond the status of esquire. The error originates from Thoroton, op. cit., p. 130, where Whalley is noted as 'knight' of the shire.

5. See Turberville, op. cit., I, 13.

6. For fuller details see Appendix H. Summary of Portland MS. DDP.26/4. For lands Whalley acquired in Car-Colston in addition to his original patrimony, see Thoroton, op. cit., p. 123; Parish Histories from the Torre Manuscript. Archdeaconry of Nottingham - Car-Colston (Nottingham Public Library), pp. 10, 10a.

7. For Derbyshire (Whitwell Manor), see Derbyshire Archaeological and

Unfortunately, and largely owing to his style of extravagant living, Whalley contracted a large number of debts and became involved in a series of expensive and often unsuccessful law suits that seriously encumbered his estates. Thoroton calls him 'one of the most splendid Sheriffs' of Nottinghamshire but adds that 'the latter part of his time was not prosperous'.¹

He seems to have been at the height of his affluence and influence before the last decade of the 16th century. From the 1590s onwards, however, his influence declined relative to the increase of his debts: the fortune he had inherited drained away and he sank from a position of wealth to one of comparative poverty for a person of his rank, bringing discredit to his own reputation and suffering to his family, particularly his daughters for whom he was unable to provide adequately.

III

There were a number of factors² peculiar to the times which would also have contributed to Whalley's financial insecurity - a series of adverse circumstances which he was not strong enough to overcome.

From the early 16th century until shortly before the meeting of the Long Parliament in 1640, the country was subject to growing inflation in which wheat prices rose six times 'and the general price level four or five times'.³ The aristocracy and gentry were compelled to adapt themselves

(continued) Natural History Society Journal, XXIV (1902), 62, 63; J. G. Nichols ed., Herald and Genealogist, 8 vols. (Lond., 1863-1874), VI (1871), 38.

1. Op. cit., p. 130. The shrievalty normally involved heavy expenditure. Even so, some men were over ostentatious during their period of office. See J. T. Cliffe, The Yorkshire Gentry: From the Reformation to the Civil War (Lond., 1969) pp. 250-255.

2. See e.g. L. Stone, The Crisis of the Aristocracy, 1558-1641 (O.U.P., 1965), pp. 505-508. (Stone's examples would apply also to the gentry class.) C. Hill, 'Land in the English Revolution', Science and Society, XIII (1948-49), 27-31.

3. C. Hill, The Century of Revolution, 1603-1714 (Lond., 1961), pp. 15-16. Stone, Crisis, pp. 188-189.

to changing conditions or go under. As Christopher Hill indicates, in this inflationary century, it appears to have been the farmers, yeomen and lesser landlords who developed those qualities most necessary for success - namely, 'thrift, industry, readiness to rack rents and watch markets, moderate consumption and re-investment of profits'.¹ Many of the aristocracy and greater gentry, including some of the latter who had prospered since the Henrician dissolution of the monasteries, clung to the older tradition of ostentatious living, assuming the extravagant standards that were expected of them and dispensing benevolence and charity to their neighbours great and small. Economy and retrenchment were alien to them and yet these were the factors most necessary, not only for success, but in many cases for survival also.²

The greater mobility and cheapness of land was another adverse factor the gentry had to contend with. Those landlords who had let their lands on long leases were at a disadvantage until fines could be significantly increased on renewal. The tenants who held by long leases, however, prospered in an ever-widening agricultural market.³

It is evident from the disorder of Whalley's finances that he was no hard-headed businessman with the drive, administrative ability and force of character to surmount the adversities of the times. It can be seen from the fact that Sir Robert Wroth, both father and son, Sir Edward Stanhope the elder and Sir Robert Winde⁴ at various stages agreed to assume

1. Reformation to Industrial Revolution (Lond., 1967, Pelican reprint 1969), p. 66.

2. See Stone, Crisis, pp. 42-49.

3. Consumption of corn in London had increased by 230% between 1605 and 1661. C. Hill, Reform. to Ind. Rev., p. 62. See Ch. 3, 'Agriculture and Agrarian Relations' for a summary of agrarian problems and progress in an inflationary age, pp. 61-71.

4. See below, pp. 14, 21-22, 23.

responsibility for paying Whalley's creditors, and that Winde particularly, benefited at Whalley's expense.

The above defects help to explain why Whalley failed to derive the benefits normally attendant upon enclosures, but it must also be remembered that he was enclosing land in Car-Colston and elsewhere when his debts were accumulating as a result of his style of living, thus he was neither able to complete that drastic financial re-organisation, nor adopt the most progressive farming methods which were necessary to ensure long-term success.

Thoroton states that Whalley prevailed with 'the rest of the owners' to enclose their land in Car-Colston. The historian adds, however, that neither Whalley nor the others 'ever found any great improvement in their former times or conditions, though the Rents were much increased'.¹ Nor apparently did their posterity reap much advantage from enclosure, most having sold their land to new purchasers.

In view of what has been said about Whalley's business acumen, the enclosure he effected reveals not so much his progressive outlook as a landlord, but rather his participation in what had become a fairly common practice in Nottinghamshire at that time. Most of the larger freeholders had agreed to take their lands in severalty in Car-Colston by 1598,² and some of the enclosure Whalley undertook in Screveton resulted from exchanges which had occurred earlier.

On 14 March 1591/2, an agreement for an exchange was concluded between Richard, his wife Ann, and his mother Elizabeth, on the one part; and Henry Hall, yeoman, his wife Alice, his son Henry and Henry's wife Margaret, on the other. A section of this document will serve to illustrate others

1. Op. cit., p. 123.

2. T. C. Blagg, 'Car-Colston' (Transactions of the Thoroton Society, LXXIV, 1970), 74.

of a similar nature.

3 leys of pasture (3 roods), in Shortmore; 1 piece of meadow on Longing (1 acre 3 roods 1 pole), 1 piece of meadow in the Carr (2 a. 1 r. 30 p.); ... on Longmore grene 1 land arable (1 r. 25 p.); ... on Hunger Hill furlong in Flitland Field, 5 lands arable (1 a. 1 r. 20 p.);...

On the same date, another exchange is noted between Richard and his wife, and John Holmes of Kneeton (Kneveton), husbandman and his wife Allyce; and a further one relating to William Braunson on 26 September 1593.¹

In Car-Colston, once the freeholders were agreed on their holdings, in order to mitigate any harmful effects of the enclosure, an area of common land of approximately 29 acres was reserved for the use of the cottagers, and 2 acres of land allotted to each cottage. Two cowgaits or Kynegaits were also allowed each cottager - that is the right to graze two beasts on the stubbles of the freeholders' lands for six weeks after the Feast of Bartholomew (24 August).² Compared with some parishes where provision for the cottagers was disregarded, the award in Car-Colston seems particularly humane and generous.

Despite Thoroton's statement that the rents were increased, Whalley certainly does not appear to have been a harsh landlord. One cannot envisage his securing the full economic value from his land by leasing at rack rentals, or charging exorbitant fines at the renewal of beneficial leases.³ Nor would the eviction of tenants in order to effect enclosure be in character. The impression gained is rather that he was too easy-going with his tenants and failed to derive the maximum advantages the newer

1. Hildyard MSS. 2/1. Documents on temporary deposit in Notts. County Record Office from Messrs. Turner, Barrow and Moss, Solicitors, Regent Street, Nottingham.

2. Trans. Thor. Soc., LXXIV (1970), 74.

3. Of the two types, the beneficial lease was still the more usual at the end of the 16th century. Under it a tenant paid the landlord a large fine on renewal (usually spread over two years) and a rent below the annual value of the land. For beneficial leases and rack rents see L. Stone, Crisis, pp. 313-322.

farming offered him. Economy and not extravagance should have been his watchword. Had this been so, then his rent roll would have been better able to support him.

If credence can be given to his own words, which were written, however, when his circumstances were extremely straitened and his relationship with his eldest son Thomas embittered, his tenants appear to have been prosperous in comparison with their position under Thomas Whalley, for he speaks of them as rich in his time 'nowe poore, they bearinge all burthens hee'¹ none'.² Some of these - Matthew Hickson, John and Simon Caunte, Thomas and Richard Marshe, Ralph Whalley and Peter Lynney³ - to whom Sir Robert Wrothe and Sir Robert Winde leased Whalley's extended lands, were anxious to help Whalley in his difficulties. They refer to themselves as his 'loving tenants', holding their leases 'to the benefit and good of the creditors of the said R. Whalley, himself and his wife and children'.⁴

According to Thoroton, though Whalley had enclosed most of Screveton, his grandson Peniston, who inherited the manor and the residue of Whalley's property, continued the process of enclosure on the Fosse-way side of the village.⁵

In 1656 when Edward Whalley himself attempted to introduce his Enclosure Bill into Parliament,⁶ he indicated that most of his commons were

1. i.e. Thomas Whalley.

2. B. M. Egerton MSS. 2644 f. 234.

3. See below, pp. 14, 23-24.

4. P.R.O. C3/296/96 dated 24 April 1616. Answer of these tenants to a Bill of Complaint brought against them by John Whalley, Richard's brother.

5. Op. cit., p. 129. For the Enclosure Act of 1776 relating to Screveton but merely ratifying existing enclosure agreements, see W. E. Tate, Parliamentary Land Enclosures in the County of Nottingham, 1743-1868 (The Thoroton Society Record Series, V, 1935), 60, 188.

6. See below, pp. 190-193.

enclosed - and these probably¹ included the ones in the manor of Sibthorpe which he had regained in 1652.

IV

It is beyond the scope of this study to attempt to account for the majority of Richard Whalley's creditors² - probably an impossible task anyway. Nor is it the intention to describe in detail the numerous legal actions in which he was involved.

His creditors were a mixed bunch, including relatives, quite ordinary citizens, people of merely local repute and moderate means, and others who achieved greater wealth and fame as members of the leading gentry families in their particular counties.³

Among the relatives, Whalley's indebtedness to a man of modest income is worth mention. This was Robert Cromwell, brother of Whalley's second wife Frances, and father of the future Lord Protector. In his will dated 1617, Robert requested 'that the debte due to me by my brother Richard Whaley uppon a statute of sixe hundred poundes shalbe equally divided amoungest my daughters for and towards the rayseing of their por[tions].'⁴ Whether in fact Robert Cromwell's daughters eventually came by this inheritance is doubtful in view of Whalley's desperate financial position then, and the future relations between Whalley and Robert Cromwell's wife Elizabeth.⁵

1. See W. E. Tate, op. cit., p. 191.

2. For some not involving the major creditors described in this chapter, see e.g. P.R.O. C3/297/47, 63; C3/327/7; C2/Chas.1 W 80/19; C2/Chas.1 W 84/10; C2/Chas.1 W102/29; Request 2 Bundle 3/108; Bundle 67/44; Bundle 234/27.

3. See e.g. recognizances in which Whalley was bound between 1596 and 1602 in P.R.O. C54/1574, 1607, 1641, 1642, 1675, 1703, 1704, 1705. I have discovered only two others among the Close Rolls at later dates, viz. C54/2109, 7 Feb. 1611/12 and 2488, 18 May 1621. Lord Chamberlain's Office, Entry Books of Recognisances. P.R.O. LC 4 would probably reveal more.

4. P.R.O. Prob. 11/130/78. Printed in W. ^{C.} Abbott ed., The Writings and Speeches of Oliver Cromwell, 4 vols. (Cambridge, Mass., 1937-1947), I, 1599-1649, 30.

5. See below, p. 47.

It was, however, with members of the richer gentry that Whalley was mainly involved and to whom he was most heavily indebted. It is therefore proposed to concentrate on his financial relations with the most important of these.¹ Among them were Sir Edward Stanhope² of Edlington and Grimston, Yorkshire; Sir William Ayloffe of Hornchurch, Essex; Sir William Smythe of Hill Hall, Essex; Sir Robert Wroth(e) of Durance (Durrants), Enfield, Middlesex, and his son, Sir Robert the younger; Thomas Winde or Wynde esq. of South Wootton, Norfolk, and his son, Sir Robert; Sir John Hele³ of South Hele, Devonshire, and Dame Margaret Hawkins of London.

It is significant that Whalley's debts to these and others occurred at the height of his influence in county politics between 1595 and 1601 when his style of living was most extravagant.

Among the earliest of Whalley's debts recorded in the Portland Manuscripts are those he owed to Sir Robert Wroth the elder. Sir Robert had inherited considerable estates in Middlesex, Hertfordshire, Essex and Somerset on the death of his father Sir Thomas, in 1573.

He had a distinguished career, serving as M.P. for St. Albans in 1563; for Trevenna, 1571; for Middlesex in 1572, 1585, 1589, 1601 and 1604. He

1. In the list in the text, only Sir Edward Stanhope and Sir Robert Wroth the elder had been knighted in Elizabeth's reign. The others were knighted in 1603.

2. For the Stanhopes see Venn, *op. cit.*, part 1, IV, 146; J. Throsby ed., *Thoroton's Antiquities of Nottinghamshire*, 3 vols. (2nd ed. London., 1790), I, 289 ff.; W. T. MacCaffrey, 'Talbot and Stanhope: An Episode in Elizabethan Politics', *B.I.H.R.*, XXXIII (1960), 73-85; and sources cited below, p. 18 n. relating to Gilbert Talbot.

3. On 7 Dec. 1599, Whalley had acknowledged a statute in £600 to Lawrence Slade and Henry Dunne taken by John Hele, Sergeant at Law, in their names. This was later assumed by Sir Warwick Hele, his son. Portland MSS. DDP. 8/98 (Nottingham Record Office: henceforth in this chapter cited by their initial letters.) An unattractive personality, Sir John Hele (1543?-1608) was a notorious money lender and amassed a fortune. A character reference supplied by Lord Keeper Egerton to the Queen describes Hele as 'a grypinge and excessive usurer,... a gredye and insatiable taker of excessive fees'. See E. Foss, *The Judges of England, 1066-1864*, 9 vols. (Lond., 1848-1864), VI (1857), 141; L. Stone, *Crisis*, 533-534; *D.N.B.*

served as high sheriff of Essex in 1587 and was knighted in 1597.

After his death at Enfield on 27 January 1605/6, his son and heir Sir Robert, as executor, assumed financial responsibility.¹

Whalley became bound to Sir Robert the elder by a statute staple in 2,000 marks, dated 14 November 1597² which was to be defeasanced for the payment of certain debts for which Wroth stood engaged to Whalley. In July 1604, Wroth had disbursed £2,538.16.1.³ on Whalley's behalf and because of the latter's default of payment, had sued out writs of extent and liberate on the manor of Sibthorpe and other lands.⁴

Sir Robert Wroth the younger in April 1610⁵ had extended Whalley's lands by virtue of the statute still existing and in July of that year had leased certain premises in Sibthorpe at £300 yearly rental⁶ to obtain satisfaction of debts still outstanding. His brother John Wroth was still

1. For the Wroths see D.N.B., Venn, op. cit., part 1, IV, 468; Notes and Queries, 7th Series, XI (1891), 118; C. H. Cooper and J. Cooper, Athenae Cantabrigienses, 1500-1611, II, 1586-1609 (1861), 428; W. C. Waller, 'An Extinct County Family: Wroth of Loughton Hall' (Trans. Essex Arch. Soc., New Series, VIII, 1900-1903), 145-181. Pedigree at p. 181.

2. See e.g. DDP.8/98, 182; Bodleian, Rawlinson MSS. B 143 f. 32.

3. For particulars of items constituting the sum see DDP.8/159.

4. See e.g. DDP.8/92; Bodl. Rawl. B. 143 f. 32. When execution had been issued on a statute staple by a writ of extent, the lands, tenements etc. of the debtor were not delivered to the creditor but were seized by the sheriff 'into the king's hands'. To gain possession, the creditor had to sue out a writ of liberate which commanded the sheriff to deliver the premises into his hands. See Earl Jowitt and C. Walsh eds., The Dictionary of English Law, 2 vols. (Lond., 1959), I, 770; II, 1087, 1678; L. Stone, 'The Elizabethan Aristocracy - A Restatement', Ec.H.R., 2nd Series, IV (1952), 316-317. For bonds, statutes and recognizances see e.g. Stone, Crisis, pp. 517-524; J. T. Cliffe, The Yorkshire Gentry: From the Reformation to the Civil War, pp. 145-147; H. R. Trevor Roper 'The Elizabethan Aristocracy: an Anatomy Anatomised', Ec.H.R., 2nd Series, III (1951); R. B. Pugh ed., Calendar of Antrobus Deeds before 1625 (Wilts. Arch. and Nat. Hist. Soc. Records Branch, III, 1947), Introduction, li-lii.

5. DDP.8/98.

6. Ibid. and DDP.8/92.

pressing for payment in 1618¹ but his claim for £700 was finally met in May 1619.²

Whalley's lands had likewise been extended on account of a statute staple in 1,000 marks dated 20 June 1599³ defeasanced for the payment of £420 to William Smythe esq.⁴ On 19 June 1608, Smythe assigned his statute to Sir George Savile of Thornhill, Yorkshire and Sir Gervase Helwys of Worlaby, Lincolnshire.⁵ No reason has been discovered to explain why he did this, but it is apparent that at some later date he had re-acquired his interest in the premises.⁶

Sir William Ayloffe, another of Whalley's contemporaries and creditors, was the son of William of Brittainys, Hornchurch, Essex, who had been Justice of the Queen's Bench. Ayloffe was sheriff of Essex, 1594-5, knighted 1603 and created baronet in 1611. He was M.P. for Stockbridge, Hants., 1620-1622, and died 5 August 1627.⁷ By a statute staple⁸ in approximately £400, Whalley was indebted to Ayloffe for £240 and in a further recognisance in Chancery he was bound in the sum of 1,000 marks.⁹

1. DDP.8/167. Sir Robert the younger had died on 14 March 1613/14 and his only son James died in infancy on 5 July 1616. Trans. Essex Arch. Soc., New Series, VIII, 165; D.N.B.

2. DDP.8/113/3.

3. See e.g. DDP.8/79, 98, 147/1.

4. For Smythe who died 12 Dec. 1626 aged 76 see Miscellanea Genealogica et Heraldica, 2nd Series, IV (1892), 241; Will, P.R.O. Prob. 11/150/150. Smythe's extent concerned lands in Sibthorpe, Hawksworth, Car-Colston, Flintham and Kneeton (Kneveton).

5. DDP.8/79, 150. For Savile and Helwys see D.N.B.

6. See below, pp. 32-33.

7. See G.E.C., Complete Baronetage, 5 vols. + Index (Exeter, 1900-1909), I, 1611-1625, 94; Venn, op. cit., part 1, I, 60.

8. Dated 7 July 1599. The amounts conflict. Bodl. Rawl. B 143 f. 32; DDP. 98, 100 state £450, whilst DDP. 8/150, 182 and DDP. 26/4 give the figure as £400.

9. P.R.O. C54/1675/unnumbered. For premises extended by Ayloffe see DDP.8/100.

The Ayloffe family later became connected by marriage with the Whalleys, but this was after Richard's death. Sir William married three times and had issue by all his wives. It is from his first wife Catherine, daughter and co-heir of John Sterne of Melbourne, Cambridgeshire, that the relationship ensued. By her, Sir William had three sons and four daughters. One of the sons, James, inherited his mother's estate at Melbourne. From James's first wife Jane Herris of Shenfield, Essex, descended William Ayloffe of Bassingbourne (burn), Cambridgeshire.. He became the husband of Peniston Whalley's sister Elizabeth.¹ Another family relationship resulted from James's second wife. She was Elizabeth, the daughter of Thomas Penyston (or Peniston) esq. of Deane, Oxon., and of Rochester, Kent. Elizabeth's sister Mary became the first wife of Richard Whalley's eldest son Thomas, and later remarried Richard Draper, gent.²

Little is known of Dame Margaret Hawkins beyond the fact that she was the widow by his second marriage of the famous Elizabethan slave-trader Sir John Hawkins (1532-1595), and step-mother of Sir Richard Hawkins who was also a naval commander, prisoner of Spain from 1594 to 1602 and later Vice-Admiral of Devon.³

J. A. Williamson in his account of Sir Richard's imprisonment⁴ states that Dame Margaret 'behaved meanly to her stepson ... by with-holding the money (his money) which would have ransomed him from Spanish captivity after her husband's death.' In a letter addressed to Sir Robert Cecil, Hawkins himself wrote: 'My mother-in-law, Lady Hawkins, will not give the

1. See below, pedigree, Appendix E; Visitation of Notts., 1662-1664 (Thor. Soc. Rec. Ser., XIII, 1949), 64; Thoroton, op. cit. p. 130.

2. See below, pp. 31, 49, 238, and pedigree Appendix E.

3. See D.N.B. and sources cited; Calendar State Papers Domestic, 1598-1601 (henceforth cited as C.S.P.D.), particularly 38, 333, 375, 422; ibid., 1601-1603, 198, 212; 1603-1610, 457; J. A. Williamson, Hawkins of Plymouth (2nd ed. Lond., 1969), passim.

4. Ibid., 315.

money allotted by my father for my ransom until I come into England, though it is notorious that if I had credit for a less sum, I could compound for my ransom.'¹

Dame Margaret certainly appears to have acted unjustly in this respect but her reluctance to despatch the ransom money may possibly be explained by Richard Whalley's indebtedness to her.

Among the Portland Manuscripts there is a copy of an Order in Chancery dated 25 February 1602/3² in which Dame Margaret figures as plaintiff and Whalley, Roger Mountague gent., Sir Robert Wroth and Sir Edward Stanhope are defendants.³ It concerns two sums of £1,000 and £300⁴ loaned to Whalley which was 'part of the sums heretofore given for the redemp[ti]on of Richard Hawkins gent. then prisoner in Spain and now standing upon his ransom.'⁵ Apparently, Hawkins' appeal to Cecil had been successful - the Queen wished to see the ransom of £3,000 paid, hence at the close of 1602, Hawkins was released.⁶ Dame Margaret obviously found the money to pay this after expression of the royal wish, but her earlier reluctance could have been due to fear of financial embarrassment whilst Whalley's debt to her still remained unpaid. Now, having discharged the money she was the more anxious to secure satisfaction of the debt.

The Chancery Order assigned over to Dame Margaret the rectory of Car-Colston, the Millfield and other lands belonging to Whalley until the £1,300 was satisfied. Whalley was bound to Roger Mountague by a statute

1. C.S.P.D. 1601-1603, 212.

2. DDP.8/157.

3. As noted above, p. 14, Wroth had assumed the responsibility for discharging certain of Whalley's debts. Stanhope acted in a similar capacity as explained below, pp. 21-22.

4. DDP.8/157, 162; P.R.O. C54/1642.

5. DDP.8/157.

6. J. A. Williamson, op. cit., p. 330.

in £800 for payment of £400.¹ The latter expressed his willingness to transfer his extent on Whalley's lands to Dame Margaret if she would discharge the same and pay him 'reasonable costs and damages'. This was effected by the Order.

An indenture of 20 February 1604/5 records that Whalley was indebted to Sir Robert Wroth and Dame Margaret in the sums of £2,600² and £2,000 respectively. It was covenanted that an extra sum paid on his behalf should be added to the other debts already levied on his lands. In order to satisfy 'divers seizures and charges' on the manor of Sibthorpe due unto James I upon an obligation of £300 previously acknowledged unto the late Queen Elizabeth by Richard's grandfather,³ Dame Margaret and Sir Robert had paid £173.6.11. plus costs to the King.⁴

Four years later on 7 February 1608/9, as a result of a further Order in Chancery,⁵ Dame Margaret assigned over her own interest and that of Roger Mountague which she had acquired to Gilbert Talbot, 7th Earl of Shrewsbury,⁶

1. It is probable that Mountague's extent issued out of a moiety of the manor of Willoughby-by-Norwell and certain property in North Carl(e)ton. On 4 July 1611, by indenture, Dame Margaret assigned the premises to three yeomen of Screveton - Peter Lynney, Richard Caunte and Thomas Marshe. There was a clause in the indenture to protect the interest of Sir Robert Wroth the younger. The document is endorsed 'assigned for Mr. Whalley's use.' DDP.8/53/2. In the MS. cited above, p. 11, n. 4, Lynney, Caunte, etc. refer to themselves as 'husbandmen'.

2. See above, p. 14. Evidence of close friendship between Dame Margaret and the Wroth family is afforded by the fact that in her will of 23 April 1619 she left 'a gilt bowl price twenty pounds' to Lady Mary Wroth, then widow of Sir Robert the younger. See D.N.B. under Lady Mary and Notes and Queries, 8th Series, IV (1893), 252.

3. i.e. Richard Whalley the elder, d. 1583. See C54/1443/unnumbered.

4. DDP.8/53/1.

5. DDP.8/162.

6. For Talbot who died in May 1616, see D.N.B.; T. Hunter, Hallamshire. The History and Topography of the Parish of Sheffield in the County of York, ed. A. Gatty (Lond., 1869), pp. 98-102 and Turberville, op. cit., I, passim. Talbot, 7th Earl, was both half-brother and brother-in-law of Sir Charles Cavendish (1553-1617). This resulted from the fact that Bess of Hardwick's second husband was Sir William Cavendish (d. 1557), father

who on 6 April 1608 had agreed to pay £3,000 as part of the purchase money for Sibthorpe.¹ Talbot offered to discharge the amounts still owing to Dame Margaret provided that she reconvey to Whalley the extended premises from which her remaining debts were to be paid.

Before describing Whalley's relationship with Sir Edward Stanhope the elder, mention must be made of Sir Robert Winde to whom Whalley was bound more closely and for a longer period than to any other of his creditors. Sir Robert became administrator of the estate of his father Thomas Winde esq. after the latter's death and it was from Thomas that Whalley had borrowed £1,000 and become bound to him by statute in £2,000, dated 23 August 1600. Whalley's brother-in-law Thomas Draper of Flintham² was also indebted to Winde by a statute in £1,500 dated 13 October 1600. In consequence Whalley's lands had been further extended on the former statute,³ and at some later stage Whalley had also assumed the debt of Thomas Draper.⁴

(continued) of Sir Charles. Her fourth husband was George Talbot, 6th Earl of Shrewsbury and father of Gilbert. Gilbert also married Mary Cavendish, sister of Sir Charles (d. 1617). See pedigree Appendix C.

1. By an earlier transaction (DD4P.22/315 dated 26 Jan. 1606/7) part of the manor had been conveyed to Sir Charles Cavendish by Lancelot Ogle of Borrodyne, Northumberland and Henry Butler of Boyleson, Derbyshire. In 1608, the two latter had acted on Talbot's behalf in arranging to purchase property to the value of £3,000 from Sir Edward Stanhope and to lease this to the latter until full payment had been made. Final concord for the sum of £1,200 was effected in 1616. See DDP.8/74, 76, 102 and below, p. 26. Ogle was a relative by marriage of Sir Charles Cavendish; Butler was servant to Gilbert Talbot.

2. Married Whalley's sister Eleanor, see pedigree Appendix B.

3. See e.g. DDP.8/37, 98, 152, 182; DDP.26/4; Bodl. Rawl. B 143 ff. 32, 33. Thomas Winde's daughter Margaret was first wife of Henry Cromwell of Upwood who was the third son of Sir Henry Williams alias Cromwell by Joan (née Warren), and thus Richard Whalley's brother-in-law. Henry died 29 Oct. 1630. See Appendix D. and pedigrees and details in F. Blomefield, An Essay Towards a Topographical History of the County of Norfolk, 11 vols. + Index (Lond., 1805-1862), IX (1808), 199; V.C.H. Huntingdon, II (1932), 67-71; F.M.G. (Harl. Soc. XXXVIII, 1895), 435; R. Clutterbuck, Hist. of Herts., II, 96. The two latter sources mistakenly note Margaret Winde as Henry Cromwell's second wife.

4. This is evident from the indenture DDP.8/98 made between Whalley and Sir Robert Winde on 23 Mar. 1614/15.

Some idea of the state of Whalley's finances in the five years between 1595 and 1600 may thus be appreciated even from the above descriptions of the more important of his major creditors. Having once been compelled to borrow large sums it became a vicious circle from which he was never able to extricate himself, and which involved him in a number of costly law suits.

Any account of Whalley's creditors would be incomplete without details of Sir Edward Stanhope the elder who also loaned extensive sums to Whalley and to whom the latter was obliged to sell Sibthorpe in 1601.

Sir Edward, one of the sons of Sir Michael Stanhope (d. 1552) of Shelford, Nottinghamshire, had estates in Edlington and Grimston, Yorkshire. He was admitted to Gray's Inn, 1579 of which he became treasurer. He was also recorder of Doncaster, surveyor of the Duchy of Lancaster, member of the Council of the North and M.P. for Nottinghamshire in 1572. He was buried at Kirby Wharfe in the latter county on 24 April 1603.¹

In his attempts to discharge some of his debts, Whalley had mortgaged certain of his lands to Stanhope. There is a transaction in the Close Rolls as early as 1592² recording a mortgage of property in Sibthorpe for the sum of £670, which was to become void provided Whalley repaid the sum on 10 February 1593/4. He was to enjoy 'the rents and revenues, issues and profits' of the premises until that date. It is apparent, however, from a further indenture that Whalley had not satisfied his debt in the specified time and Stanhope, 'in regard of the love that he beareth unto Whalley' had granted him an extension. The indenture³ dated 8 April 1597 records that £675 had then been paid.

The family manor of Kirkton Hall alias Screveton⁴ was also mortgaged

1. D.N.B.; Venn, op. cit., part 1, IV, 146; F.M.G. (Harl. Soc., XXXIX, 1895), 987; The Genealogist, New Series, XIII (1896-1897), 106.

2. P.R.O. C54/1443/unnumbered, dated 6 Dec.

3. P.R.O. C54/1562/19.

4. Though two distinct lordships, the manors were adjacent and are more usually referred to in the singular as Kirkton Hall alias or juxta Screveton.

to Stanhope for £1,000 on 5 May 1597.¹ This sum too, Whalley was unable to pay by 3 November of that year when it was due, though a further loan enabled him to do so in 1600.

This was made possible by a tripartite agreement of 13 June between Sir Edward Stanhope of the one part, his brother Michael Stanhope² (one of the grooms of the Queen's privy chamber) and Ralph Wright of the second part, and Whalley of the third part. Michael Stanhope and Wright had paid the sum of £1,000 to Sir Edward and had assumed the mortgage. The conditions were that if Whalley repaid the sum by 16 June 1601, the premises would be regranted to him. In default of repayment, however, Whalley was to renounce all right and title to the premises. No parallel indenture has been discovered among the Close Rolls stating that Whalley redeemed this mortgage, but it is apparent from other evidence that Sir Edward Stanhope had done so for him from the purchase money of the manor of Sibthorpe,³ though once more an extension of time had been granted.

Whalley had become enmeshed in a net of financial entanglements that drew even tighter when he was obliged to mortgage his manors in Car-Colston.⁴ This particular transaction following closely after Whalley's sale of Sibthorpe is important because it indicates Stanhope's agreement to discharge either by himself or jointly with Whalley further of the latter's debts. The mortgage was for £2,200⁵ and the condition was that Stanhope

(continued) The manor house itself was 'in the very division of the Lordships ...' Thoroton, op. cit., 129.

1. P.R.O. C53⁴/1574/11.

2. See Venn, op. cit., part 1, IV, 147.

3. DDP.8/153, undated but c. 1602. 'Item. Discharged the said Richard by takinge order to paie Mr. Michael Stanhope in trust for the Ladie Barkley, paiable at midsomer 1602 wherby he redeemed his mannor of Screveton which was in pawn to Mr. Michael Stanhope and Mr. Raphe Wright for £1,000, and £100 more for consideration for a year.'

4. Willoughby's and Bulby's manors.

5. The amount is not specified in the indenture, P.R.O. C54/1726/unnumbered, dated 14 Dec. 1601, but it is noted in Portland MSS. DDP.8/155, 162.

would assume responsibility for the debts contracted before 1 December 1600, up to a total of £1,100.

It is evident that the purchase money Whalley received for Sibthorpe was insufficient to satisfy the debts which he had accumulated in the past few years, hence the necessity of this additional mortgage in the attempt to discharge more of them.

'A Recconinge indented, had and made the 18th day of December 44th Eliz. [1601]...', sets forth exactly what sums Stanhope is to disburse to Whalley's creditors from £6,100 - the purchase price for the manors of Sibthorpe and Hawksworth and appurtenances in Flintham, Kneeton (Kneveton), Thorpe, East Stoke, Sierston and Elston.¹ Thoroton adds that the property in Hawksworth, Car-Colston and Flintham Grange was made collateral security for Whalley's 'quiet enjoyment of Sibthorp, which he sold, not well freed from incumbrances it seems.'

On 18 December 1601, Whalley acknowledged a statute staple in £10,000,² to be defeasanced on condition that he discharged from encumbrances the property conveyed to Stanhope within three years from 12 February 1601/2.

Many years later in a petition to Charles I,³ Whalley referred to this statute staple. He stated that he had been seized of estates in Nottinghamshire of £1,600 yearly value, and that he sold Sibthorpe (over £600 yearly value), to Sir Edward Stanhope who in return was to discharge Whalley's debts. The latter complained that Stanhope had not done so and the 'Incumbrances' were afterwards charged on Whalley's other lands. When Stanhope

1. DDP.8/153. Stanhope had added a further £189 on this amount as interest due on the debts. Other manuscripts (DDP.8/155, 162) give the purchase price as £6,500, but the former figure on the 'Recconinge' signed by Stanhope must be regarded as accurate.

2. DDP.8/50. One encumbrance excepted from this statute staple was a recognizance in £3,000 dated 19 April 1597 whereby Whalley was bound to Sir Henry Cromwell (d. Jan. 1603/4) upon his marriage to Frances Cromwell, to be defeasanced if covenants regarding her jointure were performed. DDP.8/155; P.R.O. C54/1574/unnumbered.

3. DDP.8/122, copy of original, undated but c. 1630.

died in 1603, his son and heir Edward, had later sold the manor and lands¹ together with a statute of £10,000 acknowledged by Whalley for the quiet enjoyment of the property. Whalley maintained that all his other lands were extended upon that statute which should have been discharged² by Sir Edward. In consequence, Whalley had petitioned James I, the question had been referred to the Lord Chancellor and he had been restored to the possession of the lands so extended.

It is necessary now to return to Sir Robert Winde and describe his involvement in Whalley's financial affairs. The debt of £1,000 owed to Sir Robert's father under the statute of 23 August 1600 had not been discharged by 1614. There is a lengthy indenture³ of 23 March 1614/15 describing in detail the statutes still existing and the debts still owing to Whalley's major creditors.⁴ Winde stated that since he had been unable to regain the amount due to him because of all the other extents on Whalley's lands, and as there was no prospect of otherwise doing so, he had agreed to attempt to procure and to discharge the debts due upon them. In return, Whalley was to procure the twelve leaseholders who included Matthew Hickson, Thomas Marshe, Peter Lynney and Ralph Whalley, to assign to Winde the leases that Sir Robert Wroth the younger had made to them in April 1610.⁵

1. i.e. To Ogle and Butler and presumably to the use of Gilbert Talbot and in trust for Sir Charles Cavendish. See above p. 19 n. and below, p. 26. For Sir Edward the younger of Grimston, Yorks., see The Genealogist, New Series, XIII, 108; J. T. Cliffe, The Yorkshire Gentry: From the Reformation to the Civil War, pp. 250, 342. P. Zagorin, 'Sir Edward Stanhope's advice to Thomas Wentworth, Viscount Wentworth, concerning the Deputyship of Ireland ...,' The Historical Journal, VII (1964), 298-320.

2. i.e. defeasanced. Presumably Whalley had discharged the encumbrances on Sibthorpe, hence the judgment in Chancery upholding his claim.

3. DDP.8/98.

4. i.e. Those earlier described in this chapter - Sir Robert Wroth, Sir William Ayloffe, Sir William Smythe, etc.

5. See above, pp. 11, 14. The assignment of the leases to Winde was dated 20 July 1615. DDP.8/101.

New leases¹ were then to be granted to these tenants to secure yearly rents payable to Winde of £200 for the first 2½ years and £500 thereafter until the debts due to him (plus the interest allowed for forbearance of the amount owing for many years) should be liquidated. Since the manor of Sibthorpe was 'most justly liable by law' for the specified extents, it was covenanted that this manor alone should be subject to power of distraint if the rents were twenty one days in arrears after the two dates of payment - 1 May and 1 November. It was further agreed that the new leases to be granted to the lessees of Sibthorpe² should not extend beyond five years from Michaelmas (29 September 1615).

A further agreement was made on 19 August 1617³ when the rentals for securing £500 per annum were shortly to take effect.⁴ Sir Robert was to have possession of the manor, chantry and college of Sibthorpe, and the residue of the rentals over the above sum was to be paid to Whalley. The latter was also to have the benefit of the pigeon house, the pond yard in which it stood, the boon fowl and 'the boones of the carriage of the tenants of Sibthorpe.'

Winde and Richard Holman of the Inner Temple⁵ were still enjoying the rents and profits of Sibthorpe in 1628, by which time it was claimed by John Whalley, Richard's brother, that their extents and those which Winde had secured should have been long since satisfied.⁶

Richard Holman's connection with Sibthorpe arose from the fact that Winde became indebted to him for the sum of £700 at 10% interest. By

1. See P.R.O. C3/296/96.

2. i.e. the four named above.

3. DDP.8/110.

4. i.e. on 24 Feb. 1617/18 according to DDP.8/182.

5. Later referred to as an Attorney of the Court of Common Pleas (DDP. 8/182), and of Sutton Place, Surrey (DDP.26/4).

6. DDP.8/182.

indenture of 20 May 1619¹ it was covenanted that Winde should assign to Holman those lands extended under the former statutes of Sir Robert Wroth and Sir William Aylofffe, and to receive from them no more than £200 yearly until his debt was satisfied. It was also agreed that if Holman was unable to obtain the full amount due from these extents then he was authorized to secure the residue from Winde's own extent upon the statute of £2,000.

On borrowing a further sum of £300 from Holman, Winde transferred to him the statute of £2,000² and the premises extended upon it.

One later indenture³ between them indicated that Holman had compounded with the executors of Sir John Hele, Sergeant at law, for their interest and extent on Whalley's lands⁴ and had also disbursed a sum of £240⁵ to Richard Winde of Erith, Huntingdon, gent., brother of Sir Robert. It was agreed therefore that on satisfaction of Holman's debts he was to transfer all the statutes and extents and re-grant to Winde all the manors, lands, tenements, and premises thus extended apart from 'Carr Plott' in Car-Colston and 'Flintham Grange' and lands belonging to it.⁶

Earlier in this chapter it was noted that the Cavendish-Talbot interest

1. Transcript in Bodl. Rawl. B 143 f. 32.

2. Indenture dated 29 June 1620. See *ibid.*, f. 33 and DDP.8/115. The yearly amount Holman was allowed to take was increased to £300 under this latter indenture, until his additional loan of £300 was satisfied.

3. Transcript in Bodl. Rawl. B 143 f. 34 dated 29 Jan. 1621/2. This had been compounded for on 30 April 1621. DDP.26/3.

4. See above, p. 13 n.

5. Part of a sum which was designated to be paid to Richard Winde out of the moveable estate of their father Sir Thomas of South Wootton, but which could not be fully satisfied by this means. See Rawl. B 143, f. 30.

6. That the financial transactions between Winde and Holman were not effected without bitterness is evident from *ibid.*, ff. 45-46. This MS. contains material collected by Rawlinson for a history (never completed) of the Winde family from 1553-1703.

in the manor of Sibthorpe had resulted from purchases made in January 1606/7 and in April 1608.¹ It seems probable that Sir Charles Cavendish had loaned his half brother Gilbert Talbot, 7th Earl of Shrewsbury, the £3,000 to purchase part of the manor of Sibthorpe in the latter year, and that Lancelot Ogle and Henry Butler had been employed to hold this in trust for Cavendish and his heirs.² What is certain is that Sir William Cavendish³, son and heir of Sir Charles, did not come into full possession of Sibthorpe until 1621, approximately five years after Talbot's decease on 8 May 1616.

Among the Portland Manuscripts there is a copy of a writ for issue of a Licence of Alienation by Sir Edward Stanhope and his wife Margaret to Ogle and Butler of the manor and all its appurtenances dated 1 April 1616, and as was previously noted,⁴ final concord for the payment to Stanhope of £1,200 was effected on 15 April 1616, only shortly before Talbot's death.

Prior to his decease, Talbot owed approximately £17,000⁵ to his half-brother Sir Charles⁶ and this sum may have included the probable loan of £3,000 mentioned above. Talbot named Sir William Cavendish as his executor,

1. See above, p. 19 and n.

2. A great bond of friendship existed between the two. Margaret, Duchess of Newcastle later said that Talbot and Cavendish 'being brought up and bred together in one family ... contracted such an entire friendship which lasted to their death.' C. H. Firth ed., The Life of William Cavendish, Duke of Newcastle (2nd ed. Lond., 1907), p. 2. In 1597 and 1607 Talbot had made over leases of Welbeck to Cavendish, and Bolsover Castle was transferred to him in 1608. Turberville, op. cit., I, 14-16, 36-37, 40. There were close financial links between the two.

3. Created Viscount Mansfield, 3 Nov. 1620, and Earl of Newcastle, 7 March 1627/8.

4. See above, p. 19 n.

5. See Firth ed., Newcastle, pp. 72-73, relating to these debts. The Duchess records that Talbot's estate 'was let in long leases, which, by the law, fell to the executor, Next, that after some debts and legacies were paid out of those lands which were set out for that purpose, they were settled so, that they fell to my Lord ...' See also J. Hunter, Hallamshire, p. 101 and n. where Talbot's will is printed and H.M.C. Portland MSS, II, (1893), 118.

6. Sir Charles died 4 April 1617.

but the latter did not obtain satisfaction of his debt.¹ A likely reason for this - though not immediately relevant to this study - is nevertheless of interest. Talbot's heirs general were his three daughters; two of whom were the wives of the Earls of Pembroke and Arundel, and the third, daughter-in-law of the Earl of Kent. Since they obviously wished to clear the outstanding charge on the estate, Sir William Cavendish may have been prevailed upon by Pembroke and Arundel to waive a great part of the £17,000 debt in return for his elevation to a viscounty - the two earls using their influence to secure this.²

A declaration of Lancelot Ogle dated 2 January 1620/1 lends support to some of the statements made above relating to the manor. He stated that he and Butler had been 'trusted by my honourable Master Sir Charles Cavendish knight, in the purchase of Sibthorpe, and all those lands bought of Sir Edward Stanhope: And late the lands of Mr. Whaleys.' He emphasised that 'the said lands were never meant, nor intended to any other use or purpose. But only to and for the use of my said Master and his heirs forever.' And finally he declared that 'whensoever it shall please the Right Ho:ble the Lord Viscount Mansfield to request or call me to pass over all those lands unto him, I will be ready to do the same.'³

1. Firth ed., Newcastle, p. 73.

2. A contemporary newsletter dated 7 Nov. 1620 suggests this. '... In order to settle the disputes between the heirs of the late Earl of Shrewsbury and Sir Wm. Cavendish ... to whom the Countess of Shrewsbury, prisoner in the Tower, gave some of the lands, it is determined to create Cavendish Visct. Mansfield'. C.S.P.D. 1619-1623, 190. See also Stone, Crisis, p. 110 and C. R. Mayes, 'The Sale of Peerages in Early Stuart England', J.M.H. XXIX (1957), 26-27; B. Coward, 'Disputed Inheritances: Some Difficulties of the Nobility in the Late Sixteenth and Early Seventeenth Centuries', B.I.H.R., XLIV (1971), 201-203.

3. DDP.8/170. A similar declaration was made later on 20 July 1621 by Henry Butler, ibid., 172.

Thus it was that Viscount Mansfield, the future Earl of Newcastle, came into possession of the Whalley manor, and as will be seen below, he later purchased the extents on the premises from Sir Robert Winde and Richard Holman.

It was just over a year after Ogle's declaration that he and Butler, by the direction and appointment of William, Viscount Mansfield, made over part of the manor including the manor house of Sibthorpe known as the Chantry to Mansfield's younger brother Sir Charles Cavendish.¹ Both brothers thus had an interest in Sibthorpe though Mansfield held the major share.

V

It is natural that John and Thomas Whalley, younger brothers of Richard, should have felt concern over the years as a succession of mounting debts and encumbrances incurred by their brother, reduced the family inheritance. One can sympathise with their attempts to secure their dues and preserve what they could of the dwindling family estates - particularly the family manor of Kirkton Hall alias Screveton and the residence there.

Richard Whalley had five brothers but two of these, Richard and Robert,² had died young. Walter, the third one born, had died in 1617. Walter had been Fellow of Pembroke College, Cambridge, Doctor of Divinity and Rector of Orton Waterville, Huntingdonshire.³ Thomas, the youngest brother and a bachelor, had a distinguished university career, becoming Vice-Master of Trinity College in 1631, which post he retained until his death in May 1637. Ordained deacon and priest in 1599, he was Rector of Orwell, Cambridgeshire,

1. DDP.8/116 dated 26 Jan. 1621/2.

2. Died in August 1591, aged 28. Venn, op. cit., part 1, IV, 376.

3. Ibid., 377. His will dated 17 Oct. 1616 is preserved in Hunts. Record Office. Bundle 114, Vol. 20, f. 217.

from 1619-1637¹ and thus somewhat removed from the centre of affairs at Screveton. John Whalley, the next to the youngest brother² - also a bachelor, was more fortunately placed to attempt to exercise some supervision over Richard's affairs and was involved in legal actions relating to the family possessions.³

One of these actions concerned a rent charge or annuity of £20 each which Richard had granted to John and Thomas Whalley in July 1583.⁴ This was to be paid from the manor of Screveton and certain lands in Car-Colston. Sir Robert Winde had declined to pay the arrears of the annuity and had brought an action against the brothers - a suit which he lost for he was ordered to pay £210 arrears to John and Thomas.⁵

John it was who claimed that Winde and Holman were profiting from the extents on Richard Whalley's lands long after their debts should have been satisfied.⁶ It will be remembered that Sir Robert Winde had agreed with Whalley to procure the statutes of the latter's main creditors,⁷ but one of these which has not been mentioned previously, Winde had been unable to obtain. On 13 April 1597,⁸ Whalley had become bound by statute staple to

1. Venn, ibid.

2. Of Willoughby and Flintham, Notts., at least until the death of Richard Whalley, c. 1632. See Visitation of Notts., 1569 and 1614 (Harl. Soc., IV, 1871), 117; J. Nichols, Leicestershire, II, part 11, 737; Venn, op. cit., part 1, IV, 376.

3. See e.g. P.R.O. C3/296/8, J. Whalley plt. v. R. Whalley and others dfts. re. Kirkton Hall, Screveton Manor and Car-Colston, Feb. 1615/16; C3/296/96, Answers of M. Hickson, J. and S. Caunte to J. Whalley's complaint, April 1616; C2 Chas.1/W62/47 and C3/418/135 dated respectively Oct. 1626-April 1627, and May 1627. These actions concern what J. Whalley believed to be the extortionate claims of Sir. R. Winde and R. Holman, and his refusal to surrender an extent to them, as explained on pp. 29-30. The latter document cited is badly mutilated.

4. See C3/296/8.

5. See DDP.8/166 relating to Orders in Chancery 7 Feb. 1617/18-15 Dec. 1618.

6. See DDP.8/182.

7. Above, p. 23.

8. See DDP.8/98.

John Chaworth of Epperstone, Notts. esq. in the sum of £600 to be defeased on performance of certain covenants including the payment of a rent charge of £40 per annum, issuing out of two closes 'Carr Field' and 'East Green' in Car-Colston,¹ to George Chaworth,² gent., son of the above John.

It is unnecessary to relate the circumstances under which John Whalley laid claim to this rent charge, but he was determined that he would not surrender his interest to Winde and Holman. These two had brought an action against him in Michaelmas term 1626.³ Referring to the decree in June 1627⁴ resulting from this action, John Whalley stated that 'though they earnestly laboured that they might hold under Chaworth's extent ... yet would he by no means agree thereto but caused it to be set down in these very words that he would suffer them to hold Sibthorpe as now they do, no ways claiming to hold under John Chaworth's extent.'

Richard Whalley himself mentioned that John had 'divers estates made to him by yo.^r pet.^r in trust of the Manno^r of Screton,'⁵ hence John's determination to protect and preserve his rights. The latter also claimed that he possessed written evidence relating to 'his freehold and inheritance ... and of divers goods, household stuff, and implements of household within the manor of Kirton Hall and Screveton, amounting to a great part of his substance.'⁶

1. Recorded in a pair of Indentures dated 13 Oct. 1600. See ibid.

2. For George Chaworth of Annesley, later Baron Chaworth of Tryme, co. Meath and Viscount Chaworth of Armagh, Ireland, see Trans. Thor. Soc., VIII (1904), 67-69; K. S. S. Train, Twenty Nottinghamshire Families (Nott., 1969), pp. 10-11; G.E.C. Complete Peerage, III (1913), 155; C. R. Mayes, 'The Early Stuarts and the Irish Peerage', E.H.R. LXXIII (1958), 244.

3. P.R.O. C2 Chas.1/W62/47. See also C3/296/8. Full details of the rent charge are given in both documents.

4. Noted in DDP.8/182. For the order in John Whalley's favour from which the decree resulted see C33/152, f. 1332.

5. R. Whalley's petition to Charles I, c. 1630, DDP.8/122. See above, pp. 22-23.

6. P.R.O. C3/296/8. For further mention of J. Whalley's interest in Screveton see C9/38/100.

John Whalley was certainly living at Kirkton Hall in 1637¹ and presumably had been there since his brother Richard's death c. 1632. The evidence suggests that after the death in 1628² of Thomas Whalley, Richard's son and heir, John held Kirkton Hall alias Screveton in trust for Peniston Whalley, Richard's grandson and legal heir, who having been born in 1624 was still a minor. This trust apparently reposed in John Whalley until some time after Richard Draper became Peniston's legal guardian. Draper was nephew to John Whalley and lived with the latter at Kirkton Hall³ before his marriage c. 1632 to Mary, the widow of Thomas Whalley.⁴ Apparently, the Drapers and Peniston resided at Kirkton Hall until John Whalley's death in 1638,⁵ and continued to do so afterwards during Peniston's minority.⁶

It was on 20 February 1628/9 that William Cavendish, now Earl of Newcastle, arranged to purchase the remaining extents on Richard Whalley's lands held by Sir Robert Winde and Richard Holman. Newcastle maintained that the full possession of Sibthorpe and its appurtenances had been denied him by virtue of the extents.⁷ He had earlier brought an action against Winde and Holman⁸ calling them to account for the profits of Sibthorpe

1. Noted in the will of his brother Thomas, dated 30 April 1637 wherein John was made executor. Transcript in Cambridge University Library; MS. Mm. 1. 37, pp. 192-193.

2. Vis. of Notts. 1662-1664, 64. Pedigree certified by Peniston Whalley. P.R.O. Wards 9/126/part 13 f. 58 supplies a specific date of death as 2 Sept. 1628. All other sources consulted merely indicate that he died within his father's lifetime.

3. See P.R.O. C2 Chas.1/W124/110.

4. See above, p. 16 and below, pp. 49, 238.

5. See Thoroton, op. cit., p. 132; J. T. Godfrey, Notts. Churches, p. 400. J. Nichols, Leicestershire, II, part 11, 737 states that he died at Screveton.

6. Thoroton, op. cit., p. 130, merely states that Draper succeeded Richard Whalley at Screveton. For greater detail see P.R.O. C9/38/100.

7. See DDP.26/4 dated 20 Feb. 1628/9.

8. Mentioned by J. Whalley in DDP.8/182.

which they had taken for so long a period. According to Winde's computation, a sum of £3,500 still remained unsatisfied and thus it was covenanted that he and Holman should arrange to convey to Newcastle all their interest in Whalley's lands on payment to them of this sum.¹

The agreement records that the extended premises included not only the manor of Sibthorpe and its appurtenances in Hawksworth, Flintham, Kneveton (Kneeton), Sierston and Elston etc., but also the manor of Kirkton Hall alias Screveton, Willoughby's Manor and Bulby's Manor in Car-Colston, the manor of the Rectory in Car-Colston, a moiety of the manor of Willoughby-Norwell, property in Carl(e)ton-upon-Trent and in Long Claxton, Leicestershire, and also the tithes and advowson of Car-Colston, the advowson of Hawksworth and numerous rents.²

It was noted in the covenant that £1,000³ of the purchase money having been paid, provisions were made for the payment of the residue. Thus on 24 February 1628/9, Winde and Holman assigned to Newcastle all their interest arising out of the extents formerly belonging to Sir Robert Wroth, Sir William Aylofffe, Sir John Hele (on behalf of Lawrence Slade and Henry Dunne), and Winde's own extent which had originally been his father's and the one in which Holman also had an interest.⁴

As regards Sir William Smythe's statute in 1,000 marks,⁵ for the payment of £420, Winde had earlier relinquished his interest in this to Sir William Cavendish as he then was. When Winde had agreed with Whalley by the indenture of 23 March 1614/15⁶ to compound with the latter's major creditors in

1. DDP.26/4.

2. See Appendix H.

3. Winde's receipt for this sum is dated 15 April 1629. DDP.8/183.

4. DDP.26/6, 7, 8, 9.

5. See above, p. 15.

6. See above, pp. 23.

order to secure their statutes, Smythe had been unwilling to surrender his. Consequently with Whalley's consent and in Whalley's name, Winde had taken legal action against Smythe.¹ As a result of orders in Chancery, Winde had agreed to pay £750 + £25 damages into that court on Whalley's behalf, to obtain the statute. This was a generous sum even allowing for interest over a period exceeding eighteen years. The £750 had then been assigned to Cavendish to discharge the debt - he being interested in the premises 'in the Right of his said ffather', Sir Charles Cavendish deceased. Sir William also agreed to indemnify Winde and Whalley against any future claim by Smythe.²

In his belief that Winde and Holman had cheated his brother Richard for years, John Whalley declared that he had been 'most willing to further the Earl's suit against them and to bring him [Newcastle] into possession of Sibthorpe by giving what instructions he could to his honour's Counsel and Solicitors for their proceedings.'³ Holman, however, according to John, had cunningly procured the Earl to take action against him 'who never as yet had possession in Sibthorpe, nor did ever hinder the Earls entering thereinto.' John also stated that Holman had induced Sir Robert Bannister⁴ to begin an action against him, alleging that by virtue of the extent he held, John would enter and take possession of a close in Millfield in Car-Colston held by Sir Robert. John indicated, however, that later Sir Robert apologised for preferring the troublesomesuit and had only begun it under Holman's pressure.

1. See DDP.26/1.

2. Ibid., Indenture dated 15 Dec. 1617. Smythe died in Dec. 1626. See source cited p.15 n.

3. DDP.8/182.

4. Clerk Comptroller of the Household of James I, Bannister had estates in Bucks., Northants. and other counties and was a prominent Royalist in the Civil War. See e.g. C.S.P.D. 1603-1610, 87, 88, 338, 371, 581; Commons Journals, II, 819, 824 (henceforth cited as C.J.); Calendar of the Committee for Compounding, I, 67, 98, 111; III, 1671-1673 (henceforth cited as C.C.C.).

Newcastle at Holman's instigation had thus brought an action¹ in late 1628 against John Whalley for possession of the latter's extent² - which Newcastle had been led to believe was long since satisfied and the lands should return to him. In his answer to the complaint, John had emphasised that he had never surrendered his extent to Sir Robert Winde and Richard Holman and thus Newcastle had no claim to it; that he was in no way hindering the Earl's claim to Sibthorpe and that all he desired was to 'peacably enjoy that small means he hath to live on.'³

Mention was made earlier in this chapter of Richard Whalley's petition to Charles I c. 1630.⁴ In it, Whalley complained that Newcastle who was claiming under the title of the purchasers of Sibthorpe had extended all Whalley's property except Sibthorpe by virtue of the statute in £10,000 acknowledged to Sir Edward Stanhope the elder, and other statutes, 'w^{ch} in truth are discharged.' Whalley also referred to his brother John's extent and the interests the latter had in trust in the manor of Screveton. He stated that John had informed the Earl that all the former statutes were still in force, and now combined with Newcastle to extend 'and deteyne yo^r. pet^{rs}. landes from him.'

John's statement as we have seen was quite different, for he had expressed his willingness to aid Newcastle against any further claims on the lands by Winde and Holman. The action Newcastle had brought against John surely contradicts any 'confederacy' between them to defraud Richard. It does, however, illustrate the acrimony (by no means uncommon) which developed among close relatives - the accusation and counter accusation which ensued when land was so bitterly contested for. As a result of the

1. See DDP.8/178-182.

2. i.e. originally John Chaworth's. See above, pp. 29-30.

3. DDP.8/182.

4. See above, p. 22 and n. Search in the P.R.O. has failed to reveal the original and thus establish the exact date.

'combination', Richard complained that he had nothing left, and that if he were to die, his wife¹ would lose her jointure² in the manor of Willoughby. He concluded his petition by asking the King for restoration of his lands, except Sibthorpe, discharged from the above mentioned statutes.

The Royal answer from Whitehall dated 3 March 1630/1 directed the Lord Keeper of the Great Seal to call the parties before him and to compose their differences according to justice and equity.

Shortly after this, Whalley wrote to Newcastle³ asking the Earl to abide by the Lord Keeper's commands, and to restore him to all his lands, except Sibthorpe, (the sole estate 'that old Sir Edward [Stanhope] expected.') or show just cause to the contrary. It is apparent, however, that only partial restitution of the lands held by Newcastle had been effected when Richard Whalley died c. 1632.⁴ The manor of Kirkton Hall alias Screveton as stated previously appears to have been restored and held in trust until Peniston Whalley, Richard's grandson, came of age.⁵ When he attained his majority, he also succeeded to a moiety of the manor of Willoughby-by-Norwell, lands in Carl(e)ton-upon-Trent and certain rents and tithes, but Willoughby's Manor and Bulby's Manor in Car-Colston, and the manor of the Rectory there had not been regained, for Peniston repurchased the two former manors from Newcastle's feoffees in trust during the Interregnum.⁶

1. i.e. his 3rd wife Jane, daughter of William Styrrup of Cambridge. T. M. Blagg, F. A. Wadsworth eds., Nottinghamshire Marriage Licences, Index Library, The British Record Society, LVIII (1930), 106. See also below, p. 40 and n. Jane Styrrup had been a servant to one of Frances Whalley's friends. P.R.O. C2 Chas.1/W124/110. Whalley believed himself fortunate to have acquired such a blessing in his declining years'... a good wife who is both Religious, Patient for my Infirmytes Cherishinge my weaknes, and neither desireth to hinder, neither shall, any of my Children one ob [halfpenny]. B.M. Egerton MSS. 2644 f. 275.

2. See below, pp. 45 n., 256-258.

3. DDP.8/184 dated 15 April 1631.

4. For details of possible date of Whalley's death, see below, p. 45 n.

5. See above, p. 31.

6. See below, pp. 265-266.

VI

To summarise generally the main points made in this chapter on Richard Whalley's complicated affairs, we have seen that his extravagances in the 1590s began the decline in the family fortunes which had reached a critical state at the time of his death c. 1632. Whalley's heaviest debts had been contracted within the last decade of the sixteenth century and he had spent the remainder of his life in a vain attempt to discharge these.

Of his many creditors, only the major ones have been considered and the most important of these were Sir Edward Stanhope the elder, Sir Robert Wroth(e), and his son of the same name, Thomas Winde and his son Sir Robert, Richard Holman and William Cavendish, Viscount Mansfield and later Earl of Newcastle.

Failure to satisfy his creditors within the specified time had resulted in a number of extents placed upon Whalley's lands. Sir Robert Winde had eventually purchased these extents and he and Richard Holman had gained virtual control of Whalley's estates. For approximately fourteen years, Winde - and then for a shorter period Holman - had profited greatly at Whalley's expense.

It has also been shown how William Cavendish acquired an interest in the chief manor of Sibthorpe through the transactions of his father Sir Charles, and Gilbert 7th Earl of Shrewsbury in January 1606/7 and in April 1608 respectively.

Newcastle, as he had then become, had challenged Winde and Holman to account for the profits of Sibthorpe taken over such a long period, and claimed that he had been denied full possession of the manor by virtue of the extents upon it. In February 1628/9 he had purchased the interests of Winde and Holman in Whalley's lands for the sum of £3,500.

Whalley's petition to Charles I was then mentioned, in which he requested restoration of all his lands apart from Sibthorpe, free from the major statutes which Newcastle had revived, and which, Whalley claimed,

had been discharged.

Finally, the property to which Peniston Whalley succeeded when he came of age was listed in the concluding paragraph of the last section.

In the final chapter¹ of this study it will be noted that Richard Draper, Peniston's step-father and guardian, assumed responsibility for his ward's inheritance, and that he was much out of pocket in attempting to free the inheritance from encumbrances.

1. p. 252 ff.

Chapter 2

RICHARD WHALLEY THE YOUNGER. (II)
THE BARRINGTON LETTERS

I

It is unfortunate that so little of Richard Whalley's personal correspondence has survived. Only the few letters he wrote to his sister-in-law, Joan Lady Barrington,¹ remain, but these add a human touch to Whalley's financial plight that is not revealed in the more formal documents described in the preceding chapter. Though these few letters give us some pointers (however slight) into Whalley's character, they are insufficient to form a detailed assessment of him, and thus some of the observations which follow are, at the best, speculative.

However foolishly Whalley had behaved, however lavishly he had lived in the last two decades of the sixteenth century, his concern for the future of his daughters and his younger sons is very real. He has entrusted the care of his younger children to Sir Francis and Sir Thomas Barrington² and he wishes to satisfy himself before he dies that father and son will not betray that trust against any claimants on his estates, near relatives, or otherwise, and that they will safeguard the portions Whalley has made over to such children.³ Whalley is indeed indebted to the Barringtons as the following quotations show. These are illustrative of others he makes

1. Elder sister of Frances (née Cromwell) who was Whalley's 2nd wife. See pedigrees of the Cromwell family, V. C. H. Huntingdon, II, 67; R. Clutterbuck, Hertfordshire, II, 96 and Appendix D.

2. For Sir Francis (c. 1570-1628) and Sir Thomas, his son (c. 1589-1644), see e.g. M. F. Keeler, The Long Parliament 1640-1641. A Biographical Study of its Members (Philadelphia, 1954), pp. 97-99; G. A. Lowndes, ed., 'The History of the Barrington Family,' part II (Trans. Essex Arch. Soc., New Series, II, 1879-83), 11-42; Rev. F. W. Galpin, 'The Household Expenses of Sir Thomas Barrington', ibid., XII (1911-1913), 203-224; W. L. F. Nuttall, 'Sir Thomas Barrington and the Puritan Revolution', ibid., 3rd Series, II, part 1 (1966), 60-82.

3. B.M. Egerton MSS. 2644 ff. 202, 205, 207, 234, 275.

acknowledging his gratitude and dependence on their continuing kindness. He is thankful that the hearts of Sir Francis and Lady Barrington have been stirred up 'to accept my poore moth^{er}les girle to yo^r breedinge.'¹ He is grateful to Sir Francis 'for his so fforwarde and broth[er]ly paynes this laste yeare at London to advance me yf so itt had pleased God.'² He remembers the unfailing kindness whenever he has visited them, and their 'countenanc and paynes to doe me good', and he is confident because of all this that he may trust Sir Francis 'when I am gone wth my small Estate and children wch truste I knoe he nor Sy^r Thom[a]s will nev[er] vyolate'.³

Jane Whalley, Edward's youngest sister was entrusted to the care of her aunt Joan, whose kindly and affectionate nature prompted her to undertake the education and breeding of other young ladies of modest means.⁴ It is probable that Mary Whalley, the second sister, also spent some time in her aunt's household though Richard's letters to Lady Barrington do not reveal this fact.⁵ Jane's gratitude to her aunt for such 'breedinge' is evident in her letters to Hatfield Broad Oak, Essex, which are mentioned in the next chapter.⁶

1. Jane Whalley, Richard's youngest daughter. See pedigree, Appendix A.

2. Eg. MSS. 2644 f. 202, dated Screveton, 4 July 1622. It is probably an indication of aid given in one of Whalley's law suits. It may have been in connection with a recognisance of 18 May 1621 involving Whalley and Thomas, his son of the 1st part, Nicholas Roberts of the Inner Temple of the 2nd part and Thomas Tayler and Richard Colchester of the 3rd part. See P.R.O. C54/2488/94; Port. MSS. DDP.8/171.

3. Eg. MSS. 2644 f. 202.

4. See Lowndes, op. cit., Trans. Essex Arch. Soc., New Series, II, 29.

5. I have found no record in Lady Barrington's correspondence of Mary's possible residence with her aunt.

6. Lowndes, op. cit., p. 30-32 prints one of her letters and one of Richard Whalley's. So far as I am aware no others have been printed though Mr. A. Searle of Essex Record Office is currently editing some of the Barrington correspondence including the Whalley letters.

Whilst Jane was in service, Mary Whalley tended her father at Kirkton Hall, for in his letter of July 1622, Richard praises his second daughter 'who for her relygyous & Carefull orderynge my house & her dutyfull & paynefull usage of me maketh me happye in her, God bless her'.¹

On a later occasion, Richard comments that as his years and weakness are increasing, and since Mary is now little with him, 'I am enforced to marye to gett a nurse to look to me'.²

Jane appears to have joined the Barrington household at Hatfield before the late summer of 1622 for Whalley indicates that 'att or beffore Bartholomew tyde' (24 August) he would send Lady Barrington 'Janes 10^{li} and yff she please yo[ul] shall well p[er]ceave she shall not be forgotten wth encrease of her por[tilon] so sone to be reduced³ into yo^r handes'.⁴ The second letter of his correspondence again mentions her service, but Whalley unfortunately cannot send the £20 he now owes for Jane until his financial position improves.⁵ He refers to both his daughters with affection, but Mary seems to be the favourite. He believes that a certain tendency to forwardness in Jane will be corrected under the kind but firm guidance of her aunt.

1. Eg. MSS. 2644 f. 202.

2. Ibid., f. 243, dated 20 Nov. 1626. Whalley married his third wife Jane Styrrup on 29 Oct. See above, p. 35 and n. An earlier marriage which Whalley had tried to arrange to ease his financial burdens did not materialise. He agreed to settle a jointure of £400 per an. out of the Manor of Screveton, the moiety of Willoughby and other lands, on Elizabeth Archer, widow, in return for a cash portion of £4,000. Also involved in the agreement were Timothy Archer her son, and Richard Baker, who acted as an 'agent'. Archer was to receive the next advowson of Screveton, and Baker was to secure for Thomas Whalley, Richard's heir, the office of Vice-Admiral of Kent worth 500 marks per an., in return for a cash sum and lands worth £30 per an. Elizabeth Archer claimed she had made no such binding promise and having learnt of Whalley's debts and encumbered estates wished to proceed no further. Whalley brought an action in Chancery dated 23 Nov. 1621. P.R.O. C8/75/10.

3. i.e. restored or replaced.

4. Eg. MSS. 2644 f. 202.

5. Ibid., f. 205 dated 15 Nov. 1623.

He is anxious that she should learn the value of service, continually striving to please Lady Barrington, 'or never to accounte mee her father'.¹ 'I beseech yo[ul]', he states, 'let her wo^rk for her lyvyng, and as God humbleth her Estate lett her humble her mynde and be a Chambremayde or as yo[ul] please.'² He believes that such service will be her best means of salvation. In his final³ letter to Lady Barrington, written shortly after the death of Sir Francis, Whalley expresses the hope that Jane will be allowed to continue her service at Hatfield Broad Oak and that Lady Barrington will 'keepe her from overmuch liberty and fantasticke new fashions'. He beseeches his sister-in-law to arrange a suitable marriage for Jane, and again optimistically refers to his daughter's portion which 'shall surely in Convenient tyme bee provided'.

In every one of these six letters to Lady Barrington, the acute and near desperate state of Whalley's finances is vividly revealed. Whilst greatly concerned to ensure that his younger children shall not be unprovided for at his death, he cannot yet guarantee this with certainty since his lands are so encumbered and the pressure of his creditors has never relaxed. Nor is Whalley satisfied that Thomas, his eldest son, will honour any agreements that have been made regarding his children's future. In his first letter⁴ he refers to 'my small Estate'. The second, written some sixteen months later states, 'I have as matters now stand 000'⁵ [nothing]. He indicates that his son Thomas had sealed a lease with him 'at pentycoste laste ... by the ffyne whereof I should have had 20:^{li} for yo[u] for Jane

1. Eg. MSS. 2644, f. 275.

2. Ibid., f. 205.

3. i.e. the last surviving letter in his correspondence to her, ibid., f. 275 dated 22 July 1628.

4. Ibid., f. 202, dated 4 July 1622.

5. Ibid., f. 205, dated 15 Nov. 1623.

and 30:^{li} for a place for Henry¹ in London. Thomas had, however, 'stopped the money and hath gotten the forme into his owne hande'; consequently Whalley is being forced to sell his household stuff to help his children, but he asks Lady Barrington to accept 'a long Turkey Carpett, w^{ch} hath bene a good one and yo^r Syste^r well esteamed.' He also sends up 'ffyne Tapystry hanginges' and notes that he has 'great brasse Andyrans & other good stuffes of w^{ch} Comand yf yo[u] please any or all.' Perhaps Lady Barrington accepted some of these gifts, but in his next letter,² only four months later, Whalley is requesting his sister-in-law to buy. He states that he has 'at my Sonne Henries (a good Sonne)³ a very faire paire of Brasse Andirons [probably the same as he mentioned earlier] & a suite of 7 peeces of fyne Tapestry.' However, he is sure that he will never be offered their true worth. He thus begs Lady Barrington to purchase these and to send him what she thinks fit for them.

It appears, however, that Lady Barrington did not buy these particular items - that is if they were the same which Whalley was obliged to give as security to one, William Inchquin of Milford Lane in the Strand, in return for a loan of £15. The andirons and 7 pieces of tapestry were said to be worth £4 and 100 marks respectively, and until he could redeem these (which he agreed to do at his earliest opportunity), Whalley was to pay interest at 10% every six months.

So acute had his financial circumstances become at this time that for small sums of 20s. and 35s. he had pawned two rich cloaks worth £8 and £10

1. Richard's 3rd son. No evidence has been found to show that Henry Whalley had a university education, but he was an attorney at Guildhall in 1628. Guildhall Repertories 1629-1630. Rep. 44 ff. 255b-256. On 3 Sept. 1649, he was admitted to Gray's Inn. J. Foster, Gray's Inn Admission Register, 1521-1889, p. 251.

2. Eg. MSS. 2644 f. 207 dated 17 Mar. 1623/4.

3. An indication that Henry was probably living in London at that time and studying law.

and a gown and tapestry curtains. Whalley brought a Chancery action against those who had loaned him money, claiming that despite his regular payment of interest and offer to repay the principal, his goods had been sold.¹

II

Not only financially has Whalley been stricken, but his reputation has suffered also. 'Thus am I in my ollde days Impov[er]lished in my Estat, dysquyeted att my very harte and mad[e] an abject of all men & hellde of noe reputa[ti]on amongst them'.² He is, however, aware that his condition has resulted from his own extravagance and lack of financial acumen. He bewails the fact that he is assailed by troubles in his old age, that he has suffered at the hands of strangers, friends and even his own kindred³ '... my Sinnes have taken such hollde oponn mee,' he states, 'that I am not hable to looke upp & thereby myne owne Familier frends whome I trusted, have conspired against mee'.⁴

It is heartrending to Whalley to accept the hostility of his other brothers who 'make mee an Alient unto them, have conceaved fallshoods wth in themsellves and seeke to destroy mee and my house guiltles'.⁵ But the bitterest pill to swallow is the ungodly behaviour of his eldest son Thomas, to whom Whalley attributes his ultimate degradation and dishonour.

Though obliged to sympathise to some extent with the afflictions of an aged and ailing man - ostracised by some of his nearest relatives - the overall impression gained from a study of these few but fairly lengthy letters is that Whalley has none to blame but himself for his misfortunes.

1. See P.R.O. C2. Chas.1/W84/10, Whalley v. Cooper, Nov. 1627.

2. Eg. MSS. 2644 f. 202.

3. Ibid.

4. Ibid., f. 207.

5. Ibid.

The tone is one of misery, poverty and almost despondency, yet it never sinks to the depths of absolute despair, for he is sustained by his religion - his profound faith that God will be the means of his salvation.

Pity for his situation is, however, mixed with annoyance - anger almost - at his pleas to the Barringtons to help him in his plight. He continually conveys the impression that he has been wronged unjustly and his sufferings are disproportionate to his sins. In the knowledge that Sir Francis and Joan, Lady Barrington, with their naturally generous dispositions, have previously shown their kindness to him and his family and will doubtless continue to do so, he tends perhaps to exaggerate his present condition in an attempt to evoke Lady Barrington's sympathy - to open both her heart and her purse to him yet again.

As an old and sick man, it is natural for Whalley to feel resentment that he cannot spend his remaining years in anything near the comfort he has enjoyed in his earlier days. His attitude is not, however, purely selfish, for as we have seen, his concern for his younger children overrides all other considerations. Much can thus be excused him.

His letters vary remarkably in their legibility. In some, the handwriting is firm and clear,¹ whilst others are written in a shaky, obscure hand, in places most difficult to decipher, and presumably composed when he was afflicted by sickness.² In his first letter, he tells his sister-in-law that he is so weak he can scarce hold pen in hand and that he has not gone down 'my Chambe^r staires these 6: weekes'.³ Most letters complain of age and increasing weakness and the last one indicates one particular painful affliction, for he states, 'I am greatly troubled with the Strangury'⁴

1. See e.g. Eg. MSS. 2644 ff. 207, 234 and 275, dated respectively 17 Mar. 1623/4, 29 June 1626 and 22 July 1628.

2. Ibid., ff. 202, 205, 243, dated 4 July 1622, 15 Nov. 1623, 20 Nov. 1626.

3. Ibid., f. 202.

4. A disease of the urinary organs, characterised by slow and painful emission of urine.

and suddainly growne very weake that I must now prepare for my end.¹ Here again, much can be forgiven of an old man in such a poor state of health.

Whalley's religion is the chief comfort in his adversity as it was for countless other seventeenth century puritans. Biblical references in his letters are frequent, and long familiarity with the Holy Book enables him to draw succour from its pages. He gains strength from the treatises of the renowned Calvinist writer and preacher William Perkins who 'maketh o^r affliccons and Trobles the true tryall of our ffayth and surest mark of our Sallvacons'.² He even sends Jane 'the third and last volume of M^r Parkins workes' as a token of remembrance of her mother,³ and no doubt, to help with her salvation. Whalley is convinced that he is called upon to bear so many crosses to test his strength of character. His faith remains unshaken. He is certain 'that the same Lord that holldeth it fitt to impose theis Affliccons oppon me will no[t] leave mee in their hands nor condemne mee thoe I am judged, and hath learned mee in whatsoever state I am therewth to bee content.'⁴

A couple of Biblical quotations to which Whalley alludes will further serve to illustrate this point.

Behold, happy is the man whom God reproves; therefore despise not the chastening of the Almighty. For he wounds, but he binds up;

1. Eg. MSS. 2644, f. 275. Whalley died c. 1632. See Vis. of Notts., 1662-1664, 64. Search has failed to reveal either will or letters of administration in P.R.O. or among the volumes of the Yorkshire Archaeological Society which catalogues the records held by the Borthwick Institute, York. The Bishops' Transcripts between 1630 and 1641 have no mention of him, but these are incomplete. Enquiry of the Episcopal Consistory Court of Lichfield, having jurisdiction over most of Derbyshire, also proved unsuccessful. A more definite date of death - c. Oct. 1632 - is supplied by P. Whalley in P.R.O. C6/123/172. Dated May and June 1654, this relates to a claim for dower and Thirds (allegedly in default of jointure), out of the estate of Richard Whalley, made by Jane (née Styrrup), Whalley's 3rd wife and at that time widow of Edward Colſby, gent. See below, pp. 256-258.

2. Eg. MSS. 2644, f. 202. On this occasion, Whalley refers to Perkins' work 'How to live and that well: in all estates and times ...' (Cambridge, 1601).

3. Ibid., f. 275. Perkins' works were published in 3 volume editions in Cambridge, 1608, 1609 and 1612 and in London, 1606, 1612, 1616.

4. Ibid., f. 207. See also f. 243.

he smites, but his hands heal.¹

My son, do not regard lightly the discipline of the Lord, nor lose courage when you are punished by him. For the Lord disciplines him whom he loves, and chastises every son whom he receives. It is for discipline that you have to endure.²

He is willing thus to undergo all punishment for God.

III

Whalley's sense of injustice is most evident when he describes to Lady Barrington the harsh treatment he has received at the hands of his own relatives. The first complaint is directed against his son-in-law, William Tiffin, a London mercer, husband of Whalley's eldest daughter Elizabeth.³ Unfortunately, little else has been discovered about them apart from the brief facts of their marriage and Whalley's reputed injustice at the hands of his son-in-law. P. Morant⁴ briefly mentions a William Tiffin gent. son of John Tiffin of Colne Wakes in Essex - which manor William and three others sold in October 1633. In view of the Whalley family's close connections with the county, it is possible that this gentleman became Elizabeth Whalley's husband.

Whalley complains that Tiffin has been a dog to Elizabeth and 'hath p[er]fformed neith^{er} to her nor her daught^{er} what he was bound unto neith^{er} as is falleth out is hable.' Tiffin apparently, had secured Whalley a spell in the Marshalsea for the alleged non-payment of a £50 debt which Whalley claimed he had honoured two years previously. Tiffin was also procuring an injunction against Whalley 'by an olld byll w^{ch} I nev[er] dreamed on',

1. Job. Ch. 5, v. 17.

2. Hebrews Ch. 12, Verses 5-7. Further texts in a similar strain to which Whalley refers are: Job, Ch. 13 v. 15; 2 Samuel, Ch. 15 v. 26; Isiah, Ch. 57, v. 1; 2 Corinthians, Ch. 1, verses 3-4.

3. See pedigrees in B.M. Harleian MSS. 1110 f. 98b; F.M.G. (Harl. Soc., XL), 1230; Vis. of Notts, 1569 and 1614, 117 and Appendix A.

4. The History and Antiquities of the County of Essex, 2 vols. (Lond., 1768), II, 222.

and from the beginning had 'reffused Sy^r franc Barrington eyth^{er} with oth^{ers} or himsellfe alone to arbytrat o^r dyffenc[es].'¹

Oliver Cromwell's mother, Elizabeth, daughter of William Steward of Ely, also gets a brief chastising. Whalley states that this lady 'somewaies mysledd hath thrust soore [sore] att me, and putt me to my great charge & dysquyettnes & smally to her owne p[ro]ffytt,'² and yet she has not prevailed against him. Elizabeth Cromwell would seem to have to just cause for complaint if Whalley had not discharged the debt owing to her husband and allocated for their daughters' portions.³

Sir Oliver Cromwell was another of this famous family to incur Whalley's strictures, but the only brief detail we have of this occurs in a postscript to his letter of 17 March 1623/4⁴ where he complains to Lady Barrington that 'Your Brother Sir Oliver⁵ hath wonderfully inforced thes businesses against mee.' In the same postscript Whalley asks Lady Barrington to approach Sir Oliver regarding the payment of £200. He alleges that Sir Henry Cromwell 'on his Death Bedd' desired this sum 'in the Cubbord' to go to Frances Whalley.

As was indicated previously,⁶ Whalley's relationships with his brothers,

1. Written thus in the MS., but presumably intended to be 'differences'. Eg. MSS. 2644 f. 202. The meaning of the phrase which follows, 'O, unfortunate mattche wth a Scullyans bratt,' is obscure. It may refer to Tiffin's having married again - in which case Elizabeth (née Whalley) had died some time prior to Whalley's letter of July 1622.

2. Ibid.

3. See above, p. 12.

4. Eg. MSS. 2644 f. 207.

5. (1562-1655). Eldest son of Sir Henry Williams alias Cromwell by his wife Joan (née Warren). He was the extravagant Royalist uncle of the future Lord Protector and dissipated the wealth of Hinchinbrook. See pedigree, Appendix D. Abbott, op. cit., I, 1649-1653 (1937), passim; L. Stone, An Elizabethan: Sir Horatio Palavicino (Oxford, 1956), particularly pp. 299-310. Other sources cited above, p. 19n.

6. See above, pp. 28-30, 33-34.

and particularly with John, had become increasingly strained. In his first letter¹ he deplores his brother's ill treatment, stating that John Whalley would have unjustly turned him out of Willoughby 'as my Syster Hampden² then well knew & yett holldeth him of no small esteame.' Whalley alleges that John detains £125 per annum from him and also endeavours to defraud his daughters Mary and Jane of £500 each which Whalley had 'graunted ... in a ffeoffm:^t to my brothers Henry and Rychard Cromwells.'³ Whalley maintains that John, in trying to incline the two brothers to his views, is hoping to convert the money to his own use. Richard hopes that his brothers-in-law will not be ensnared. He wishes them either to continue to hold the feoffment or to assign it to his two daughters, or to Sir Francis Barrington for their use. He prays that God of his goodness will turn his brother's heart to act in a more charitable fashion to his kindred.

IV

If we are unable to construct a really adequate picture of Richard Whalley owing to the limited material available, how much the more difficult it is to gain a balanced one of his eldest son Thomas, with even less evidence to build on. The details supplied by Whalley (weighed down as he is by grief, worry and sickness), are coloured by the allegedly harsh treatment he has received at his son's hands, and thus they tend to over-emphasise the latter's defects and omit to mention any saving graces Thomas may have had. The view gained is incomplete, biased and thus unfair. Allowing for this one-sidedness, however, Thomas Whalley does not appear to have been a very pleasant character.

1. Eg. MSS. 2644 f. 202.

2. Frances Whalley's sister Elizabeth Hampden, wife of William Hampden of Great Hampden, Bucks., and mother of the celebrated John.

3. 3rd and 4th sons respectively of Sir Henry Williams alias Cromwell. See pedigree, Appendix D; V.C.H. Huntingdon, II, 67, 71; Abbott, op. cit., I, 51; Noble, op. cit., I, 27-28, 30.

All that is known about him, apart from the details in the Barrington letters, are a few brief facts culled mainly from the Visitation pedigrees and Chancery documents. One of the pedigrees states that he was aged fourteen years in 1614,¹ thus giving a probable date of birth around 1600,² and that he died before his father, Richard, in 1628.³ He was admitted to the Middle Temple on 18 February 1615/16⁴ and married Mary, daughter of Thomas Penyston (or Peniston) of Deane, Oxon., and of Rochester, Kent.⁵ Peniston Whalley, Edward's Royalist nephew of later years, was their eldest surviving child born in 1624.

Richard Whalley's first letter⁶ to Lady Barrington written in July 1622 mentions the marriage of his eldest son, and it is the only one in which he refers to Thomas without acrimony. He Thanks God that he is not comfortless for he has four of his children about him ' who do well and observe me; ffor my elldest sonn although he hath brought a wyeff wth very lyttle, yet is she vertuous relygyous and ev[er]lye wayes hath so reclaymed

1. Vis. of Notts. 1569 and 1614, 118. See also Vis. of Notts. 1662-1664, 64; J. Nichols, Leicestershire, II, part 11, 736; Noble, op. cit., II, 141.

2. The Visitations are not infallible and in view of the later observations on Edward Whalley's birth, Thomas may have been born before 1600. See below, p. 81.

3. P.R.O. Wards 9/126/part 13 f. 58 gives the date of death as 2 Sept.

4. Middle Temple Admission Register, 3 vols. (Lond., 1949), I, 1501-1781, 104.

5. See above, pp. 16, 31 and below, p. 238. Penyston, clerk of the Elizabethan Privy Council, married Mary, daughter and co-heir of John Somer of Newland in St. Mary's, Hoo, Kent. His epitaph in Rochester Cathedral is stated to have been destroyed in the Great Rebellion. His widow married Sir Alexander Temple of Chadwell, Essex. Penyston's only son and heir, Sir Thomas of Leigh, Essex, was created a baronet in 1611. See e.g. G.E.C., Complete Baronetage, I, 87-88; Archaeologia Cantiana, XI (1877), 5-9; LVIII (1946), 14-15; J. Foster ed., Alumni Oxonienses, 1500-1714, 4 vols. (Lond., 1891-1892), III (1891), 1145; Members of the Inner Temple, 1547-1660 (Lond., 1877), 186; Will of Sir Thomas, P.R.O. Prob. 11/201/149. For the connection of the Penyston and Temple families see below, pp. 93-94, and pedigree, Appendix E.

6. Eg. MSS. 2644 f. 202.

him, as thatt I have noe ffeare of his non well doinge in his poore & looe [low] estat & wyll thyrve.' It is not possible to establish with absolute certainty the names of each one of the children to whom Whalley refers above. Robert, the youngest son,¹ was definitely one of them; presumably at this stage Thomas, the heir, was also included even though he was married, and Henry,² the third son, would appear still to have been living in Screveton at that time. Mary,³ the second daughter, apparently was keeping house for her father. Jane,⁴ however, was in service with Lady Barrington and it seems most probable that Edward⁵ Whalley was engaged in the woollen trade in London.

Some time within the sixteen months which elapsed between Whalley's first letter and the second one written in November 1623, relations with his eldest son had become extremely embittered. He cannot accept the fact that his own flesh and blood whom he has 'ffostered and Chearyshed fro[m] his Cradle',⁶ should turn against him thus - a son for whose religious education under the care of Mr. John Mansell⁷ and Mr. Calthorpe,⁸ he had been particularly zealous. Whalley believes that his son's unnatural and

1. See below, pp. 54-55.

2. See above, p. 42. Henry may have moved to London at some time between Whalley's 2nd and 3rd letter to Lady Barrington, dated respectively 15 Nov. 1623 and 17 Mar. 1623/4.

3. See above, p. 40.

4. Ibid., pp. 40-41.

5. See below, pp. 85-86.

6. Eg. MSS. 2644 f. 205.

7. Probably John Mansell of Lincs., who became Vice Chancellor of Queen's, Cambridge, 1624-5. He was ordained deacon and priest (Peterborough) in Sept. 1604 and became rector of St. Botolph, Cambridge, 1611-1615; Venn, op. cit., part 1, III, 136.

8. A number of possibilities are noted by Venn. One such is John Calthrop, B.A., from Christ's, Cambridge, 1608-9, M.A. 1612. Ordained priest (Peterborough) 28 Feb. 1612/13. Canon of Tilney, All Saints, Norfolk, 1622 and vicar of Calthorpe, 1647; op. cit., part 1, I, 283.

ungodly behaviour to him is not merely of recent occurrence, but a latent trait manifested first in his childhood. It can be attributed to his very early years, for Whalley states that Thomas 'was absolutely changed at the nursinge¹ (as many about London no doubt are),'² If Richard is to be believed, Thomas treated his mother Frances abominably, and continued in an even more grievous manner against his father. Apparently, Thomas refused to pray with his mother, 'sent her word hee would breake her house for money, drewe his sword uppon her and wishte her wombe his Tombe.'³ This was the son whom Whalley states 'never hath bene obedyent,'⁴ broke his mother's heart and brought 'unspeakable sorrowes' and cares to his father.

Can a son be so wholly bad as Whalley depicts him? We have no means of knowing how deeply Thomas Whalley was provoked by his father, but it seems that anger at least was justifiable. No heir could have peacefully contemplated an inheritance dissipated insidiously over the years by a foolish father - for it is apparent that Richard Whalley's folly had been his ruin. Thomas Whalley doubtless wished to preserve for his own heir some part of the once considerable patrimony which Richard Whalley had inherited, and which was now much reduced by the demands of creditors.

To understand Thomas Whalley's anger, however, is not to condone some of the actions directed against his aged, ailing parent, whom we are obliged to pity and even grudgingly admire for his resilience.

On one occasion, Whalley's censures tend to amuse by their very naïvety. He is describing to Lady Barrington his attempts to make his son realise *

1. A reference to the practice among some of the nobility and gentry of putting out their infants to the care of wet nurses, and thus fostering in some children a greater love for the nurse than the mother. See e.g. Stone, Crisis, pp. 168-169, 592-593.

2. Eg. MSS. 2644 f. 234 dated 29 June 1626.

3. Ibid.

4. Ibid., f. 205.

the disastrous consequences that inevitably ensue when children oppose their parents 'especieallie their Mothers.' He cites the examples of '7. or 8. of great accompte, 3 of above 2,000:^{li} per annum, & the others of very good Rancks' who have come to a bad end because of disobedience. All had devoured their estates; five of them were so poor they were hardly able to provide their own burial sheets; some had died under hedges; 'some allmoste eaten wth Lyce, & others not to speake one word at their death.'

Whalley quotes the further example of a knight's son whose father owed him £200. The son, stating that he would arrest his father, had ridden one day with the bond in his hand to demand the debt. A broken neck and death 'wth out word speakinge' resulted from the horse floundering - a justly deserved punishment in Whalley's estimation, for the son's conduct.

Regarding his own son, Whalley relates how Thomas had bribed one of Whalley's 'chiefest councell' whom he had acquainted with all his secrets. This man, to Whalley's knowledge, had been a healthy, lusty fellow, but having sided with Thomas and shown his treachery, he had died suddenly 'uppon a supposed collde wth out any thought of death.'

To illustrate a further sign of God's retribution on disobedient children, Whalley states that soon after the above incident, Thomas had been out riding with his wife's brother¹ and both had fallen from their horses: 'the one greatly hurte his legge, himsellfe put his shoulder out of Jointe.' At that time also, as a further mark of God's wrath, Thomas Whalley's only child, 'beinge stronge & sound, dyed they say of breeding Teeth.'² Whalley hopes that such examples will prove an object lesson to

1. i.e., Sir Thomas Penyston bart. See above, p. 49 n.

2. A reference to Martha Whalley who was born in 1624 and died in that year. The birth of Peniston, the first surviving child, occurred also in 1624. Another child, Thomas, was born and died in 1628. A definite date for the birth of a further daughter, Elizabeth, has not been established. Floorstones relating to the two who died in infancy are in Screveton church. See J. T. Godfrey, Notts. Churches, p. 397; J. Nichols, Leicester-shire, II, part 11, 736; Thoroton, op. cit., p. 132.

Thomas and serve to show him that in opposing his father so, he will eventually bring ruin upon himself.¹

It would be tedious to describe all the complaints Whalley makes against his son, for they constitute the major theme of the correspondence. One or two examples will further serve to show Whalley's concern for his younger children, intensified as it is by his son's unjust and unfeeling treatment.

Whalley complains that in order to get present possession from his father, Thomas 'hath gotten assigned to him ... A Ffeoffment of Screaveton that above 20: yeaeres agoe att yo^r Systers p[ro]lvydent entreaty I passed to yo^r Broth^{ers} Henry & Rycharde & others for paym^t of 2000^{li} to my 2 daughters after my decease.'² He asserts that his son 'being in possessyon as all o^r Lawyeares here affyrme' will, if necessary, force the Cromwell brothers to contest the claim at law.

In a further remark in the same letter, however, Whalley implies that his son will have no need to do this for he has 'seduced' them 'togeather with my own broth^{er} for the ffeoff^{mt} to the utter ruine of my house.'

It would appear that Thomas Whalley had also entered into a bond in £3,000 with Sir Francis and Sir Thomas Barrington relating to the portions of Whalley's younger sons.³ Whalley is concerned that his son will not honour the bond because Sir Francis and Sir Thomas had omitted to seal 'the counterpane⁴ of that dephe[s]anc[e] of the Statute of 3000:^{li}' to make it legally binding. He thus informs Lady Barrington that he is sending the

1. Eg. MSS. 2644 f. 207.

2. Ibid., f. 205.

3. Henry and Robert and presumably Edward also, if Richard Whalley had not made earlier provision for his second son.

4. i.e. the counterpart or duplicate of the document to nullify the bond when payment is honoured.

bearer who wrote out the original defeasance, and will rewrite another copy 'in the same hande'. Whalley asks that Sir Francis and his son will then add their seals and that the document may be returned to him by the bearer. He then intends to show it to his younger sons and give it to Thomas Whalley as an obligation to be honoured.¹

On three occasions, Whalley refers to the pitiful sum allowed him by his son. In his letter of November 1623,² two amounts are mentioned - 100 marks and £40 per annum. It would seem that the former sum was the one allocated, for Whalley later states ... 'he by so wicked and indirect machivells meanes, (as is not without greate horror to be spoken of) hath gotten all the livinge, I allowed the bare house and gardens, and only 100 marks in money; for mee my daughter and sonne at Oxford.'³ Whalley again complains of this unsatisfactory sum - forcing him, Mary and Robert to live in extreme penury. He states that Thomas allows him 'barely in money (but wyll not in groundes 100:^{mks} p[er] ann[um]).'⁴

Robert Whalley, the youngest son, matriculated, plebeian, from St. John's College, Oxford, aged 16 years on 30 June 1626.⁵ Two pedigrees of the family indicate that he became lieutenant to Captain Cromwell and later served as a Sergeant-Major in the Low Countries.⁶ This would appear to be incorrect and no evidence has been found to verify it. The will of Thomas Whalley⁷ made in 1637, suggests that Robert had predeceased his uncle, for

1. Eg. MSS. 2644 f. 205.

2. Ibid.

3. Ibid., f. 234, dated 29 June 1626. Mary and Robert Whalley are the two referred to here. In an earlier letter (ibid., f. 205), dated 15 Nov. 1623, £40 yearly was to provide for 3 children. Presumably the third child was Henry. See above, pp. 50 and n., 42 and n.

4. Ibid., f. 243. I have found no evidence to explain why Thomas Whalley was able to control his father's property during Richard's latter years.

5. J. Foster, Alum. Oxon., IV, 1606.

6. Vis. of Notts., 1569 and 1614, 117; F.M.G., (Harl. Soc. XL), 1230.

7. i.e. Richard's youngest brother, see above, pp. 28, 31 and n.

in it occurs the following: 'I do give to the children of my late brother Richard Whally Esquire deceased to so many of them as are now living, viz. Edward, Henry, Mary and Jane to every of them ffourty shillings a piece.' Robert left no issue.

Richard maintains that after his third marriage to Jane Styrrup,¹ Thomas, his son had been bound by a statement made to Sir Francis and Sir Thomas Barrington to make over Willoughby² as a jointure to Whalley's new wife. Thomas, however, refuses to honour this pledge.³ Whalley also alleges that in the same statement Thomas had bound himself 'to pay my yonger Chylldren 500^{li} a peec^e to whom he geveth deluding words but nev[er] wyll be hable to pay them wthout suite one penny, his huge Ryotingue Consydered.' The above sum would appear to be that intended for the portions of Mary and Jane to which reference was made above.⁴ Whalley had accused his brother John of attempting to defraud the two daughters of their due. He had stated that Henry and Richard Cromwell had been entrusted with the payment of the amount, but it seems that the latter had abrogated their trust. Sir Francis and Sir Thomas Barrington obviously held themselves responsible for the fulfilment of the pledge, but who in fact, held this when Whalley wrote his letter to Lady Barrington in November 1626, is far from clear. Thomas Whalley may have done so.

Lady Barrington later wrote to her brother Henry Cromwell, and in his reply of 28 January 1629/30,⁵ he states: 'As for the writings yo^u send

1. See above, pp. 35 and n., 40 and n.

2. Vis. of Notts., 1569 and 1614, 117 notes Thomas Whalley as of Willoughby in 1628.

3. The complicated issue of jointure and dower is dealt with in P.R.O. C6/123/172. In this action Peniston Whalley contested Jane's claim to dower. See below, pp. 256-258.

4. p. 48.

5. Eg. MSS 2645 f. 138. No mention of the Whalley family occurs in Henry Cromwell's will, dated 5 Feb. 1627/8. B.M. Add. Charters 53667.

for concerning my neice Jane Whalley, I only saw them once long since at the keeping of a court at Screaveton but never saw them since, neither can I imagine in whose hands they are if they be not in my brother Cromwells'. Richard Cromwell had died in October 1628,¹ but a similar enquiry to Sir Oliver Cromwell also yielded a negative reply. On 2 February 1629/30² he wrote: 'As for y^e writinges w^{ch} conferme the portions of my neces by my sister waley, I have non, neyther was acquaynted what they were, I will send yo^r letter unto my Brother Henry who it may bee can give yo^w better Light'.

V

If credence can be given to Whalley's statements, his son's style of living was much more dissipated than his own. An element of exaggeration, however, probably colours this complaint as it did the other charges against Thomas. Whalley accuses his son of 'extreame ryottinge'³ and gaming away his substance. One instance of this is seen in Whalley's remarks on the relationship between his son and the tenants, many of whom had had their livings taken from them, some evicted 'and the rest drawne into huge bonds and Judgm^{ts}, before the tyme of paym.^t' The exact meaning of this latter statement is not clear, but Whalley may mean that his son forced the tenants to enter into covenants to pay rentals before they were due or face eviction. He indicates that having obtained the money, Thomas gambles it away. On the days of payment, he compels the tenants 'to make stake' with him and if his son loses, 'sometymes longe after repayinge parte, but never all, to their unspeakable anguish.'⁴ These were the tenants formerly

1. He left no will, but some of his property came to his nephew Oliver - the future Lord Protector. See Abbott, op. cit., I, p. 51.

2. Eg. MSS. 2645 f. 140.

3. i.e. dissolute living. See ibid., 2644, ff. 234, 243.

4. Ibid., f. 234, and see above, p. 11.

prosperous in Whalley's earlier days, and with whom he had been on friendly terms. But now, because of his son's 'unnaturellnes' he could not even expect the usual services to which he had long been accustomed, 'noe nott so muche as a horse to the m[ar]ked [market],' and this despite his son's bond to grant him such services. In consequence he was 'enforced to sue the poore men who crye out for there great Oppressyon by him.'¹

As final examples of the alleged inhumanity of his son, the following passages are particularly illuminating. Whalley indicates that he is under such obligation to Thomas that he cannot even fell a rotten tree on land 'where I have planted 1000'. If he wants a cow he has to borrow it and if he tries to pasture it on land to which Thomas can make no claim, it is either impounded by his son or shooed out and 'enforced to leape hedges by swaggering ruffens againste whom I can have no Lawe'. His son for spite had prevented his building 'a little Conygree wth one clapp[er]',² and has pulled down an old stone kiln-house in good repair ('w^{ch} I take delight in'), and which he used for drying his hops. Nor will Thomas carry out any repairs to 'my ancient house',³ in danger of falling down if neglected so.

Such then are the manifold miseries of the once prosperous father. Unfortunately, Lady Barrington's replies to Whalley's letters have not been preserved, but it is interesting to speculate what her opinions might have been regarding Thomas Whalley's reputed conduct. Was he, in fact, the selfish, unjust and cruel character that Whalley depicted him, or did Lady Barrington, recognising Whalley's exaggerated complaints, and knowing his many weaknesses, make allowances for the son's behaviour? Certainly

1. Eg. MSS. 2644, f. 243.

2. A rabbit warren with one burrow.

3. Presumably Kirkton Hall. This 'ancient house' stood until its demolition in 1823. See Nottinghamshire Guardian, 1 Oct. 1887; A. Mee, The King's England, Nottinghamshire, New Ed. (Lond., 1970), p. 182.

Whalley spared no effort to bombard his sister-in-law's susceptibilities, to arouse her sympathies and enlist her help. His correspondence (limited as it is), definitely succeeds in its intention for the reader cannot remain unmoved by his plight. Nor evidently could Lady Barrington. Like her, we pity a man who had 'donne acceptable service in the Countrey and lived in good repute'¹ in the days of Elizabeth and James I, but who now has little comfort left in his old age.

1. Port. MSS. DDP.8/122.

Chapter 3

MARY WHALLEY, JANE AND WILLIAM HOOKE

(I)

I

It is an unfortunate feature of the Whalley family as a whole that the lives of even the more well-known members contain numerous gaps which cannot be satisfactorily filled. This applies to Edward, the most renowned member, Richard Whalley the father, Thomas his heir, and Peniston the grandson. Much more so does it apply to Mary Whalley, Richard's second daughter, who must remain little more than a name on a Visitation pedigree.

It cannot therefore be the purpose of the first section of this chapter to provide biographical details from the limited material available. The intention is rather to present the few facts discovered about Mary and the family property. More important than these, however, is the necessity to correct an error regarding Mary Whalley's supposed marriage to one, Sir Thomas Eliot. Disproving such a relationship has involved many weeks of research but it is to be hoped that this will be of use to others who work on the Barrington family correspondence.

II

Mary was involved in two legal disputes over property in Screveton. The first of these was a complaint in Chancery¹ directed against a certain Thomas Hall of Screveton. Mary indicated that 'out of love and affection for her' and for her 'better preferment and meanes to live', Richard Whalley, in his eldest son's name but to be held in trust for Mary, had purchased land in Screveton from Joan Hollmes widow and William Hollmes.² About 22

1. P.R.O. C3 418/137, dated 8 June 1627.

2. Perhaps her son, but the relationship is not stated.

April 1624, according to Mary, it was agreed that on Joan Hollmes' decease, Thomas Whalley should take possession of the property on Mary's behalf and that the deeds and other documents should be delivered to him before Pentecost.

Mary complained that Thomas Hall had by some means obtained possession of the deeds and refused to surrender them - his claim being that he had purchased the premises from Joan and William Hollmes long before any conveyance was made by them to Thomas Whalley. In consequence, Mary stated that Hall had entered 'into divers parcells of the said lands' in Skesbecks field, Millfield and Newfield and appropriated all the rents and profits to his own use, much to Mary's detriment. It seems further evidence of Thomas Whalley's inconsiderate nature when Mary states that he neglects to execute any suit 'or to take any course either att the Common Law or in this honorable Courte to recover the possession of those Landes deedes and evidences' from Hall, 'or to right yo^r Oratrix in the manifeste wronge and iniury which she suffers'.

Mary asked that a writ of subpoena be issued to compel Hall to appear in Chancery, to produce the evidence to show his alleged claim to the lands, and to explain exactly when and by what means he came into possession of the documents.

Unfortunately, Hall's answer is not attached to the Bill of Complaint according to the usual procedure, so the outcome of the case is not known. Either such answer has not survived, or it is possible that one was not exhibited. It was quite permissible to settle an issue without such formal document if the bill was for 'The recovery or discovery of documents or evidences or something equally concrete',¹ as in these circumstances. In such event, personal appearance of the defendant in Chancery, and surrender of the necessary documents were sufficient. Nor did an action invariably

1. W. J. Jones, The Elizabethan Court of Chancery (Oxford, 1967), p. 215.

require a defendant's appearance in court, or its termination with a formal hearing and decree. A Commission had the authority both to hear and end a case outside court, though normally, written evidence would be taken and appended to the plaintiff's bill.¹ What particular procedure was followed in Mary's action cannot be stated more definitely than this.²

The second Chancery action concerned Mary's uncle John Whalley, whom she claimed had not fulfilled a trust reposed in him by her father Richard many years ago. Mary's original complaint and John Whalley's answer are missing,³ but there is sufficient information in the replication and rejoinder to piece together the major points at issue.

It is probable that Mary decided to bring the action at this time because her position in her father's household had first been threatened and then undermined by Richard Whalley's third marriage to Jane Styrrup in 1626.⁴ Mary's financial position - insecure at the best of times - was made more precarious by this event. Nor can she be blamed for wishing to escape from the embarrassing situation of having to live with a step-mother many years her father's junior. Despite Richard Whalley's remark about his new wife,⁵ Mary's replication makes it clear that she could find no degree of accord with one who had formerly been a servant and who, according to Mary, adopted an unkindly demeanour towards her.

Mary believed that John Whalley had a duty to provide her with adequate maintenance. She claimed that Richard Whalley had been seized of the manor of Kirkton Hall alias Screveton in the right of her mother Frances

1. W. J. Jones op. cit., introduction, pp. 16-17; pp. 221-225, 270-274, 286-302.

2. No Chancery order or decree has been discovered relating to the action. Presumably it never reached this stage.

3. No record has been found in the Registers of Chancery Proceedings at P.R.O. See MSS. Indices 'B' Books 1533-1539.

4. See above, p. 40 n.

5. See above, p. 35 n.

Whalley for the lifetime of the latter.¹ She maintained that her father, after his wife's death had agreed to a release whereby John Whalley should receive the profits of certain lands therein for the maintenance and education of Richard's children during Richard's lifetime.

John Whalley denied that Frances Whalley had ever had any such rights to the lands in question, or that any agreement had been made between himself and Richard for the purpose which Mary stated. He maintained that Mary had no claim on him for maintenance and that her position was not nearly so acute as she pretended, for whilst housekeeping for her father, 'together with ... Richard Whalley, [Mary] did take and receive the Rents issues and profits of the said lands for many years together to her own uses and did hold and enjoy some closes and grounds belonging to Kirkton and Screveton in her own hands which the replicant stocked with cattle of her own ...'

No evidence has come to light to substantiate Mary's claim to maintenance according to the alleged trust, but it may be in some way connected with the feoffments which Richard Whalley stated he had originally made to Henry and Richard Cromwell many years ago, and in which John Whalley and Richard's son Thomas had later become involved.² In the absence of the relevant documents, however, and particularly since Whalley's many property transactions from 1595 onwards were complicated by the chaotic state of his finances, it is not possible to be absolutely certain of such connection.

There must have been some justification for Mary's complaint but she can hardly have been fully aware of all the circumstances involving her father's lands - the assignments, the numerous extents and other encumbrances that prevented Richard Whalley disposing freely of his estates. It would be wrong to attempt to judge the issues in dispute or to attribute blame to either party solely on partial evidence, but it does appear that

1. Possibly the manor comprised the jointure of Frances on her marriage to Richard, though no evidence has been found to prove this.

2. See above, pp. 48, 53, 55.

John Whalley was more familiar with his brother's affairs than Mary was.¹ A number of remarks in his rejoinder confirm certain facts that are known to be true regarding Richard's estate - namely the demands of the various creditors upon it over the years and the particular claims of the Earl of Newcastle at that time. Despite such claims, Mary believed that they should not be prejudicial to her own interest in her father's lands arising from a trust which she asserted had been made before Whalley's financial problems became serious.

If credence can be given to a statement in Mary's replication she was not the only complainant² when the action was first exhibited in Chancery against her uncle. She claimed, however, that the others 'having been much laboured thereunto' by John Whalley had withdrawn 'in respect of hopes they have from the said defendant.' John Whalley denied that the other complainants had given their consent to the presentment of the bill or that he had brought pressure to bear upon them 'to surcease their persecution'. He maintained that they had withdrawn voluntarily, realising they were in the wrong.

There is a short letter in the Barrington correspondence which almost certainly refers to this issue. It is the sole extant letter written by Mary asking her aunt Joan for assistance. She beseeches Lady Barrington 'to send some to asist mee, your honoure cannot bee ignorant yt it is to heavie for me to beare alone, I have gone so farre in it yt [yet] I am unwilling to proscede any farther by my selfe, therefore I beseech you send one with all speede to your humble servant & obedient Neece.'³

Presumably Mary must have decided to proceed with the suit in view of

1. See above, pp. 29-31.

2. Possibly Mary, widow of Thomas Whalley, was one of these. The replication indicates that Mary lived with her sister-in-law for some time until the latter's marriage to Richard Draper c. 1632.

3. B.M. Eg. MSS. 2645 f. 205 dated 9 June 1630. Written from 'Holborne bars Mt.^r ffrenches'.

her replication, but she appears to have been assailed by doubts - uncertain of the true position. According to John Whalley 'the replicant herself hath acknowledged her error to some of her best friends and hath blamed herself for standing upon the said supposed Release ... and hath excused herself by being abused by foolish counsel.' John declared that about 'Hilary Term in the 7th year of his majesty's reign that now is', Mary had sought a reconciliation with him 'affirming that she would never proceed any further in this suit',¹ and that she had maintained that position until the exhibition of her replication. Unfortunately, as was the case with the previous action, we do not know how the issue was resolved since neither Chancery Order nor Decree has been discovered.²

III

The error in identifying Mary Whalley as the wife of one, Sir Thomas Eliot, has arisen from a statement made by G. A. Lowndes in his article 'The History of the Barrington Family'.³ Lowndes, one time resident at Barrington Hall, the site of the former Hatfield Priory, had possession of the family papers for many years. He prints one letter⁴ written by Mary Eliot to Joan, Lady Barrington and then states: 'This lady was daughter of Mr. Richard Whalley of Screaton in Cambridgeshire',⁵ [sic]. He thus attributes the five⁶ letters of Mary Eliot among the Barrington papers to Mary, Richard Whalley's daughter. There are also four⁷ letters of Sir

1. P.R.O. C2 Chas.1/W124/110. Replication and Rejoinder of plaintiff and defendant. Undated, but according to the above c. 1632.

2. These were checked between 1631 and 1635. P.R.O. MSS. Indices 'B' Books 1541-1549.

3. Trans. Essex Arch. Soc., New Series, II, pp. 4-54.

4. B.M. Eg. MSS. 2645 f. 251.

5. p. 29 of the article.

6. Eg. MSS. 2644 ff. 279, 281; 2645 f. 251; 2650 ff. 227, 229.

7. Ibid., 2644 f. 279 (a joint letter of condolence of husband and wife on the death of Sir Francis Barrington); 2645 f. 232; 2650 ff. 231, 232.

Thomas Eliot in the collection. Unfortunately, Lowndes gives no sources to prove the relationship which he claims, but the evidence given below shows that it is incorrect.

The issue is complicated by the fact that there were two knights of the name Eliot (probably distant relatives) living in Essex in the reigns of James I and Charles I. One of these, Sir Thomas of Newlands Hall, Writtle, was the son of Edward Eliot by Jane Gedge.¹ He was knighted in 1603.² The other was Sir Thomas of Stanford Rivers. His parents were Richard and Elizabeth Eliot³ and his grandfather was named William.⁴ He was knighted in 1615⁵ and by his first wife Katherine, daughter of Nowell Sotherton,⁶ he had a son John. The transaction⁷ in which father and son were involved in the sale of Stanford Rivers to William, 2nd Lord Petre, shows that Eliot's second wife was named Barbara.

It was Sir Thomas of Newlands Hall, Writtle, who had such close connections with the Barrington household.⁸ He married Mary, the daughter of William Towse of Takely, a parish adjoining Hatfield Broad Oak. Towse was a Sergeant at Law, Town Clerk of Colchester and M.P. for the borough

1. See P. Morant, Essex, II, 33, 74, 192; Essex Rec. Off. MS. D/DSx 357. Vis. of Essex, 1552-1634, part 1 (Harl. Soc., XIII, 1878), pp. 48-49, 191, 192 does not include Sir Thomas of Writtle in the pedigree which is incorrect in a number of places.

2. W. A. Shaw, The Knights of England, 2 vols. (Lond., 1906), II, 126.

3. The Visitation shows the parents as John and Elinor and the grandparent John, of Bishops Stortford, Herts.

4. See P.R.O. C3/372/22; Essex Rec. Off. MS. D/DP T1/2001.

5. W. A. Shaw, op. cit., II, 156.

6. Of St. Botolph without Aldersgate. Baron of the Exchequer and Master of the Merchant Taylors' Company in 1597. See E. Foss, A Biographical Dictionary of the Judges of England, 1066-1870 (Lond., 1870), p. 624; Misc. Gen. et Her., 5th Series, IX (1935-1937), 129; Will, P.R.O. Prob. 11/115/38, proved 24 May 1610.

7. Essex Rec. Off. MS. D/DP T1/2001.

8. With Sir Francis Barrington, he was one of the dedicatees of Thomas Barnes's 'Wise Men's Forecast against the Evil Time'.

in the parliaments between 1621 and 1626.¹ His daughter it was, therefore, and not Mary Whalley, who became Eliot's wife, and whose letters to Lady Barrington are couched in such affectionate terms for she addresses her benefactress as 'dear ladye mother' and subscribes herself 'Your faithfull Lover and daughter to command.'

At the risk of labouring the point, the three sources listed below² establish beyond all possible doubt that Mary Whalley had no such close connection with Sir Thomas Eliot of Writtle. The only letter of hers in fact in the Barrington papers is the one previously mentioned asking her aunt for help in the legal action of 1630.

IV

An entry on the Whalley pedigree in the Visitation of Nottinghamshire 1662-1664³ indicates that Mary married Robert Kellaway,⁴ secretary to Edward, Lord Littleton, late Lord Keeper of the Great Seal. This fact is almost certainly substantiated by further evidence. There is an action in Chancery⁵ dated 26 April 1637 brought by Richard and Mary Draper⁶ against Robert Keylway⁷ of London, gent. and Mary (née Whalley), his wife. It concerns

1. See P. Morant, Essex, II, 574; T. Wright, The History and Topography of the County of Essex, 2 vols. (Lond., 1836), II, 152; Vis. of Essex, 1552-1634, part 1, 505.

2. Morant, op. cit., II, 574; Will of Dame Mary Eliot, P.R.O. Prob.11/334/173, dated 16 Aug. 1664 and proved 1 Dec. 1670; Rev. F. W. Galpin, 'The Household Expenses of Sir John Barrington (1645-1667)' (Trans. Essex Arch. Soc., New Series, XXIII, 1942-1945), 292.

3. Op. cit., p. 64. Certified by Peniston Whalley.

4. Spelt also Kelway, Kelloway, Keylway.

5. P.R.O. C3/400/138.

6. The document proves that the marriage took place c. 1632.

7. Keylway was most probably a descendant of the family of Sherborne, Dorset, though his name is not shown on a number of pedigrees of the family. See e.g. J. Hutchins, The History and Antiquities of the County of Dorset, 4 vols. (Lond., 1861-1873), IV, 194; The Genealogist, New Series, III (1886), 94; XII (1895-1896), 96.

two sums of money which Mary Draper claimed Mary Whalley owed to her before either of their marriages took place. Four pounds was said to be still unpaid of the seven due from a sale of a mare to Mary Whalley. A further sum of ten pounds loaned to the defendant was also declared to be outstanding. The charges were denied by the Keylways and Mary Keylway complained that the plaintiff was indebted to her rather than she to the plaintiff. However, the matter in dispute is relatively unimportant, but as an additional piece of evidence to reinforce the statements put forward in this chapter its value is obvious.

(II)

I

There are certainly more detailed records of Jane Whalley than there are of her sister, and Richard's request to Lady Barrington to bestow his youngest daughter in marriage¹ was satisfactorily carried out. Indeed, Lady Barrington did not accept the first suitor for her niece, though could she have foreseen the prominent position that this gentleman was later to achieve, she might have been less ready to decline his suit.

She corresponded frequently with Puritan clergymen,² and two letters of Roger Williams of later Rhode Island fame have been preserved. Williams in 1629 was serving as chaplain to Sir William Masham of Otes, the second husband of Lady Barrington's eldest daughter, Elizabeth. He was the clergyman who at this time solicited Jane's hand, and she perhaps, not averse to his attentions, encouraged his ardour. We are given another brief glimpse of her character when Williams, referring to the possible obstacles in the way of marriage, states: 'Objections have come in about her Spirit, much accused for passionate & hastie, rash & unconstant ...' What worries him

1. See above, p. 41.

2. See e.g. Lowndes', article, Trans. Essex Arch. Soc., New Series, II, 32-36.

more, however, is the present financial condition of both of them. The nearness of Jane's relationship to Lady Barrington makes him confess that 'her portion in y^t regard to be beyond compare, invalueable,' but in terms of hard cash, 'That portion it hath pleased God to allot her (as I heare) is not for present & happily (as things now stand in England) shall never be by us enjoyed.' He is perfectly frank about his own lack of means, but has hope for his future preferment and believes that his zeal will influence Lady Barrington more than the financial inadequacies of either of them.¹

When Lady Barrington declined her niece's hand, Williams' disappointment overcame his discretion. His second letter contains so much religious advice proffered in admonitory tones, that Lady Barrington could not but be offended. Two examples of his language in this long epistle will suffice.

'Good Madame', he writes, 'it is not for nothing y^e God of heaven hath sent such thunderclaps of late & hath made such great offers at the dore of your Ladships heart. Distractions about children & their Afflictions, deprivall of A deare and tender Yoake fellow. Weaknesses in the outward & troubles in the inward man, what are they but loud Alarums to awaken you? ... Incouragements to be naked and plaine your Ladship was pleased to give me at Otes. If ever, (deare Madam) when there is but the breadth of a few gray haires betweene you & your everlasting home let me deale uprightly with you ...'²

Lady Barrington for a long while refused to correspond further with Williams even though Sir William and Lady Masham attempted to intervene

1. Eg. MSS. 2643 f. 1. Undated but superscribed 1630. This is incorrect since Williams' second letter in which he complains of his rejection is dated 2 May 1629. At no place in his letters does Williams mention Jane by name. There is, however, no doubt that she is the 'neice' referred to. A query regarding the relationship to Lady Barrington first appeared in Notes and Queries, 7th Series, X (1890), 7. S. R. Gardiner's reply dated 8 July 1890 confirmed that Jane was the one mentioned. See H. F. Waters, Genealogical Gleanings in England, 2 vols. (Boston, 1901), I, 495-496, and also I. M. Calder ed., Letters of John Davenport, Puritan Divine (New Haven, 1937), p. 173 n.

2. Eg. MSS. 2643 f. 3.

on his behalf, stating 'that it was only his ardent love of religion that made him address her as he had done'.¹

If Jane too were disappointed she apparently soon overcame this, for a short time after the rejection of Williams' suit, she married another clergyman, William Hooke. In a letter to her aunt, Jane expresses her thanks to God (and to Lady Barrington), that she has been blessed with a good husband.² Hooke himself was not wealthy and both of them had occasion to be grateful for Lady Barrington's generosity. After he and his wife had visited her at Harrow, he referred to her bounty and kindness whereby 'yo^r purse, yo^r servants, yo^r prayers, advise (to say no more have ministred to myself and yo^r niece.'³ He also was concerned about Jane's 'portion uncerteine' to which Lady Barrington had referred in two earlier letters to him. 'In ye first,' he wrote, yo^r Lad[ishil]^p mentioneth an earnest p[ro]secution of y^e matter by my wives sist^r Marie.' Hooke continued that in neither letter was he advised what to do. He could not afford to enter into expensive suits regarding such 'uncerteinties unexpected', and desired to retain and improve as much as he was able of Lady Barrington's bounty '(thankefully receaved) least I should be utterly stript.' Nor was he willing to acquaint his friends or relatives with his troubles in case he should become 'an object either of derision or pittie among them.'⁴

In view of the previous correspondence relating to the marriage portions it seems almost certain that neither Mary Kellaway nor Jane Hooke ever came by them.⁵

It is amusing to read Jane's letters to her aunt. She is much concerned with her health and states that within the past eighteen or nineteen

1. The words are Lowndes', op. cit., 36.

2. Eg. MSS. 2645 f. 12 addressed from 'up[per]-clatford in hampshier Desember the 28 day', and superscribed 1629. This is the correct year, though A. G. Matthews, Calamy Revised (Oxford, 1934), p. 274, gives the year of marriage as 1630.

3. Eg. MSS. 2645 f. 196 dated 25 May 1630.

4. Ibid., f. 219 dated 6 July 1630.

5. See above, pp. 48, 55-56.

weeks she has had 'two dayes well and one ill for some 7 weeks.' This was then followed by two ill days and one good one, but god has graciously given her again 'tow good dayeis and but one ill, and has both shortened my fitte and mittigated his hand with a great deale of mercy.' Mr. Hooke has sent her urine to a doctor at Salisbury who had declared her 'dangerously sicke' and prescribed a 'speedy course of phisik' for her. Mr. Hooke had also insisted that Jane stay in Salisbury at the house of a friend of his to take the physic and recuperate. Never before had Jane been so kindly used by a stranger, 'for she was so carfull for me when I was in my fittes to make me thinges, and that I should not take could in my sweats, that I could not chuse but see y^e goodnes of god to me in it.' The sickness described may be partly the result of an impending pregnancy to which Jane later refers. She is, however, so grateful for her husband's devotion that she feels guilty of her former behaviour in her aunt's household and asks Lady Barrington to forgive her 'carlesnes and untowarnes when I was your pore and unworthy servant for I doe confes I did much offend god in being carles of my caling towards your ladyship.'¹ As the wife of a clergyman, Jane's conscience certainly appears to have caught up with her, though doubtless her sins are somewhat magnified.

'Weaknese and sicknes' is the plaint of Jane's other letter to her aunt, aggravated this time by the nightly antics of her maid. She relates that both she and her husband 'was so scard in the night (as we thought with theves)' that Mr. Hooke lost his voice and she herself was glad to keep to her bed for two days with 'those paines upon me as made me afraid that I should be delivered incontinently.' The cause of her alarm was the maid who had let in two young fellows at an unseasonable hour 'to riot with them both with our beare and bread.' The maid had disarmed suspicion for some while since 'she came up to help us cry out theves.' The Hookes

1. Eg. MSS. 2645 f. 112.

were glad to be rid of her and since her departure, Jane had 'savid a peck a meale a weeke besides otheres tinges.' She thanks Lady Barrington for sending so much linen by goodman William King, and confesses that she does not deserve such token of her aunt's love. She is obliged to conclude her letter before she wishes since she is stricken 'with a most greveous pane in my back', and she signs herself, as in the earlier letter, 'Your pore unworthy servant'.¹

II

If Jane's husband did not quite achieve the prominence of a Roger Williams, he ran a close second in a distinguished ecclesiastical career which reached its zenith during the Protectorate, when his relations with Cromwell were particularly close. Hooke's preferment may have been partly due to his wife's kinship with Cromwell, though more important factors explaining his success were his enthusiasm, sincerity and ability as a preacher and writer.

He was descended from a family which took its name from the parish of Hook in Hampshire. He matriculated from Trinity, Oxford, on 19 May 1620, graduated B.A. 28 June of the following year, and M.A. on 26 May 1623.² Having taken holy orders, he became rector of Upper Clatford, Hampshire, on 4 May 1627³ and vicar of Axmouth, Devon, on 26 July 1632.⁴ A daughter was baptised there on 13 November 1631, and between 1634 and 1637, he and

1. Eg. MSS. 2650 f. 282, superscribed 1630. Writing to John Winthrop the younger in Aug. 1660, John Davenport refers to William Hooke as 'valetudinarius, having bene afflicted with a very great fluxe of Rheume, accompanied with an erisipilus unto danger of death ... His wife also hath her body infirmities. See I. M. Calder ed., Letters of John Davenport, p. 173. Both husband and wife seem to have been over much concerned about their health.

2. A. Clark ed., Register of the University of Oxford, 1571-1622 (Ox. Hist. Soc., XI and XII, 1887-1888), part 11, 383; part 111, 386.

3. Calamy Revised, p. 274, citing P.R.O. Liber Institutionum.

4. Ibid.

Jane were blessed with three other children. Altogether, nine children - six boys and three girls - resulted from the union, and all except the third son Walter were living in 1674.¹

As a puritan of pronounced independent views, during the period of Laudian persecution, Hooke was forced to leave Axmouth 'because of his seditious sermons and non-conformity to the Church in all particulars.'² He emigrated with his family to New England about 1640,³ and became pastor of the congregational church in the newly founded settlement of Taunton, Massachusetts.⁴ In the colony he became associated with prominent New Englanders such as John Wilson,⁵ teacher of the First Church in Boston, and Richard Mather,⁶ teacher of the Church in Dorchester, who like him had fled abroad for religious freedom.

In 1644 or 1645, Hooke moved to New Haven where he became teacher of the church in which John Davenport was pastor.⁷ He remained in New England for many years acquiring a reputation as a pious and learned divine. His second son John, who had been born in Axmouth on 9 February 1633/4,⁸ also became an independent clergyman of repute. John returned to England before his parents. His most prominent religious appointment occurred in

1. Calamy Revised, p. 274.

2. A. Wood, Athenae Oxonienses, ed. P. Bliss, 4 vols. (Lond., 1813-1820), III (1817), 1151.

3. D.N.B. Some doubt exists as to the exact date Hooke emigrated. Massachusetts Historical Society Collections, 4th Series VII (Boston 1865), 587 n. states he came over as early as 1639. If Calamy is correct regarding the births of Hooke's children then he could not have been in America in 1633 as stated in Congregational Historical Society Transactions, IX (1926), 263.

4. Calamy Revised, p. 274, citing J. B. Felt, Ecclesiastical History of New England (1855), p. 445.

5. See Dic. Amer. Biography, XX, 336.

6. Ibid., XII, 394.

7. D.N.B.

8. Calamy Revised, p. 274.

July 1663, when he was admitted as one of the four chaplains of the Savoy Hospital, which position he retained until that foundation was dissolved in 1702.¹

Fortunately, a number of William Hooke's letters have survived, for he was a regular correspondent, chiefly with his former New England colleagues. One particular letter written to Cromwell whilst he and his family were out there is worth mention. He is deeply indebted to the Protector for the bounty shown to John Hooke. The main content, however, concerns the 'tottering state of things' in New England. Dissensions have arisen over decisions made by the Commissioners for the four colonies² to prosecute a war against the Dutch and the Indians. Hooke refers to desertion by the Bay which has broken 'ye brotherly covenant' and refuses to join in a military expedition. The letter is too long to quote more fully, but the general picture depicted by Hooke is one of an internal discontent more serious than the outside threats - hardly conducive conditions in which to bring up a large family. 'Trade is obstructed,' he relates, 'Com[m]odities (especially cloath^s) very scanty; great discouragem[en]^{ts} upon y^e most if not all; many still looking tow[ar]^{ds} Ireland ... others more willing to visite the British shoares & once more (if God will) to salute theire native soyle.' He concludes by humbly offering Cromwell advice on measures that ought to be taken to alleviate the conditions.³

1. For John Hooke see Calamy Revised, pp. 273-4; D.N.B. and sources quoted in both these; Sir R. Somerville, The Savoy: Manor, Hospital, Chapel (Lond., 1960), pp. 86-7, 244; C.H.S.T., IX, 264-265 and n. This latter authority corrects D.N.B. John was not Master of the Savoy as stated therein. 'On the death of Henry Killigrew, Master, 1663-1700, no successor was appointed, and at the dissolution Hooke was senior chaplain.'

2. i.e. Massachusetts, Plymouth, Connecticut, New Haven.

3. Bodl. Rawl. MSS. A 8 f. 13; T. Birch ed., A Collection of the State Papers of John Thurloe ..., 7 vols. (1742), I, 564. The letter is dated '3d of 9^{br}[is]' [November] 1653. This is queried in D.N.B. which states that on 6 Oct., the Council of State had appointed a committee to consider Hooke's communication.

Hooke and his family returned to England in 1656 and he became one of Cromwell's chaplains at Whitehall. In a letter to John Winthrop Jr., dated 13 April 1657, he wrote, 'As touching myself, I am not, as yet, settled, the protector having engaged me to Him, not long after my landing, who hitherto hath well provided for me.'¹ Almost two years later, on 30 March 1659 he informed Winthrop that he had been settled at the Savoy 'for the space of 12 moneths, yet holding my relation still to Wh: H [Whitehall], the same as in the Late Protectours time.'² Hooke had taken office as Master of the Savoy on 25 December 1657, after the death of John Bond, the former holder,³ and in this capacity, he was also one of the trustees 'for the Inlargement of University Learning in New England'.⁴

Hooke's letters to New Englanders are particularly interesting for their historical content. He had a colourful style and his summaries of major national events centring round the figures of Cromwell, his successor and the Protectoral Governments are fine examples of descriptive prose. He described, for example, the reaction in various circles to the offer of the Crown to Cromwell, and the plots of Sindercombe, Venner and the Fifth Monarchists.⁵ He left a vivid account of the death of Cromwell, and a perceptive sketch of the character of the new Protector, Richard.⁶

1. M.H.S.C., 3rd Series, I (1825), 182.

2. Ibid., 4th Series, VII, 590.

3. R. Somerville, The Savoy, p. 242; C.H.S.T., IX, 264.

4. N. and Q., 10th Series, IX (1908), 421. The D.N.B. account stating there was insufficient proof of Hooke's Mastership was corrected by this source. See also Somerville, op. cit. and Bodl. Rawl. MSS. A 60 f. 484 and A 61 f. 335.

5. M.H.S.C., 3rd Series, I, 181-184.

6. Ibid., 4th Series, VII, 590-592, dated 30 Mar. 1659. See also C. H. Firth ed., The Clarke Papers, III (1899), Preface, xxiv-xxv. In addition to the source cited in n. 4 above (1 letter), 3 further letters from Hooke to Winthrop Jr. are printed in M.H.S.C., 4th Series, VII, 587-595. For letters to John Davenport, see ibid., VIII (Mather Papers, 1868), 177-179, 194-197, 207-210; I. M. Calder ed., Letters of John Davenport, pp. 131, 137, 140, 173-174, 195 n. To Increase Mather, see M.H.S.C., 4th Series, VIII, 582-585.

In 1659, during the confused months preceding the march southwards of General Monck, Hooke was among those Independent ministers and laymen who wrote to that General asking him to preserve their congregational churches in and about London. Monck's somewhat evasive reply occasioned further correspondence, and the visit northwards (to seek a reconciliation) of Edward Whalley, William Goffe, his son-in-law and the ministers Joseph Caryl, Samuel Hammond and Matthew Barker.¹

On 16 November 1659, Hooke wrote to Richard Cromwell, stating that he still possessed the Savoy 'though not long since heaved at by Sir Arthur Hesilrige.'² If, however, the resurgence of Presbyterianism made his position difficult, the restoration of episcopacy inevitably led to his surrender of the Mastership³ and to ejection.

After the return of the monarchy and the enforced exile of Whalley and Goffe, Hooke continued to send graphic accounts of political and religious events in England - keeping the regicides and others fully informed of current happenings.⁴ He was much concerned with the doings of ejected ministers and bewailed the results of the return of episcopacy and the general degeneracy of the times that followed the Restoration.

'The Savoy', he wrote, 'hath beene the place of meeting of men Diametrically contrary to those that met there, & made the confession which I sent yo^w ... None dare preach in any place not consecrated, which occasioneth

1. See Firth, Clarke Papers, IV (1901), 81-82, 121-124, 151-154, 184-186, 212-215. The series of letters are also printed in P. Toon ed., The Correspondence of John Owen (1616-1683) (Cambridge, 1970), pp. 105-116. See also C.S.P. Venetian, 1659-1661, 89-90; Mercurius Politicus, No. 592, 27 Oct. -3 Nov. 1659, p. 884; H.M.C. Ormonde MSS., New Series I (1901), 330-331.

2. C.H.S.T., IX, 264.

3. See Statutes of the Realm, V (1819), 292.

4. Hooke wrote to Goffe under the initials D.G. For their correspondence see M.H.S.C., 4th Series, VIII, 122-125, 143-151, 151-156. Letters addressed to Davenport were intended to be forwarded to the regicides.

congregationall men to crave leave of others of there way who have yet temples to meete in ... Never the like since the 1st reformation, for scandalous p[er]lsons, Ignorance, drunkenes, lying, swearing, uncleanes, etc among the clergy ...'¹ He had great hopes from the King's proposed Declaration of Indulgence and records how Charles II sent for Calamy, Dr. William Bates and Dr. Thomas Manton, assuring them that 'a Bill should be brought into the House which would introduce most of them into there places againe.' Goodwin, Nye, Caryl and another Congregational preacher whom Hooke does not name had also had audience with Charles who 'was with them above an houre ... & treated them very graciously.'² In later letters Hooke sadly reflects on the deaths of many past prominent Congregationalists.³

There was, however, one earlier occasion when Hooke's tirade against the Act of Uniformity, the plight of ejected clergy and the state of affairs in England generally overcame his discretion. Some of his news in a letter dated 2 March 1663 and later declared to be of a seditious nature, was certainly not calculated to give pleasure in official circles. It was unsigned - the only one of his letters to be intercepted - and for a while Hooke had to go into hiding. A London factor, Samuel Wilson, bound for New England in a vessel with 1,500l. of other men's goods on board',⁴ was arrested and brought before Secretary of State Sir Henry Bennet. His ship had been searched after suspicion had been aroused and in the cargo was a bundle of newsbooks among which was Hooke's letter. Wilson was allowed his liberty after giving bond for a year's good behaviour and promising to deliver the offender to justice whenever he learned of the latter's where-

1. Letter to Davenport, dated 31 Mar. 1662. M.H.S.C., 4th Series, VIII, 194-195.

2. Ibid., dated 5 Mar. 1663, 208.

3. See e.g. ibid., letter to Goffe dated 4 April 1674, 150, and Hooke's last letter to Increase Mather, a Minister in Boston, dated 7 August 1677, 582-585.

4. C.S.P.D. 1663-1664, 117.

abouts.¹

When Hooke wrote to Goffe on 24 June 1663 he commented on the Secretary's declaration that it was as pernicious a letter as had been directed against the government since the King's restoration. Hooke drily added that he dare say 'the Authers hart was honest and upright in wrighting it. But I hartily desire he may never come into there hands.'²

Details of Hooke's movements after the Restoration are not adequately recorded. He was living with a Mr. Gold, Justice of the Peace in Clapham in October 1661;³ in 1666 he resided at West Harding Street, London, and in 1672 was licensed as a Congregational teacher in Spittle Yard, Bishops-gate.⁴

That he enjoyed a happy married life with Jane and with Frances Goffe and her children is apparent from his letters and those of his niece⁵ to her husband. It was more than compassion that moved Hooke and his wife to take Frances and her children into their household for such a long

1. See A. G. Matthews, 'A Censored Letter', C.H.S.T., IX, 262-283. The letter is here printed in full from S.P.D. Car.11. 69, 5 and summarised in C.S.P.D., 1663-1664, 63-65. See also L. A. Welles, The History of the Regicides in New England (New York, 1927), p. 71.

2. M.H.S.C., 4th Series, VIII, 122-125.

3. Ibid., 174.

4. C.H.S.T., IX, 265; Calamy Revised, 274, where it is recorded that Hooke 'paid tax for 5 Hearths' in 1666.

5. For the correspondence between Frances and William Goffe see T. Hutchinson, The History of the Colony of Massachusetts' Bay, 2 vols. (Lond., 1765, 1768), 2nd ed. I, Appendix, pp. 532-534 (the first and only letter written as from a wife to her husband); M.H.S.C., 3rd Series, I, 60; 4th Series, VIII, 133-4, 136-143; The Hutchinson Papers, ed. Prince Society, 2 vols. (Albany, N. York, 1865), II, 161-165, 184-195. Husband and wife write as mother and son, addressing each other as 'Walter and Frances Goldsmith'. Their children are referred to as 'Walter's sisters and brothers'. Whalley is sometimes referred to as 'your friend' or 'Mr. Richardson', and Jane Hooke is sometimes called 'Mrs. Jaines'. Extracts from Goffe's correspondence are also printed by L. Welles, History of the Regicides, passim, and C. C. Newton, 'Letters of a New England Exile,' in Americana (American His. Soc., 1920), 218-223.

period¹ after the regicides had fled to New England. They were both genuinely fond of their adopted family and Hooke could write in all truth, 'We live in very good love together & I think scarce know how to live asunder.'² At the time of this letter, however, age was beginning to tell for he stated that he was 'now far stricken in yeers, neer 72, and know not whether ever I may write to you again; my wife also is past her great Clymasterick; yet pretty lively & vigorous still.' He desired the Lord to prepare him for a better world, having 'had time enough to see the best of this, & nothing at all desireable in it.' Some sixteen months later, he observed that Jane was afflicted with 'sharp pains', though for many years past she had enjoyed good health. During almost forty four years of married life his wife had been 'very active in serving the best Master, & ministring to his dear members ... but we must shortly part, each with other.'³

Hooke predeceased his wife for he died on 21 March 1677/8 and was buried in Bunhill Fields, London.⁴

III

If Jane had cause to be sorry for her 'sins' during her service in Lady Barrington's household, many years of marriage to a clergyman had certainly wrought a transformation in her and curbed the former high spirits. The few letters preserved among the Mather Papers⁵ reveal a

1. Frances removed from the Hooke's for a short while in 1674. She apparently lived with them again until Hooke's death in 1678. See M.H.S.C., 4th Series, VIII, 149, 160-161.

2. Ibid., 143. Letter to Goffe dated 2 Aug. 1672.

3. Ibid., 149, dated 4 April 1674.

4. Calamy Revised, p. 274; D.N.B. His last letter to Increase Mather, 7 Aug. 1677 stated, 'Dr. Goodwin hathe well nigh finished his 77th yeer; I am five moneths short of him.' M.H.S.C., 4th Series, VIII, 584. For the names of Hooke's children see Calamy Revised, pp. 274-275. For his chief published works see A. Wood, Athenae Oxon. III, 1152.

5. M.H.S.C., 4th Series, VIII, 260-268.

virtuous woman of warm-hearted and charitable disposition, deeply religious and sensible to the sufferings of others, though burdened with her own afflictions. Whalley and Goffe had cause to be grateful for the gifts she sent them.¹ Like her husband, Jane was much concerned at the state of affairs in both Old and New England, and she presents a gloomy picture of spiritual and physical poverty in her own country. 'Great and very sad it is here ... Now had we bin a people as had walked close with God we mought have bin in a case to show more love than we have done ... Poor Ministers! the Lord our last [refuge] must be looked to, purses made here & there, or else starved. glad to get bd to eate & that is poor. Children keep at schoole by beging only.'²

Her concern for the poor ministers of New England also and her attempts to alleviate their distress resulted in numerous gifts of money and clothing sent to Mather. It must have been no small effort for a woman of her years to collect from friends and acquaintances and then to disperse such charitable donations. She regretted that she was unable to do more 'but such is the extremity of O.E. that here are harts who is full of compasion & tendr affection, but strength is wanting.'³

As to the disposal of her gifts she was particularly careful to specify what sums or items the most necessitous should receive because 'I [must] please my mas[t]ler & ladies;'⁴ otherwise she was content to leave it to Mather's discretion.

Jane Hooke's sincerity is evident in each one of her letters. She wanted no praise for her efforts, desiring that her name be kept secret.⁵

1. See e.g. M.H.S.C., 4th Series, VIII, 141, letter from Goffe to his wife.

2. Ibid., 261-262, dated 8 August 1677.

3. Ibid., 263, dated 7 April 1679.

4. i.e. the benefactors. Ibid., 265, dated 14 April 1681.

5. See e.g. ibid., 263.

Her only reward was to find favour in God's eyes and achieve salvation and by her good works alone in her later years she certainly merited this.¹

1. Her last letter to Rev. John Wilson of Medfield (son of Rev. John Wilson of Boston, see above, p. 72), was dated 25 May 1683 and written from Bishopsgate St., Half Moon Alley.

Chapter 4

EDWARD WHALLEY. EARLY YEARS

I

No account yet written of Edward Whalley has been able to supply more than the barest outline of his early years. This chapter cannot claim to give a complete picture but it does attempt to add to existing knowledge in this respect and to formulate a number of conclusions from the limited evidence available. It also has to rely to some extent on conjecture, unsatisfactory as this may be.

Edward was the second son of Richard Whalley and was probably born about 1600 or 1601.¹ We cannot place his birth with greater accuracy since the Parish Registers of Screveton do not exist before 1640. There is little doubt that he was the one admitted pensioner at Emmanuel College, Cambridge, on 2 July 1614.² The common age of admission to the university was fifteen or sixteen, but entry at thirteen was not unusual.³

The choice of College is not without significance for Emmanuel had been a 'centre of extreme Puritanism'⁴ in the latter years of the sixteenth century. Having been founded in 1584 by Sir Walter Mildmay, its first Master, Laurence Chaderton, filled this office for thirty six years and was thus, still there at Whalley's admission. Though Puritanism in the University was not as strong in the early years of the seventeenth century, and Cambridge was moving towards that compliance desired by Elizabeth, its

1. See the remarks relating to the birth of his elder brother Thomas, above, p. 49.

2. Venn, op. cit., part 1, IV, 376.

3. See R. J. Mitchell, M.D.R. Leys, A History of the English People (Lond., 1950, Pan ed. 1967), pp. 435-436.

4. R. S. Paul, The Lord Protector, Religion and Politics in the Life of Oliver Cromwell (Lond., 1955), p. 29. The Puritan tradition of Sidney Sussex which Cromwell entered in 1616 was hardly less famous. See ibid., pp. 19-30.

influence was still felt and it may have had no small effect in formulating Whalley's religious opinions during his impressionable years.

'Theology with an adequate preparatory arts course'¹ was the chief concern at both universities - to turn out well-instructed and obedient clergy the prime motive of Elizabeth and her ministers, but the results did not always conform to the Government's wishes.

It would be wrong to read too much into the few known facts of Whalley's university career, particularly since such education was normal for the sons of gentry. One tentative speculation, however, may perhaps be advanced in view of Whalley's prominent part in the English Revolution. It is possible, if we accept the conclusions of Professor Mark Curtis, that Whalley may have been one of those frustrated and alienated intellectuals who failed to gain the places in church and state to which their educational attainments befitted them, and who, despondent and embittered, were ripe for recruitment to the Stuart opposition. As Professor Curtis states, the universities unwittingly contributed to 'the rising storm that shattered the Stuart system of government.'²

Whalley graduated B.A. 1617/18,³ completing his university career when his father's fortunes had been on the down grade for a long while. His early years were presumably influenced to a great extent by the financial insecurity of his father's household, and as a younger son he was doubtless subject to many of the disadvantages facing those unfortunate

1. J. B. Mullinger, A History of the University of Cambridge (Lond., 1888), p. 118. For Puritanism and Emmanuel College, see Mullinger, The University of Cambridge from the Royal Injunctions of 1535 to the Accession of Charles I, 3 vols. (Cambridge, 1873-1911), II (1884), 310-313; J. Simon, Education and Society in Tudor England (Cambridge, 1966), pp. 328-329.

2. 'The Alienated Intellectuals of Early Stuart England', Past and Present, XXIII (1962), 25-41. But see also J. Simon, 'The Social Origin of Cambridge Students', ibid., XXVI (1963), 58-67 and particularly 64-66 (her comments on Curtis).

3. Venn, op. cit., part 1, IV, 376; Letter from the Librarian, Emmanuel College, 12 Mar. 1970.

enough to have been born into this category.

A number of sixteenth and seventeenth century writers described the condition of younger sons, as Mrs. Thirsk's recent article¹ so aptly illustrates. Thus John Earle in Microcosmography (1633)² stated that the younger son was born a gentleman, expected to live like one but lacked the competence to do so, entering the university if his annuity was sufficient, and thereafter condemned to the Ministry for lack of any other profession. Earle was not strictly correct in this latter statement but his remark generally was true enough. James Harrington³ compared the plight of younger sons with that of unwanted puppies '... take one,' he stated, 'lay it in the lap, feed it with every good bit and drown five, nay yet worse, forasmuch as the puppies are necessarily drowned, whereas the children are left perpetually drowning.'

Dependent frequently on the patrimony of the elder brother, the younger son suffered a deep and burning sense of injustice, sacrificed at the altar of primogeniture for the sake of the first born⁴ to whom the lion's share of the family estates usually descended. He was left either with some small landed property which reverted to the elder brother at death, or given an annuity which also terminated when he died.⁵

With no great expectations therefore from paternal or fraternal benevolence, a younger son usually had to make his own way into the world. Fathers frequently felt they had discharged their obligations if they had

1. 'Younger Sons in the Seventeenth Century', History LIV (1969), 358-377.

2. Ed. A. S. West (Cambridge, 1951). Cited by Thirsk, 360.

3. Oceana, 1883 ed., p. 112. Quoted by D. Veall, The Popular Movement for Law Reform, 1640-1660 (Oxford, 1970), p. 60.

4. Thirsk, op. cit., 361.

5. Ibid., 362, based on L. Stone's conclusions relating to the nobility's bequests of land. Mrs. Thirsk believes that 'the ideals and prejudices of the latter were not without influence on the gentry' also. Cited, Crisis of the Aristocracy, pp. 599-600.

provided younger sons with a good education,¹ and though it is apparent from Richard Whalley's letters to Lady Barrington that he wanted to do a great deal more for his own sons, he was able to give them little else except the education befitting their status. Thus Edward himself had gone to Emmanuel, Cambridge; Henry, the third son, had become an attorney at Guildhall² and Robert the youngest son went to St. John's College, Oxford.³

A limited number of professions were open to the sons of gentlemen in the seventeenth century - namely the Church, the army (in which service as a mercenary in the Low Countries was most usual), the court (if one were fortunate), the law, trade or medicine,⁴ but, as Mrs. Thirsk indicates, no-one took it for granted that a younger son had to earn his living this way.⁵ Necessity was often, however, the decisive factor, and this must have been the case with Richard Whalley's younger sons.

There was obviously little Edward could expect financially from a parent over-burdened by debt, or from his elder brother Thomas, who (allowing for Richard Whalley's bitterness towards his heir) was presumably too intent on salvaging his own inheritance to make adequate provision for any other. This seems to be the most probable explanation for Edward Whalley's decision to quit his native county and seek his fortune elsewhere. It may help to explain why a great part of his military career during the Civil War was not spent in defence of his own shire. However, as will be indicated below, evidence exists to prove that at one particular period at least, he was again living in Nottinghamshire.

1. Thirsk, op. cit., 367.

2. See above, p. 42 and n.

3. See above, p. 54.

4. Medicine was just beginning to attract gentlemen's sons by the 17th C. Thirsk, op. cit., 367.

5. Ibid., 362.

II

After leaving Cambridge, Whalley became associated with the woollen trade. The earliest contemporary record which mentions this fact is A Second Narrative of the Late Parliament, printed in 1658.¹ It states that 'Colonel Whaly [was] formerly a woollen draper, or petty merchant, in London; whose shop being out of sorts, and his cash empty, not having wherewithal to satisfy his creditors, he fled into Scotland for refuge till the wars began.'²

The Narratives from a Royalist pen are heavily biased against the Cromwellians and their validity is therefore suspect, but in regard to Whalley's occupation the account is correct and presumably there must also be some truth in the remark that he did not prosper in his trade. A number of other Royalist contemporary records³ add nothing to the brief details supplied by A Second Narrative since they were based on this source. Correspondence with a number of London Livery Companies has, however, finally established the particular company to which Whalley belonged and supplied certain other details about his business career.

On 12 February 1626/7 Whalley was admitted to the freedom⁴ of the

1. In The Harleian Miscellany, selected by T. Park, 10 vols. (Lond., 1808-1813), III (1809), 448-469. This is a continuation of an earlier Narrative, 1657, giving details of proceedings and the members in Cromwell's 2nd Protectorate Parliament.

2. Ibid., 482-3.

3. See e.g. 'The Mystery of the Good Old Cause Briefly unfolded ...', (1660). Printed in Bodleian Pamphlets, Wood (209), and in W. Cobbett ed., The Parliamentary History of England from the Earliest Period to the Year 1803, 36 vols. (Lond., 1806-1820), III, 1642-1660 (1808), Appendix, 1591-1612; W. Winstanley, 'Dregs of Treachery ...' (1665), in Bod. Pamph., Wood (209); J. Heath, A Chronicle of the Late Intestine War in the Three Kingdoms of England, Scotland and Ireland, 2nd ed. (Lond., 1675), p. 201. For later accounts using these sources see Noble, op. cit., II, 143; C. H. Firth, D.N.B. Edward Whalley; G.E.C., Complete Peerage, IV (1916), Appendix G, 645 n.

4. For a useful summary of conditions necessary for the conferring of freedom, see V. Pearl, London and the Outbreak of the Puritan Revolution. City Government and National Politics 1625-1643 (Oxford, 1961), p. 35 n. On admission to freedom after apprenticeship, see O. J. Dunlop, English

Merchant Taylors' Company after servitude to Nathaniel Bushere.¹ Presumably if Whalley came to London about 1618 and was apprenticed or became servant to Bushere then, he would have been about seventeen or eighteen years old. This was a little later than the usual age of entry but it was not uncommon.² Enfranchisement therefore, appears to have occurred at the age of twenty five or twenty six. This would conform with city regulations relating to a seven year minimum period of apprenticeship which was not supposed to terminate until the age of twenty four.³

In London, the regulations required that Indentures should be enrolled before the City chamberlain and entered in the register of the Company within one year of the contract of apprenticeship. The Statute of 1563 required that the custom of London in regard to registration should be observed nationally, though the rule was not always obeyed, particularly in the smaller towns and in the less efficiently organised craft guilds or companies.⁴

In view of the usually stringent observation of enrolment procedure by important companies such as the Merchant Taylors', Whalley's name ought to have been recorded in the Company Book of Apprentices,⁵ but unfortunately this is not the case. There seems to be no satisfactory explanation for this omission unless one attributes it to oversight, neglect, or to a breach

(continued) Apprenticeship & Child Labour (Lond., 1912), pp. 166-168; A. L. Merson, Apprenticeships at Southampton in the Seventeenth Century (Southampton Records Series, XII, 1968), Introduction, xxvii-xxviii.

1. Merchant Taylors' Company Book of Freemen, 1530-1648, alphabetically classified.

2. See Dunlop, op. cit., 134-135.

3. Both regulations were included in the Statute of Apprentices, 1563, which was largely a codification of existing rules and the application on a national scale of customs which had long been applicable in London Companies. See Dunlop, op. cit., pp. 60, 65, 72, 167; Merson, op. cit., Introduction, x.

4. Dunlop, op. cit., p. 162 and n., citing J. Chitty, Treatise on the Law of Apprenticeship (1812), p. 59; see also pp. 74-76, and Merson, op. cit., Introduction, xi, xiv-xvi.

5. i.e. 1617-1622.

of the rules, which sometimes did occur.¹ It is also impossible to confirm Whalley's enrolment from the City Chamberlain's records, since the registers of admissions of freemen and enrolment of apprentices prior to 1786, were destroyed in a fire in the Chamber of London on 7 February of that year.

Nathaniel Bushere, Edward's master, was the son of a London merchant, Constant Bushere, by his wife Mary. On 27 April 1607 he had become apprenticed to one, John Sharples, citizen, merchant and merchant adventurer, for a period of nine years at the Nativity of St. John the Baptist,² though he did not complete the whole of this term for he was admitted to the freedom of the Company on 13 March 1614/15.³

At the time of his death (apparently at a relatively young age), on 12 September 1631,⁴ he had been living in the parish of St. Mary Bothaw, where presumably he had practised his craft of merchant taylor. He was originally of Rochester, Kent,⁵ but seems to have lived in London for many years. Unfortunately, no further facts have come to light regarding Bushere's associations with Rochester or with other places in the county, apart from brief references to one or two people bearing the same surname who were probably directly or indirectly related to him.⁶

1. See e.g. Dunlop, op. cit., pp. 165-166.

2. Merchant Taylors' Company Book of Apprentices, 1606-1609, p. 92.

3. Company Book of Freemen 1530-1648 under 'B' classification.

4. Guildhall MS. 4310 f. 133b, Parish Register of St. Mary Bothaw.

5. Will, P.R.O. Prob.11/160/103, made 5 Aug. 1631, proved 12 Sept. 1631.

6. There was a Thomas Busher noted as an Ensign in Thanet on 2 April 1619; a John Busher, clerk of Minster in 1581 and a Thomas Busher late Parish Clerk for St. John's, Thanet in 1615. Archaeologia Cantiana, XII (1878), 390; XXV (1902), 32; XXVI (1904), 28. And see ibid., XLI (1929), 47 and XLIV (1932), 86. There is no mention of the Busher family in the Rochester probate indexes for the first half of the 17th C., either for original or registered wills. Information supplied by County Archivist, 14 Dec. 1971. For remarks on Rochester parish registers, see below, p. 89.

Bushere's will is interesting in that it establishes a family relationship between him and Edward and Henry Whalley. Presumably this occurred after Edward had been working for Bushere for some time, since no previous family connection has been discovered. The will notes that Bushere's wife, Anne, was the daughter of John Duffield [Duffield, Duffell] of Rochester, and to the latter and his wife, Bushere bequeathed sums of twenty shillings each.

Duffield had at least two other daughters, Judith and Rebecca, who became the wives of Edward and Henry. It seems most probable that Edward first made the acquaintance of Judith through his servitude to Bushere and that Henry Whalley met and married Rebecca through Edward's introduction.

Though the actual date of marriage of neither brother has been established, it is likely that Edward's occurred shortly after his enfranchisement on 12 February 1626/7. Prior to this, he had probably acted as an agent or factor for his master whilst doing some trading on his own account in order to accumulate capital. Having been granted his freedom and presumably set up in business as a merchant on his own account, he would be in a position to contemplate marriage and raise a family.¹

Henry Whalley was certainly married by the summer of 1628 for Richard Whalley had mentioned this fact in a letter to Lady Barrington.²

In his will, Busher left his brothers-in-law Edward and Henry and their wives, twenty shillings each. The sole executrix was Bushere's wife, Anne, whilst Henry and Rebecca Whalley acted as witnesses.³

1. Dunlop, *op. cit.*, p. 170 notes that 'The capital necessary to start business was not great in the sixteenth and seventeenth centuries, when trade was on a small scale and the turnover rapid.' One would expect the truth of this to be more applicable to areas outside London.

2. Eg. MSS. 2644 f. 275, dated 22 July 1628. 'my sonne Henry who I thanke god dooth well in London, and is married there; I expect very speedily will bringe his wife downe to see mee ere I dy ...' See above, p. 42 and n.

3. Bushere's previous connection with Rochester is further emphasised by the bequest of £5 'towards the repairing the pump and the pump lane within the city ...'

It is probable that the marriages of both brothers took place in Rochester though this cannot be verified. It is certain, however, that Edward's marriage is not recorded among those of the parish of St. Mary Bothaw, at that particular time.¹

Almost nothing is known of the Duffield family except the fact that Edward's father-in-law was mayor of the city three times in 1614, 1621 and 1624, and was still an alderman in 1629.² No pedigree of the family is recorded in the Visitation of Kent, 1619-1621,³ though it is noted there that Duffield was an alderman at this time. Nor does the Standard County History⁴ mention him in any way. It has not been possible to glean any information from the registers of the parish churches of Rochester. That of the Church of St. Nicholas has no record of Edward's marriage to Judith between 1624 and 1642.⁵ There is a likelihood, however, that entries regarding the Duffields, and the marriages of both brothers may have been recorded in the appropriate register of the church of St. Margaret. Unfortunately, the first extant volume (1639-1679) contains baptisms and marriages from 1653 only but there is reference to an older register which has been lost.⁶ Search in the Public Record Office has also failed to reveal any will made by John Duffield of Rochester which might throw further light on members of his family.⁷

1. Guildhall MS. 4310, Marriages, 1536-1657.

2. F. F. Smith, A History of Rochester (Lond., 1928), pp. 496, 505.

3. Harl. Soc. XLII (1898), 22.

4. E. Hasted, The History and Topographical Survey of the County of Kent, 4 vols. (Canterbury, 1778-1799).

5. Information supplied by County Archivist, County Hall, Maidstone, 12 Feb. 1970. The first register is from 1624 to 1672.

6. W. E. Buckland, The Parish Registers and Records in the Diocese of Rochester (Kent Arch. Soc. Records Branch, Lond., 1912), pp. 104-105.

7. The probate records of Rochester Diocese are held in County Hall, Maidstone. No record of a will has been found in this repository. Information supplied by County Archivist, 12 Feb. 1970.

III

No evidence has been found to prove beyond doubt that Whalley practised as a woollen merchant after enfranchisement in 1627, but it seems most likely that he did so for some time at least, in view of the details in Bushere's will. Nor has any other source been discovered to verify the statement in A Second Narrative and the other Royalist accounts cited above that Whalley failed to prosper in his profession and ran into debt. This too, however, could be possible.

If such did occur then one might expect to find a record of his indebtedness in the Sheriffs' Courts in the City which dealt with cases of this sort, but in the surviving records,¹ there is no mention of Whalley. The Court of Requests had also jurisdiction to hear cases for the recovery of small debts but these were limited to £10 in value. It seems unlikely that Whalley's name would figure here,² though there is a possibility. Recognizances for debt were also recorded in the Chancery Close Rolls and these too were checked under the appropriate dates but without success.

Any explanation of Whalley's possible failure in his profession must therefore be based upon supposition in the absence of concrete evidence. It may be that he was a victim (like many others in the trade who were more firmly established than he was), of the series of crises that beset the industry in the second and third decades of the seventeenth century.

England depended on the export of undressed woollen cloth to Europe 'in a dangerously high degree - perhaps some 90 per cent in the early seventeenth century,'³ thus the disastrous Cockayne project of 1614 triggered

1. Guildhall MSS. Rolls of Actions, 1596-1721 (103 boxes). Each roll within a box is a separate action. It is endorsed with the names of the parties and the nature of the plea, mostly debt. Boxes from 1626-1632 were checked.

2. Guildhall possesses 1 bundle of bonds and promissory notes, 1613-1659. These unfortunately have been temporarily misplaced.

3. C. Wilson, England's Apprenticeship, 1603-1763 (Lond., 1965. Longmans paperback, 1971), p. 53. See also ibid., pp. 52-57 and 69-75 where the author describes the major causes of the depression, basing his summary on B.E. Supple, Commercial Crisis and Change in England 1600-1642, especially chapters 1-6.

off a serious depression that did not terminate with the scheme's abandonment in 1617. At various intervals in the 1620s and 30s, depression again descended and by the late 30s it had assumed chronic proportions. Up to the outbreak of civil war distress was acute and money scarce. To trade in such conditions was precarious - to succeed extremely difficult - and Whalley therefore may have failed to surmount the succession of adverse circumstances which affected his chosen career.

Whether Whalley fled to Scotland to escape his creditors, as A Second Narrative¹ asserts, is debatable, since no further evidence has been discovered to lend weight to this. He certainly had associations with that northern kingdom later in his career as a later chapter shows,² for he was granted land by a grateful Parliament in recognition of his service in the campaigns of 1650-1651. To state, however, that Whalley remained in Scotland until the Civil War began is incorrect for new facts have come to light to disprove this. By 1629, he was again living in Nottinghamshire if only for a short time.

Some while before this, on 13 November 1627, Thomas Whalley had granted certain property (though far from extensive) to his younger brothers, Edward and Henry. Edward received a messuage and lands belonging to it in Carl(e)ton-upon-Trent, whilst Henry was given a messuage and lands in Screveton.³ Presumably such gift was to mark the marriages of the two brothers to the Duffield sisters.

It is possible, though this is only conjecture, that Edward returned to his home county in late 1627 or early 1628 because of this grant, or perhaps his return was occasioned by the death of Thomas Whalley in

1. Winstanley follows A Second Narrative in this respect, but the other contemporary Royalist sources cited above, p. 85 and n. do not mention Scotland.

2. See Ch. 6, section on 'Whalley's Scottish Donative', p. 141 ff.

3. Notts. R.O. Tallents MSS. DDT.3/8; P.R.O. CP.25 (2) 471, Michaelmas 3 Chas.1 (1627).

September of the latter year.¹ As second son it may be that he was called upon to help his father, to represent the family in some particular way, perhaps to help administer the estate of Thomas Whalley. Whatever the true reason, he was living in Willoughby in the early summer of 1629, as an indenture of 16 May records.²

On that date, Edward purchased from his brother Henry (who in his capacity as Attorney at Guildhall³ was living in Great Wood, Fleet Street), the messuage and lands in Screveton which Thomas Whalley had earlier⁴ granted to Henry. Edward retained these premises until early 1637, but by that time, as will be noted below, he was no longer living in Nottinghamshire.

At some period between 1629 and 1632, Whalley had left Willoughby and settled in the parish of Chadwell St. Mary, Essex. Evidence of this is afforded by a lease of a messuage called Longhouse Place and lands which Whalley had purchased on 1 September 1632 in the parishes of Chadwell, Barrow, Little Thurrock and Orsett.⁵ Before giving further details of this lease, however, and the Chancery action relating to it, it is necessary to explain the possible reasons why Whalley settled in this particular county.

There was first the Whalley family's close association with the Barrington household at Hatfield Broad Oak. Secondly, Chadwell was relatively close to Rochester where Judith and Rebecca Duffield had formerly lived, but the most valid reason for the connection with Essex would appear to arise from the relationships between the Whalleys and the Penystons,

1. See above, p. 31 and n.

2. P.R.O. C54/2809/23.

3. See above, p. 42 n.

4. The purchase price is not stipulated in the indenture.

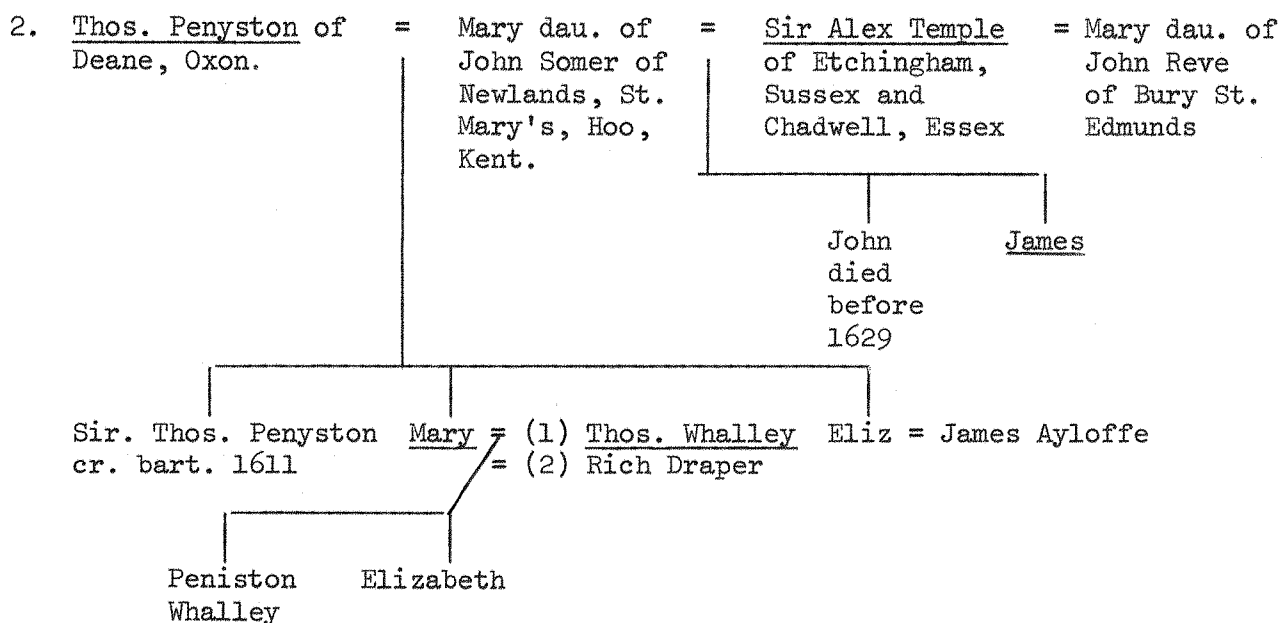
5. Essex Rec. Off. MS. D/DRuT1/233; P.R.O. C2 Chas.1/R3/55; C33/164/ff. 536, 547.

originally of Deane, Oxfordshire, and the Sussex branch of the Temple family.

As explained in an earlier chapter,¹ Thomas, Richard Whalley's eldest son, had married Mary, daughter of Thomas Penyston of Deane and later of Rochester, Kent. After the death of Thomas Penyston, his widow Mary (daughter of John Somer of Newlands in St. Mary's, Hoo, Kent), had married Sir Alexander Temple of Etchingham, Sussex, and later of Chadwell, Essex. The relationship between the three families may be best seen from the simplified pedigree below.²

Sir Alexander Temple was the younger brother of Sir Thomas Temple, first baronet of Stowe, Bucks. (1567-1637) and also of Sir John Temple, ancestor of the Frankton branch in Warwickshire. Another branch of the family resided in Leicestershire. Sir Alexander was knighted on 14 March 1604 and represented Sussex in the parliament of 1625-1626. He first acquired the messuage Longhouse Place in Chadwell and other messuages and lands there and in Barrow, Little Thurrock and Orsett, in July 1621.³ His second son and heir, James Temple, half brother to Sir Thomas Penyston and Mary, was one of the judges of Charles I and signed the death warrant

1. See above, p. 49 and n.



See Appendix G for fuller details.

3. Essex Rec. Off. MS. D/DRuT1/218.

on 28 January 1648/9.¹

Sir Alexander's second wife was Mary, daughter of John Reve of Bury St. Edmunds, and widow of Robert Barkworth of London and of John Busbridge of Haremare (Harmer), Etchingham, Sussex.² He himself died in 1629.³

When Sir Alexander made his will on 21 November 1629,⁴ his cousin Carew Saunders and Robert Awebery (both citizens and merchants of London), and Henry Whalley were named as executors. They were directed to dispose of his manor of Roshall and Ashams in Suffolk, his lands in Essex, and all other real estate elsewhere in order to discharge his debts which appear to have been considerable. The residue was to go to his son and heir James Temple - the major beneficiary, though provision was made for Mary (née Reve) his widow. Henry Whalley's close association with the Temple family and his involvement in the sale of some of Sir Alexander's property⁵ would thus appear to be a major factor explaining Edward's interests in Essex.

On 20 December 1630, Henry Whalley, Carew Saunders, Robert Awebery, James Temple, Dame Mary Temple and others were parties in a bargain and sale of the messuages and lands Sir Alexander had acquired in 1621.⁶ The

1. Peter Temple (1600-1663), descendant of the Leicestershire branch was another regicide and Sir Peter Temple bart. (1592-1653), son of Sir Thomas Temple of Stowe and cousin of James Temple, was also named a king's judge but did not act. D.N.B.; Keeler, op. cit., p. 358.

2. See pedigree, Appendix F.

3. For the Temple family see e.g. D.N.B.; G.E.C., Complete Baronetage, I, 1611-1625, 82; Archaeologia Cantiana, XI, 8-9; V.C.H. Essex, II (1907), 233; G. Lipscomb, The History and Antiquities of the County of Buckingham, 4 vols. (Lond., 1847), III, 85-86; Huntington Library Quarterly, Vols. I, II, IV, VI, but particularly article E. F. Gay, 'The Temples of Stowe and Their Debts. Sir Thomas Temple and Sir Peter Temple, 1603-1653', II (1938-1939), 399-438.

4. P.R.O. Prob.11/156/106.

5. One indenture of 20 May 1630 records the sale by the executors of certain property to the value of £750 in Suffolk and Norfolk. P.R.O. C54/2854/2.

6. Essex Rec. Off. MS. D/DRuTl/225-227. P.R.O. C2. Chas.1/R3/55; C33/164/f.536.

premises were sold to Thomas Ravenscroft of London esq., on agreement that Temple and Saunders would take on a lease of the premises for 10 years at an annual rental of £340. The lease dated 23 December 1630¹ involved the capital messuage called Longhouse Place, messuages called Sleepers, Cowpers and Longhousewicke, a moiety of the manor of Barrow alias Barrow Hall, Chadwell Park and lands in Little Thurrock and Orsett. The transaction would appear to have been arranged to assist with the discharge of Sir Alexander's debts.

On 1 September 1632, Temple and Saunders assigned this lease² to Edward Whalley who at that time was stated to be 'of Chadwell'. It seems most probable that such assignment was designed to raise further capital for Temple and Saunders and may have been a form of mortgage of the premises in view of Temple's later interest in them.³ The legality of the transaction was, however, challenged by James Ravenscroft, son of Thomas in May, 1633. His bill of complaint exhibited in Chancery is badly torn and indecipherable in parts, but sufficient is legible to ascertain his major charges, which are also evident from Whalley's plea and demurrer, Temple's disclaimer and the resultant orders from the bench.

Ravenscroft claimed that Temple and Saunders were both so 'utterly decayed' in their estates that 'seeking to repaire their fortunes', they were attempting to cheat Ravenscroft of his inheritance by setting on foot secret and illegal estates in the premises. The assignment of the lease to Whalley was stated to be a 'fraudulent' one; Temple, Saunders and Whalley were accused of confederacy and retention (in their hands or in the hands

1. Essex Rec. Off. MS. D/DRuTl/229, 230.

2. See above, p. 92.

3. Essex Rec. Off. MS. D/DRuTl/238 dated Nov. 1637. Temple is one of the parties involved in a further assignment of the premises to Sir Richard Cuslow of Knolle, Surrey, to the use of James Ravenscroft. The copy of this deed is unsigned and there is a note in the catalogue entry to the effect that it does not appear to have been executed.

of others to their use) of the counterpart of the indenture of lease of 23 December 1630 and other documents supporting Ravenscroft's title. He further accused the three of committing waste by destroying Chadwell Park and the deer there, and ploughing up 300 acres of the park in contravention of the agreement which stipulated that no more than 200 acres should be ploughed. Marsh land which had always been used for meadow and pasture was also said to have been ploughed up.

In his plea and demurrer,¹ Whalley challenged the jurisdiction of the court, maintaining that the issue should be decided at common law. Ostensibly Whalley's demurrer appears to be an answer to the plaintiff's bill - a denial of the major charges therein and an assertion that he possesses only the original indenture of lease and the assignment, and an acquittance from Ravenscroft for the sum of £170, being the rents due to the latter 'at the feast of St. Michael the Archangel last past' (29 September 1632). Technically, however, since it was not sworn on oath it was not an answer. The shades of difference between pleas, demurrers and answers were so finely drawn that sometimes it was barely possible to distinguish between them. A body of rules had developed in Chancery governing the acceptance or more often the rejection² of a demurrer, and Whalley's failed to meet the requirements. His plea and demurrer was adjudged 'frivolous' by the bench.

Temple exhibited a disclaimer³ in court, affirming the truth of the sale of the premises to Thomas Ravenscroft on 20 December 1630, his (Temple's) assumption of the least three days later, and his assignment to Whalley on

1. A demurrer was a distinct pleading but one to which the defendant was not sworn as in an answer to a bill. It sought either 'discharge on grounds of want of jurisdiction by the court or technical insufficiency in the plaintiff's bill of complaint.' W. J. Jones, The Elizabethan Court of Chancery, pp. 206, 500.

2. See ibid., pp. 206-212.

3. A disclaimer 'was an express denial on oath that the matter had anything to do with him [the defendant] and a renunciation of any interest to the rights claimed by the plaintiff'. ibid., 212-213, 501.

1 September 1632, but he disclaimed any further interest in the premises since the assignment.

On 5 June 1633 the court awarded an injunction against the defendants.¹ It was declared that the covenants in the lease had been broken and the defendants, 'their servants, agents, workmen and ass[is]t[ant]s' were to refrain from ploughing up any of the park land and marsh grounds. The court also ordered that Sir Edward Clerke was to consider Ravenscroft's bill and Whalley's plea and demurrer, and if the latter was insufficient, Whalley was to make 'a direct and perfect answer' to the bill.²

On 17 June, Whalley's answer had been considered. Temple still stood by his disclaimer and the court enjoined therefore that he be examined as a witness within the next fortnight. Whalley waived his plea and demurrer but maintained his original stand that he held the lease for his own benefit and not in trust for any other. He stated that Chadwell Park was 'newly imparked' and had been ploughed for the past seventeen years and that 'other persons have some grounds, dispersed, intermixed in the said park grounds'.³ Finally he claimed that he had ploughed up no more than 150 acres of the 200 acres specified which appertained to the park, and only 32 acres of about 180 acres of marsh land. According to 'the custom of the Countrye' he conceived it 'to be a point of good husbandry and beneficial as well to the landlord as the tenants to plough up such grounds'.

The Court decided that Whalley should be allowed to continue as lessee, but he was to take specific cognizance of the terms of the lease and abide by the covenants therein. He was to forbear to plough up any more marsh

1. P.R.O. C33/164/f. 536.

2. On rejection of a demurrer, the procedure was to issue a fresh subpoena 'requiring an immediate and direct answer from the defendant'. Jones, *op. cit.*, p. 208.

3. The words are quoted from the Chancery order C33/164/f.547 and are not Whalley's directly.

land unless he could show satisfactory cause to incline the court to decide otherwise, and he was to plough up no more than 200 acres of parkland. The defendants were then ordered to be discharged and costs were to be awarded against them.

Since James Temple was one of the parties involved in November 1637 in a further assignment¹ of the premises in dispute, Whalley presumably had surrendered his interest in them by this time.

IV

Two other sources indicate that Whalley was still living in Essex after the Chancery Order of June, 1633. The Visitation of Nottinghamshire, 1569 and 1614² with later additions states that he was 'of Chadwell' in 1634, and an indenture of 21 March 1636/7³ is more reliable proof. The former authority gives the approximate date of birth of Edward's eldest son John as 1633 and if this is correct, he and others of Whalley's children may have been christened in Essex. Unfortunately, there are no baptismal entries for the period 1630-1634 in Chadwell parish register and no record of births of any member of the Whalley family in the few entries from 1635-1650.⁴

The indenture of 21 March 1636/7 records that Edward sold the messuage and lands in Screveton which he had earlier purchased from his brother Henry, and also the messuage and lands in Carl(e)ton-upon-Trent, 'now or late in tenure of Peter Lynney',⁵ which Thomas Whalley his elder brother

1. See reference above, p. 95 n.

2. Harl. Soc. IV, 118.

3. P.R.O. C54/3139/27, enrolled 13 May 1637.

4. Essex Rec. Off. DDP.41/1/1. Baptisms 1539-1754. The register appears to have been improperly kept during the periods referred to above. There are no records for the approximate period in the registers of neighbouring parishes, Orsett (bap. 1669-1785) and Little Thurrock (bap. 1654-1779). See F. G. Emmison, Catalogue of Essex Parish Records, 1240-1894, 2nd ed. (Chelmsford, 1966), pp. 168, 209. For John Whalley see below, Ch. 8.

5. A former tenant of Richard Whalley. See above, pp. 11, 14, 23.

had granted to him in November 1627.¹ The purchaser was Robert Busbridge of Harmer (Haremare), Sussex, and the sale price, £600.

Busbridge was the son of Mary (née Reve), second wife to Sir Alexander Temple, by her earlier marriage to John Busbridge of Etchingam, Sussex.² At the time of the transaction, Whalley's place of residence is noted as Dam[m]lynge[s], Essex. This may be a reference to Damyns Hall in Rainham - relatively near to Chadwell.³ His first wife Judith had apparently been dead for some time, since the name of Katherine, his second wife, appears in the indenture.

Little has been discovered about Katherine (née Middleton), and I have been unable to arrive at any definite conclusions regarding her parentage. Some of the evidence tends to suggest that she may have been the daughter of Sir Thomas Middleton of Leighton, Lancashire, by his wife Katharine, daughter of Thomas Houghton of Houghton Tower in the same county, and thus the sister of Sir George Middleton (1600-1673). This relationship, however, is suspect in view of other evidence.

The following digression may perhaps be excused in order to examine the relevant information and question previously accepted statements.

Two sources⁴ in particular emphasise the fervent royalism of Sir George Middleton, and this is implicit in a third.⁵ He was created a

1. See above, p. 92.

2. See above, p. 94 and Appendix F.

3. See P. H. Reaney, The Place Names of Essex (English Place Names Society, XII, Cambridge, 1935), 128. No other recognisable name occurs in the Index of this volume. Damyns Hall is not recorded as a manor in P. Morant, Essex, nor does Essex Rec. Off. have any deeds of this property.

4. G.E.C., Complete Baronetage, II, 1625-1649, 152 and n.; J. and J. B. Burke, The Extinct and Dormant Baronetcies of England, 2nd ed. (Lond., 1844), p. 354.

5. C.C.C., III, 1783-1784, 2131-2132. See also ibid., I, 21, 99, 176.

baronet in June 1642 and was a zealous adherent of Charles I, serving as a colonel in the Civil War. He compounded for delinquency on 1 December 1647 and was fined £855.8.-. on 14 November 1648, which fine was subsequently increased to £1,015.1.4. on 18 June 1650.¹ Sir George was concerned in the royalist risings of 1654-1655 and was kept in custody for some time after Major-General Charles Worsley's orders to apprehend him and others involved in Lancashire. Worsley refers to him as 'George Middleton esq; sometime sir George Middleton'.²

There is nothing to suggest in any of these sources that Middleton had any leanings towards the parliamentary cause. It is difficult therefore to identify the fervent Royalist with the Middleton who was Katherine Whalley's brother and on whose behalf Whalley wrote to Cromwell on 31 March 1656.³ This relative was also detained in custody and he too may have participated in the royalist risings mentioned above, though Whalley's letter does not prove this. It is apparent, however, that he had shown disaffection to the government, necessitating Katherine Whalley's energetic efforts to help her brother, and Edward's supporting petition to the Protector.

The error of identification with the Sir George of Leighton, Lancashire may have arisen from Noble's reference to Whalley's brother-in-law as 'Sir George'.⁴ It is possible that he used Worsley's letters to Thurloe

1. See C.C.C., III, 1783-1784.

2. Thurloe, op. cit., IV, 495, 595, 746. Letters to Thurloe dated respectively 1 Feb. and 10 Mar. 1655/6 and 29 April 1656. For the Act disallowing titles, passed by the Rump on 4 Feb. 1651/2 see C. H. Firth and R. S. Rait eds., Acts and Ordinances of the Interregnum, 1642-1660, 3 vols. (Lond., 1911), II, 564-565.

3. Bodl. Rawl. MSS. A 36 f. 709; Thurloe, op. cit., IV, 663. See also Abbott, op. cit., IV, 132. Thurloe also appears to have been using his influence on Middleton's behalf. See Thurloe, op. cit., IV, 607.

4. Memoirs, op. cit., II, 153 n.

as his authority in this respect. It is evident that he used Whalley's letter also, but nowhere in the original manuscript nor in the volume of Thurloe is Middleton referred to by his christian name.

In his petition to Cromwell, Whalley stated that Middleton had been the late king's servant at the beginning of the Civil War and had held 'severall beneficiall places' under Charles I. He had later 'left all' to serve Parliament for many years as captain of a troop of horse,¹ and had lost two sons fighting in Ireland, and was deprived of the comfort of a third who was in Jamaica. Middleton had 'proclamed the late King Traito^r,' and Whalley was convinced of his fidelity to Cromwell. Such description fails to tally with that of a zealous royalist colonel.

Noble indicates that Middleton was spared 'through the earnest entreaty of his sister Whalley' and fled abroad to offer his services to the exiled king, 'by whom he was highly honored and trusted'.² Again he appears to confuse Sir George with Captain Middleton, Katherine's brother, though if one may hazard a guess Whalley's influence with Cromwell doubtless gained a pardon for his brother-in-law.

If this digression has done little besides challenge statements previously made about Katherine (née Middleton), it has served some purpose. It is easier, however, to disprove the family relationships accepted as

1. For references to Captain Middleton, most probably Whalley's brother-in-law, see C.S.P.D. 1644, 333; ibid., 1644-1645, 11, 14, 16, 20, 76, 345, 398, 401, 402, 403, 570. Abbott, op. cit., I, 510, prints a letter from Cromwell to Fairfax regarding Captain Middleton. He indicates that Middleton appeared to have fallen out with some of the soldiers, that he had been brought to trial which had been delayed and that to prevent charges of favouritism, Cromwell has urged Fairfax to expedite the trial. Abbott uses Noble as his source and therefore errs in referring to the captain as 'Sir George'. See also, S. C. Lomas, ed., T. Carlyle, The Letters and Speeches of Oliver Cromwell, 3 vols. (Lond., 1904), I, 278-279. This indicates that Middleton was captain in Cromwell's own (formerly Vermuyden's regiment) and that no further record of his case has been discovered. C. H. Firth and G. Davies, The Regimental History of Cromwell's Army, 2 vols. (Oxford, 1940), I, 200-201, adds nothing further about Middleton, and cites Carlisle as the source.

2. Noble, op. cit., II, 153 n.

correct by others, than to supply positive proof of Katherine's ancestors and unfortunately this has not been accomplished.

Assuming that Whalley's first wife Judith died about 1635,¹ and that he remarried shortly afterwards, as is apparent from the indenture referred to above,² and that Edward still lived in Essex, then it seems likely that Katherine's family had associations with this or neighbouring counties. A well known family of Middletons had become established at Stanstead Mountfichet in Essex, but neither Katherine nor her brother, the parliamentary captain, are noted among the members. A detailed study of other pedigrees³ has proved similarly unrewarding, and it may be therefore, that Katherine's forbears were not of gentry status. One particular source⁴ indicates that Whalley's wife was the daughter of William Middleton, a Chandler in Moorgate, London, but since this errs in other details relating to the Whalley family, it cannot be relied upon. Nor does it seem likely that Captain Middleton who had held positions under Charles I, would have had such parentage, though this would not have been impossible.

As with certain other family relationships examined in this thesis,⁵ there has been no neat and tidy solution to Katherine Whalley's ancestry, and the conclusions, if they can be termed such, are indefinite and therefore to some extent unsatisfactory. It is possible that further information could be discovered, with unlimited time and finance, but even this is

1. If John Whalley, Edward's eldest son was born c. 1633 (see above, p. 98) and the Visitation is correct relating to the births of Frances (later wife of Wm. Goffe) and two other daughters, then Judith could hardly have died before this date. The Parish register shows no burial entry. Essex Rec. Off. DDP.41/1/1.

2. p. 98.

3. See references given by J. B. Whitmore, A Genealogical Guide (Lond., 1953), p. 349; G. W. Marshall, The Genealogists' Guide (Guildford, 1903), pp. 548-549.

4. F.M.G., Harl. Soc. XL, 1230.

5. e.g. The Tiffins, Keylways and Duffields. See above, pp. 46-47, 66, 89.

doubtful in view of the extensive research already undertaken.

This would seem to be an appropriate point to add the few other brief details relating to Katherine. She bore her husband two sons, Henry and Edward, who will be mentioned in a later chapter.¹ As Whalley's military and political influence increased, Katherine presumably remained in the background, accepting the traditional rôle of the majority of seventeenth century wives whether high or low born. On one occasion during the months from June to November 1647 when Charles I was under Whalley's supervision, it is recorded that Katherine attended the royal court along with Cromwell's wife, his daughter and Mrs. Ireton. She was presented to the king and was feasted sumptuously there.² Whalley makes occasional references to his family in his letters to Thurloe whilst serving as Major-General over five of the midland counties,³ and in one of these⁴ he showed great concern for the health of his wife who had just had a miscarriage - perhaps the consequences of a pregnancy rather late in married life. Katherine's name is also mentioned a number of times in enrolments of landed transactions involving her husband.⁵ Her death occurred about 1662, for this is mentioned by Whalley's daughter Frances Goffe in the first extant letter written in that year to her husband and father in exile.⁶ It will be remembered also that Frances and her children spent many years after the Restoration in the household of William and Jane Hooke.⁷

1. See below, pp. 204-205.

2. R. Scrope and T. Monkhouse eds., State Papers Collected by Edward, Earl of Clarendon, 3 vols. (Lond., 1767-1786), II (1773), Appendix XL, dated 1 Nov. 1647; Abbott, op. cit., I, 537.

3. Notts., Leic., Warwks., Derbys., Lincs.

4. Bodl. Rawl. MSS. A 40 f. 499; Thurloe, op. cit., V, 234, dated 21 July 1656.

5. See e.g. P.R.O. C54/3793/5; 3876/43; 3794/15.

6. See above, pp. 77 and n., 78.

7. Ibid. Noble, op. cit., II, 153 gives the date of death as 1662, presumably using the letter as his authority.

V

From the evidence so far presented in this chapter it seems most unlikely that Whalley fled into Scotland on account of his debts as certain Royalist writers claimed. Nor is there any reason to connect him with that country from 1637¹ (the date of the landed transaction) until the outbreak of the Civil War.

I have been unable to establish the length of time during which Whalley and his family continued to live in Essex, but in view of the fact that he was one of the original members of Cromwell's Eastern Association, commanding the second troop of the fourteen that were formed,² it is probable that he was there when fighting first began, and it also seems likely that the family remained in that county at least until after the establishment of the Commonwealth, though no evidence has been found to verify this.

The dislocations and uncertainties of the long war years and the necessity for the Scottish campaigns would seem to be strong arguments against the permanent removal of the family from Essex during these years. Whalley's activities in the major military campaigns of both Civil Wars, his prominence as a leader and his deep involvement in the nation's affairs, necessitated long periods of separation from his family.³ After the battle of Worcester, however, when army leaders had successfully dealt with the immediate threat from Scotland, and Ireland was in the process of subjugation, the prospects of peace to heal and settle the nation became a reality, and the family's removal to Westminster a more feasible proposition.

1. See above, pp. 98-99.

2. See Firth and Davies, Regimental History, I, 7; J. Buchan, Oliver Cromwell (Lond., 1934), pp. 163-7; Firth and Rait, Acts and Ordinances, I, 138; C.J., III, 60; Lords Journals V, 26. Abbott, op. cit., I, 216, 226. Whalley had, however, earlier enlisted as a cornet in the troop raised in 1642 by John Fiennes for the army of the Earl of Essex. See E. Peacock, The Army Lists of the Roundheads and Cavaliers ... (Lond., 1874), p. 55; A. Beesley, The History of Banbury (Lond., 1841), p. 304.

3. For the quarters of Whalley's regiment so far as these are known, and the regiment's movements in general, see Firth and Davies, Regimental History, I, 209-230; D. Mackinnon, Origin and Services of the Coldstream Guards, 2 vols. (Lond., 1833), I, 9.

Since no evidence has been found in the enrolments of the major courts of record¹ to indicate that Whalley was involved in any major landed transaction between 1637 and 1650, it lends support to the view that the family continued to live in Essex during these years. The earliest transaction that records Whalley living in Westminster occurs in an indenture of 5 January 1651/2² and all subsequent enrolments in Chancery mention this as his domicile except for the brief period in which his activities as Major-General enforced him to live in Nottinghamshire.³ He continued to live in King Street, Westminster,⁴ until forced to flee abroad at the Restoration. His home was in fact next to Whitehall Palace and its next occupant was Barbara Villiers, the king's mistress and later Duchess of Cleveland.⁵

As one whose fortunes had been so closely bound up with those of his cousin, and one on whose support and unfailing loyalty the Protector could rely, it seems natural that Whalley should live close to Cromwell and at the centre of events whose course he was helping to direct. As a writer on Stuart London observes,⁶ if Westminster proper could be said to have a High Street, then King Street had this distinction. It ran from Charing Cross to the Palace of Westminster and included in its course the Palace of Whitehall. A pleasant street of overhanging gables and some of Westminster's best Inns; according to a return of 1638,⁷ it had seen the recent

1. i.e. Chancery, Kings Bench, Common Pleas and Exchequer.

2. P.R.O. C54/3603/16. See below, pp. 126-127.

3. See e.g. P.R.O. C54/3918/40; 3878/20 where Whalley is stated to be 'of Sibthorpe'.

4. See e.g. C54/4045/12 dated 26 Aug. 1659.

5. She was installed there as early as July 1660. See R. Latham and W. Matthews eds., The Diary of Samuel Pepys (Lond., 1970), I, 1660, entry under 13 July, 199. I am grateful to Dr. M. Toynbee for this reference which establishes the exact location of the house.

6. N. G. Brett-James, The Growth of Stuart London (Lond., 1935), pp. 139-140.

7. Ibid., p. 140, citing S. P. Dom. Chas.1, 408, ff. 139-146.

construction of some two hundred houses built largely for the convenience of those thronging the court of Charles I. It obviously fulfilled a similar purpose during the Protectorate, and since Whalley's destiny was bound up so closely with that of Cromwell, this is apparently where he wished to reside.

Chapter 5

EDWARD WHALLEY'S MAJOR LANDED TRANSACTIONS. (I)

(a) Flawborough and Tormarton

I

In these four chapters it has been shown how the extravagance and foolishness of Richard Whalley affected his children and resulted in the decline of the Whalley household. As the fortunes of Edward Whalley rose owing to recognition of his abilities as a regimental commander and his notable successes in the major military actions of the first Civil War, it is evident that his ambition was to regain as much as possible of those parts of the family estates which had been lost to the Whalleys by the crushing burden of debts and costly legal actions resulting from the folly of his father.

Seven months after Whalley's fame had been crowned by his last great success in the first Civil War - the siege and surrender¹ of Banbury - he presented a petition² to the Commons relating to certain lands formerly belonging to his father which had been acquired by the Earl of Newcastle. The House first ordered that Whalley's petition should be read on Tuesday 8 December 1646, but this was deferred until Thursday 10th.

In his petition, Whalley stated that lands worth £2,000³ per annum had been wrested from his father 'by the Greatness of the Countess of Shrewsbury'⁴

1. This occurred on 8 May 1646.

2. C.J. V, 1, 6. The original petition has not survived.

3. See above, pp. 22-23. R. Whalley had set the value of his lands at £1,600 per an. prior to the sale of Sibthorpe to Sir Edward Stanhope in 1601.

4. Almost certainly a reference to Mary (née Cavendish), daughter of 'Bess of Hardwick', rather than to Bess herself. Wife of Gilbert, 7th Earl of Shrewsbury, Mary's temper and propensity for quarrels was hardly less than that of her husband. Gilbert's quarrels with his own family, his neighbours and tenantry were often supported by his vitriolic wife whose influence over

and were now part of the delinquent Earl of Newcastle's¹ lands appointed to be sold by Parliament.

As a premier delinquent, Newcastle was one of seven Royalists exempted by Parliament from pardon. His estates had been confiscated and he had not been allowed to compound for them.²

The Committee for Compounding began proceedings to consider the claims on Newcastle's vast estates on 23 April 1647.³ Having fore-knowledge of such action, it seems most probable that Walley was anxious to present his petition for consideration before the floodgates which held back the numerous claimants and other interested parties were released. His claim was certainly more justified than some and his influence at this stage such that he had a good chance of success.

(continued) her husband was well known. It is probable that in Gilbert's negotiations to purchase Sibthorpe from Sir Edward Stanhope the younger in 1608 (See above, pp. 18-19, 25-28), he was encouraged by Mary, and there may have been some connection with the earlier, notorious Talbot-Stanhope feud. For this see W. T. MacCaffrey 'Talbot and Stanhope: an Episode in Elizabethan Politics', B.I.H.R., XXXIII, 74-85, and for character sketches of husband and wife, see D.N.B.; Turberville, op. cit., I, 32-33, 37-39; M.S. Rawson, Bess of Hardwick and her Circle (Lond., 1910), passim.

1. Strictly speaking, Marquis, since Newcastle had been elevated on 27 Oct. 1643.

2. See e.g. C.J., V, 70, 76, 77; L.J., X, 594, 596, 598; B. Whitlocke, Memorials of English Affairs ... (Lond., 1682), p. 349.

3. See C.C.C., III, 1732-1734. Lessees and purchasers are named at 1734-1737. The actual sale of Newcastle's estates was authorised in the first act for sale of delinquents' lands, 16 July 1651. Firth and Rait, Acts and Ordinances, II, 520-545; M. G. W. Peacock, An Index of the names of those Royalists whose estates were confiscated during the Commonwealth (Lond., 1879), p. 1(a). Actual confiscation of Royalists' estates as distinct from sequestration and composition was delayed largely due to strong opposition from the Lords and the Presbyterian section of the Commons. This is why no outright sales, even of Crown Land, occurred before 1649. See C. Hill, 'The Agrarian Legislation of the Revolution', in Puritanism and Revolution (Lond., 1958. Panther ed., 1968), pp. 158, 162, 163, 164, 168-170, 174, 180; and 'Land in the English Revolution', Science and Society, XIII (1948-49), 34-35. The Duchess of Newcastle stated that the Commonwealth Government 'raised towards the latter end of their power, which was in the year 1652 out of my Lord's estate, the sum of £111,593.10.11. at five years' and a half purchase, which was at above the rate of £18,000 a year besides woods ...' (Firth, Newcastle, p. 77.

In his petition, Whalley mentioned lands of his father that were worth about £300 per annum which he desired to purchase 'in discharge of so much of his Arrears'.¹ He hoped the Commons would be favourable to this request in view of his long fidelity to the Parliamentary cause.

After considering the petition, the Commons ordered that Whalley should be granted part of the Newcastle estates bearing annual rental of £300 - the value being set at the year 1641. The County Committee for Nottinghamshire was to certify this value and refer the decision to the Committee of Accounts who were to ascertain Whalley's arrears. It was further ordered that if these arrears were insufficient to purchase the land allocated, then he should be allowed to pay the balance in ready money.²

The next entry in the Journals occurs over a year later on Thursday, 3 February 1647/8,³ when a report concerning Whalley's 'accounts' was made to the House by Mr. Wheeler. He also 'tendered an Ordinance' relating to the former order of the House made on 10 December 1646. It was resolved that Whalley should be granted the Manor of Flawborough⁴ in Nottinghamshire

1. C.J., V, 8 from which the phrase is quoted. The Journals do not specifically name the lands Whalley wished to purchase, but the manor he was eventually granted was not part of his father's former possessions, though Richard Whalley had held certain property in Flawborough. See e.g. Notts. R.O. DDP.26/4, summarised in Appendix H.

2. C.J., V, 8. For the statement of Whalley's accounts from 18 Feb. 1642/3 when captain of a troop in Cromwell's reg. until 2 April 1645 after service as Lt. Col. in Manchester's reg., see P.R.O. S.P.28/267/91, 92, 101-102. The three latter folios are transcribed in Appendix L.

3. Op. cit., V, 454. The interval between had seen the outburst of army grievances - particularly over arrears of pay. C. Hill observes that under pressure from 'the united army' in 1647, Parliament authorised 'the checking of accounts of officers' and soldiers' arrears', the use of debentures and the partial settlement of arrears, mainly of officers. 'A few sales of the estates of individual delinquents were even authorised.' See Puritanism and Revolution, p. 174. It can thus be seen how Whalley's case fitted into the general pattern.

4. The manor was conveniently close to those family estates inherited by Peniston, Richard Whalley's grandson, and to those which had been acquired by Newcastle. It was a short distance from the family residence of Kirkton Hall where Peniston was presumably living in 1642. See above, pp.31 and n., 35. J. T. Godfrey, Notts. Churches, p. 384, notes Peniston as a patron of Screveton church according to the report of the Parliamentary Commissioners in 1650.

at fifteen years' purchase, according to the certified rental of £410.2.0. per annum.

The Ordinance was read a first time on the third and ordered to be read a second time on Saturday, 5 February.¹ This however, was deferred until 8 March when it was resolved 'That the Consideration expressed in this Ordinance shall be "His Arrears, his Services, and the sum of a thousand Pounds paid by Colonel Edward Whalley, in ready Money."' ²

II

It is unnecessary to describe in detail the subject of army arrears, for the inability of Parliament to pay its army fully is well known. From the beginning of the war Parliament 'had substituted promised to pay of different kinds for payment in cash',³ but the system of debentures had become general in an Ordinance of 20 January 1643/4⁴ which was first applied to officers in Manchester's Army, and later (15 February 1644/5) to those in the New Model.⁵

On the former date, '... every Captaine both of Horse and Foot, and every other Superior or Inferiour Officer, or other in the Army of the said Earle of Manchester, or belonging to the said Associated Counties, whose pay comes to ten shillings a day or above, shall take but halfe the pay due to him, and shall respite the other halfe upon the Publique Faith, untill these unnaturall Warres be ended;...' ⁶

1. C.J., V, 454.

2. Ibid., 484. Whitlocke, Memorials, p. 290, errs in stating that the Commons sent up to the Lords an order for conveying Flawborough to a 'Member of the House in satisfaction of his losses by the Earl.'

3. C. H. Firth, Cromwell's Army (Lond., 1902. University paperback, 1962), p.200.

4. Firth and Rait, Acts and Ordinances, I, 369-370. 'An Ordinance for the Recruiting, maintaining, and regulating of the forces of the seven Associated Counties, under the command of Edward Earle of Manchester.'

5. Firth, Cromwell's Army, p. 201.

6. Firth & Rait, Acts and Ordinances, I, 369-370; Firth, Cromwell's Army, p. 201, citing J. Rushworth, Historical Collections, 4th Part, Vol. I, 12.

When three months pay or more was due to such officers, debentures or promises to pay were to be issued '... sufficient to demand the said Moneys owing upon the Publique Faith as aforesaid.'

Similar orders for respiting smaller amounts to officers of lower rank were included in the same ordinance, and Parliament had to extend this system to non-commissioned officers and soldiers when it undertook to disband the army in 1647.¹

Redemption of debentures in cash payment was still, however, impossible and the arrears of officers and soldiers had steadily accumulated until large sums were owing upon the public faith.²

Since Whalley had been engaged in the Civil War from its onset and had rapidly gained promotion,³ first in Cromwell's regiment of horse and then under Manchester in the Eastern Association, one would expect his arrears to be sizeable. These had been assessed as £2,000.7.0. by 2 April 1645. Whalley had received £684.9.2. in partial satisfaction, leaving a balance of £1,315.17.10.⁴ still outstanding at that date. As will be seen below, however, when the Ordinance was finally passed on 22 March 1647/8, more than £2,000 had been added to this figure - the sum owing to him as Colonel of a regiment of horse in the New Model. Meanwhile, the final framework of the Ordinance was being discussed in both Houses.

1. Cromwell's Army, p. 201.

2. For a modern treatment of arrears and debentures, see I. J. Gentles, 'The Debentures Market and Military Purchases of Crown Land, 1649-1660' (Unpublished London Ph.D. thesis, 1969); particularly Ch. 1, pp. 16-46 (arrears), and Ch. 3, pp. 70-101 (debentures). Gentles errs (p. 19) in stating Whalley was paid his arrears without having to petition for them.

3. The stages of Whalley's ^opromotion are given in G.E.C., The Complete Peerage, IV, Appendix G., 644-645 and in Firth and Davies, Regimental History, I, 7.

4. P.R.O. S.P. 28/267/101-102. The figures have been given as they appear in the accounts, but there are two slight errors in the calculations. See Appendix L.



III

The Lords received Whalley's Ordinance on Monday, 13 March 1647/8;¹ it was read twice on the fifteenth² and committed to Lords Warwick,³ Wharton,⁴ Mulgrave⁵ and Montagu⁶ for consideration.

After the Earl of Mulgrave's report, the Upper Chamber agreed that the Ordinance should pass with certain alterations which were then referred back to the Commons.⁷

The Commons assented to the first amendment which was a clause allowing Whalley to pay the cash sum by instalments on specific dates; but it did not agree to the second amendment.⁸ Accordingly, on 21 March, Mr. Challoner was appointed by the Commons to contact the Lords with a view to a conference consisting of members of both Houses, 'touching the Articles of Religion, and concerning Colonel Whalye's Ordinance ...'⁹

The Upper Chamber returned a favourable answer and a conference was convened for the following day.¹⁰

When the Speaker of the Lords reported the results of the conference,¹¹ he stated that the Commons had agreed to the alterations in the Ordinance except for the word 'Heirs' which presumably had been mentioned in the

1. L.J., X, 111.

2. Ibid., 115.

3. Robert Rich (1587-1658).

4. Philip Wharton (1613-Feb. 1695/6).

5. Edmund Sheffield (1611-1658).

6. Edward Montagu (1616-Jan. 1683/4).

7. Ibid., 115.

8. C.J., V, 503 under date Friday 17 Mar.

9. Ibid., 507.

10. L.J., X, 125.

11. Ibid., 130.

second amendment.

The Journals do not reveal any further details but one may conjecture that the Lords wished to grant Whalley an estate in fee simple of the manor, whereas the Commons were reluctant to do so. Whatever the exact nature of their difference, the Ordinance in its final form granted Whalley a fee simple of Flawborough, conditional on payment of the specified sum at the dates agreed.

The Ordinance in its final form¹ recorded that Whalley's arrears up to 3 November 1647, amounted to £3,456.14.2. At fifteen years' purchase and a yearly rental of £410.2.0., the total purchase price of the manor would be £6,151.10.0.

Having offset his arrears against this sum, Parliament directed that in consideration of his 'faithful service' Whalley should pay only £1,000 in four instalments of £250 on 24 June, 29 September, 25 December 1648, and 25 March 1649. Thus Whalley was to receive the residue - £1,69⁴/~~7~~.15.10. as a mark of Parliament's generosity.

The manor was to be held not in capite or by knight's fee, but in free and common soc~~age~~ as of the royal manor of East Greenwich.² The right, title or interest of any legal claimant to any part of the manor arising before 20 May 1642³ was to be recognized but this did not extend

1. House of Lords Main Papers, 11 Mar. 1647/8 - 27 Mar. 1648, ff. 115-119. Another MS. draft is contained in the Book of Orders, Ordinances etc. [of both Houses], 4 Nov. 1647-8 Jan. 1648/9, ff. 447-453. Printed also in L.J., X, 133-134 under 22 Mar. 1647/48.

2. Landholding by military tenure had been converted into free and common soccage by an Ordinance of 24 Feb. 1645/6. This was confirmed on 27 Nov. 1656. See Firth and Rait, Acts and Ordinances, I, 833; II, 1043. Re-enactment of the Act of 1656 was one of the first considerations of the Convention in 1660, after discussion of the Dec. of Breda.

3. This was the date on which the Commons expressed the opinion that Charles I intended to make war on Parliament. See Act for Sale of forfeited estates, 16 July 1651. Firth and Rait, Acts and Ordinances, II, 523.

to Newcastle, his heirs, or any person claiming in trust for him, to any recusant or delinquent, or to any person claiming an interest after the above date. It was further ordered that if Whalley his heirs or assigns were evicted from Flawborough 'by reason of any Eigné,¹ Right, Title, or Interest, of any Person or Persons in or unto the same', then he or they should receive 'full and due Satisfaction, Recompense, and Allowance ... as both Houses of Parliament shall think fit and appoint.' The grant of Flawborough was to be made under the Great Seal, and finally, the Ordinance directed that in view of the grant, Whalley was not to claim any benefit from the £600,000 set aside on 23 December 1647 by Parliament in partial satisfaction of army arrears.

IV

It is probable that the outbreak of the second Civil War, the revolutionary measures culminating in Charles I's death and the subsequent events of the Scottish campaigns 1650-1651 prevented Whalley from asserting his title to Flawborough.²

In October 1650 he complained to Goldsmiths' Hall that the manor granted to him under the Great Seal in 1648 was still under sequestration by the Nottinghamshire County Committee. Accordingly, a directive from the Central Authority, dated 17 October, ordered the Local Commissioners to explain their reason for securing the rents and to discharge Flawborough from sequestration.³

1. i.e. elder or first born, corruption of 'ayne' - French, aîné.

2. At some period after his second marriage to Kathleen (née Middleton), Whalley had purchased certain property in the parish though this was not extensive. It consisted of 2 messuages, 2 tofts, 2 curtilages, 2 gardens, 2 orchards, 60 acres land, 14 acres meadow and 15 acres pasture. He and his wife sold this property for £100 to his son-in-law Wm. Goffe and Frances Goffe in the Easter Term, 1650. P.R.O. CP.25(2)585.

3. P.R.O. SP.23/10/188; C.C.C., I, 333.

Such reluctance to release estates from sequestration was not unusual for, as A. M. Everitt and others have shown,¹ there was a conflict of interest between Central and Local Committees whenever such estates were sold or compounded for, since the county lost important sources of revenue.

It is apparent that despite Whalley's complaint and the order from the Central Authority to the County Committee, the latter body continued to collect the rents from Flawborough for a further two years. In a letter to the local body on 15 September 1652, the Central Authority stated that Whalley had paid on 5 August last, the whole of the purchase money due on Flawborough, and the Commissioners were to discharge the manor from sequestration and discontinue levying and collecting the rents thereof.²

V

Why Whalley had not fully discharged before August 1652, the £1,000 due on Flawborough is not clear. According to the Ordinance, the final instalment of £250 should have been paid on 25 March 1649.³ It may be that on the date due, he was unable to put down the remainder and was thus granted an extension of time. The pressure of military events as previously stated may also have been a contributory factor. At some stage in the proceedings Whalley had also begun negotiations to acquire the manor of Tormarton⁴ in Gloucestershire - another of the sequestered estates of the

1. See e.g. Everitt, The Community of Kent and the Great Rebellion, 1640-1660 (Leicester, 1966), particularly pp. 141-142, 222, 289-291; Everitt, 'The Central Government and the Local Community,' pp. 42-43, and D. H. Pennington, 'The County Community at War', pp. 71, 72 in The English Revolution 1600-1660, Essays ed. by E. W. Ives (Lond., 1966). Hill observes 'Money tended to stick to the sequestrators' hands', Puritanism and Revolution, p. 160. See also H. E. Chesney, 'The Transference of Lands in England 1640-1660', T.R.H.S., 4th Series, XV (1932), 191-192.

2. P.R.O. SP.23/17/f. 235; C.C.C., III, 1736.

3. See above, p. 113.

4. C.C.C., I, 85-86 dated 23 Mar. 1647/8 lists delinquents in Glos. and the late and present value of their estates. The late value of Tormarton, Littleton and Acton Turville is given as £300; the present value as £140.

Marquis of Newcastle which had come into possession of the Cavendish family by the third marriage of Bess of Hardwick to Sir William St. Loe of Gloucestershire.¹ The purchases of both manors were thus proceeding simultaneously, for only nine days after the letter to the Nottinghamshire Committee, Goldsmiths' Hall addressed a similar one to the Gloucestershire Authority, dated 24 September 1652. This recorded that since Whalley had paid the first half of the purchase money due on Tormarton, the Local Committee was to release the manor from sequestration.²

No evidence has been discovered to explain the exact reason why Whalley decided to surrender his interest in Flawborough and proceed with the purchase of Tormarton³ - but obviously, possession of the latter manor must have held decisive advantages for him at this particular juncture. If one may hazard a guess, it seems that Tormarton was about to be sold c. June 1652, that Whalley wanted it and was able to contract for it by assigning over to the Treason Trustees the claim to Flawborough he already had under the Ordinance of 22 March 1647/8. This apparently had been done on 4 June 1652.⁴ Presumably it was merely a paper transaction - a shuffling round of

(continued) Doubtless the reduction was due to civil war dislocation. For examples of depreciated values of estates see, S. J. Madge, The Domesday of Crown Lands (Lond., 1938), p. 70. Presumably the Glos. Committee had improved the rentals before Whalley acquired an interest in Tormarton, for Parliament had later pressurised County Committees to improve lands to the utmost value. See C. Hill, Puritanism and Revolution, p. 161; 'Land in the English Revolution', Science and Society, XIII (1948-49), 46. For the manor see Sir R. Atkyns, The Ancient and Present State of Gloucestershire, 2nd ed. (Lond., 1768), pp. 411-412; R. Bigland, Historical, Monumental and Genealogical Collections relative to the County of Gloucester, 2 vols. (Lond., 1791-1792), + Supplement (1889). Supplement Part 6, No. 270.

1. D.N.B., Elizabeth Talbot.

2. P.R.O. SP.23/17/270; C.C.C., III, 1736.

3. This is largely because the records of the Drury House Trustees have not survived. The Calendars of the Committee for Compounding and the Close Rolls are inadequate to give a complete picture.

4. See P.R.O. SP.23/18/783; C.C.C., III, 1736.

his claims, since subsequent references show that he was able to complete the purchase of both manors in the later months of 1652.¹ It may be simply that Whalley lacked the ready money in June 1652 to put down for Tormarton, but that he had expectations of being able to acquire the money within a month or two, and had used his claim on Flawborough to acquire a claim on Tormarton too.

In other letters that passed between Goldsmiths' Hall and the Gloucestershire Committee, the latter, like their Nottinghamshire counterpart, showed a similar reluctance to resign their interest in a profitable manor. One such letter from the Central Authority declared that Whalley was willing to 'make good' the estate the Local Commissioners had renewed if he might receive the fine due.² Apparently, the Commissioners had held a manor court³ at Tormarton on 15 June 1652 and had renewed a lease of one of the tenants of the manor, no doubt charging him a heavy fine for this. Whalley thus, in the process of purchasing Tormarton declared his unwillingness to confirm or recognize the lease in return for the fine - his request being supported by Goldsmiths' Hall. The Gloucestershire Commissioners, however, felt disposed to question the justice of this. They were uncertain whether Whalley had in fact completed the purchase of Tormarton, and until further clarification from the parent body, were unwilling to relinquish a fruitful source of revenue.

In their reply of 6 October 1652,⁴ to a letter received the previous

1. P.R.O. SP.23/17/235, 270; C.C.C., III, 1736.

2. P.R.O. SP.23/30/155; C.C.C., I, 610.

3. Parliament had instructed the County Committees to revive the obsolete Courts Leet and Baron in order to re-examine old laws and customary rights and to ensure that full manorial fines might be collected and uncertain copyhold turned to advantage etc. See M. James, Social Problems and Policy during the Puritan Revolution, 1640-1660 (Lond., 1930), p. 83; P. H. Hardacre, The Royalists during the Puritan Revolution (The Hague, 1956), p. 102.

4. P.R.O. SP.23/156/302. Nothing but the P.R.O. reference is given in C.C.C., III, 1736.

day, the Commissioners stated that at the time of the manor court in June, they had received no intimation that Whalley was interested in the manor, nor had he then contracted for it - the implication thus being that their renewal of the fine at that time had been quite in order and that they were entitled to retain the fine.

It was in their letter to the Gloucestershire Committee, dated 30 December 1652, that Goldsmiths' Hall indicated that the interchange of the two manors had taken place on June 4th.¹ The implication is that Whalley should be considered as owner from that date and the Local Committee was to recognize this fact and proceed to implement the order sent to them on 24 September 1652.²

On Whalley's request that he might have the half year's rent due at Midsummer last (24 June), Goldsmiths' Hall directed the Local Committee to pay this. Presumably as legal owner he was equally entitled to receive the rents as the fine for the lease renewed at the manorial court on 15 June 1652.

VI

A transaction in the Close Rolls dated 23 June 1653³ provides the next piece of information regarding Flawborough. This is an indenture between Whalley and William Clayton⁴ of Romeley, Derbyshire, of the one part and Robert Butler the elder of Southwell and John Rolleston of Welbeck, Nottinghamshire, of the other. The latter two were among the feoffees in trust⁵

1. See above, p. 116.

2. Ibid.

3. P.R.O. C54/3725/19.

4. Noted in C.C.C., I, 650; III, 1735-1737 as a purchaser of lands in Derby and Notts., part of Newcastle's sequestrated estates.

5. Sir Charles Cavendish, Newcastle's younger brother, was another until his death in 1654, as also was James Whitehead of Welbeck. For further detail see below, pp. 127-128.

who had been charged by the Earl of Newcastle to administer certain of his estates for the purpose of discharging debts contracted before 20 May 1642, and for making provision for his younger children.

The transaction would appear to be a renunciation by Whalley of all his claim to the manor of Flawborough - a legal guarantee as it were, giving Newcastle's feoffees the right to proceed without impediment in negotiating for purchase of the manor with the Drury House Trustees. If such could be accomplished then the feoffees intended to sell Flawborough to discharge the debts as indicated above.¹

William Clayton's part in the transaction is more difficult to determine.² It seems most probable that he was a creditor of Newcastle and had come to some prior arrangement with the feoffees to relinquish his interest in Flawborough, in satisfaction of his claim. Alternatively, though this is less likely, Whalley may have become indebted to Clayton whilst involved in the purchases of Flawborough and Tormarton - which debt Whalley was able to discharge before the date of the indenture. Such statements are, however, purely conjecture and have not been substantiated by further evidence.

VII

Having transferred his interest from Flawborough to Tormarton - presumably at some inconvenience to himself and others - it is strange that Whalley did not long retain his interest in the Gloucestershire manor. As intimated above,³ it is also unusual that Whalley should have been interested in acquiring a manor that was so far removed from his other property in

1. This purpose is specifically stated in the indenture.

2. Clayton was an ironmaster in Derbyshire, once in partnership with the more famous George Sitwell of Renishaw, but later his rival. See Sir G. R. Sitwell bart., 'A Picture of the Iron Trade in the Seventeenth Century', Derbys. Arch. and Nat. Hist. Soc. Journal, X (1888), 29, 33, 36, 42. The author states (pp. 29-30) that Clayton 'derived much influence with some grandees, especially with the Duke of Newcastle, the purchase of whose woods he monopolised'. In February 1662, Clayton was making guns, allegedly for use in Holland, ibid., 42. See also V.C.H. Derbyshire, II (1907), 359.

3. p. 116.

Nottinghamshire - namely Sibthorpe - the reversionary rights of which he had acquired from Newcastle's trustees in July 1652.¹ However, according to the transactions to be described below, the Tormarton purchase may have been a necessary step towards acquiring valuable property in the Fen district wherein his interest really appears to have lain - lands that were less remote and more familiar to him than Tormarton, and presumably more attractive than the ownership of Flawborough would have been.

The first transactions relating to the Gloucestershire manor are dated 20 October 1653.² They record an exchange of property between Whalley and Richard Blackwall³ of London for a sum of £2,280. Whalley sold to Blackwall various tenements and parcels of meadow, arable and pasture - much of it enclosed in Tormarton, Littleton and Acton Turville.⁴ In return, he acquired from Blackwall, 572 acres of fen land in the Great Level. These comprised 300 acres in Helgye (Hilgey) and Sothery Fen, 182 acres in Hockwould and Wilton in Norfolk, and 60 acres in Wicken Fen and 30 acres in Wicken High Fen in Cambridgeshire, with all other lands, tenements and hereditaments belonging to Blackwall in each of the aforementioned places.

The indenture⁵ shows that these 572 acres were part of the 5,700 acres

1. See below, pp. 128-131.

2. P.R.O. C54/3968/10; 3764/41.

3. Captain R. Blackwall was a land jobber with a wide range of business activities. He was a commissioner of the customs and a commissioner for prize goods, but not very skilful in land management. He owed almost £13,000 to the Exchequer and £18,000 to private persons. See J. Thirsk, 'The Sales of Royalist Land during the Interregnum', *Ec.H.R.*, 2nd Series, V (1952), 197-198, and sources cited. See also *C.C.C.*, III, 1737, 2168, and for his activities as commissioner for prize goods, *C.S.P.D.* 1649/50-1665/6 *passim*.

4. The transaction on the Close Roll, P.R.O. C54/3968/10 is very lengthy, recording (in common with the majority of such entries), (a) names of lands sold, (b) acreage, (c) past or present tenants or occupants in case of dwellings. The date demised by the Earl of Newcastle or his father Sir Charles Cavendish, to whom originally demised and the rentals, are also noted. The indenture was not enrolled until 20 Nov. 1657. Such long delays were rare, but in view of the backlog of business in Chancery, the votes of the Nominated Parliament to abolish the court and the reforms which followed after Cromwell's installation as Protector, it cannot be regarded as unusual.

5. P.R.O. C54/3764/41.

in the 8th, 13th and 18th lots of the original 95,000 acres granted in 1637 as recompense to Francis, the late Earl of Bedford and other Participants and Adventurers who undertook to drain the Great Level. By Act of Parliament of 29 May 1649, William, present Earl of Bedford, Edward Russell, his brother, Robert Henley and Robert Castle (major Participants and Adventurers), were authorised to continue the work.¹

The tenures of these 5,700 acres are recorded in the indenture, except for the names of those to whom the lands had been sold after the passing of the act in 1649 until 19 September 1651. By an indenture of that date, and because of non-payment of taxes on the lands, John Russell esq., and four other Participants had sold them to John Maynard esq., Walter St. John esq., Nathaniel Herring, merchant and Thomas Alleyne, grocer. The lands had then been sold by the above named persons and Robert Henley to Richard Blackwall on 28 January 1651/2. Because Blackwall had neglected to pay taxes upon 5,450 of the 5,700 acres, the same 'five or more' Participants had by indenture dated 3 July 1652 sold them unto William Smith esq. of the Middle Temple, London. Less than six months later on 30 December 1652, Blackwall had again acquired 4,410 of the 5,450 acres; thus his sale of 572 of them to Whalley in October 1653.

The location of these fen lands, Helgye, Sothery, Hockwould, Wilton and Wicken is significant because of their proximity to the crown manors of Terrington, West Walton, Emneth and Tilney in Norfolk - part of Queen Henrietta Maria's jointure. It is recorded that Whalley acquired these manors as will be discussed in a later chapter.²

1. See Firth and Rait, Acts and Ordinances, II, 130-139. A later Ordinance (*ibid.*, 899-902), dated 24 May 1654, conferred upon the main Participants and Adventurers more extensive powers to deal with defaulters of taxes levied on the Great Level fenlands.

2. See below, Chapter 6 sec. (b).

VIII

The next transaction in which Whalley was involved appears to be a mortgage¹ though this cannot be stated with certainty. The indentures in the Close Rolls reveal only a certain amount of information - namely, the parties involved and the premises to be conveyed. The reasons behind the transaction are much more difficult to determine and in many cases have to be based on supposition which may be quite wrong.

On 27 November 1653 Whalley 'mortgaged' the major part of his remaining interest in the manor of Tormarton to William Hawkins, a London merchant.² It may be that at this particular period when Whalley had been involved in a number of landed transactions, shortage of capital obliged him to borrow to complete his business dealings. Probably he needed the sum of £2,600 for a short period which Hawkins was prepared to lend him on the strength of the mortgage. The premises conveyed included the mansion known as the Court House with all its appurtenances; arable land, meadow and rights of pasture in Tormarton, comprising some 660 acres; the 'freedom of hawking, hunting, fishing and fowling in or upon the premises', and the right to collect the toll on carts and haywains of 'strangers' passing through the enclosed meadow of Tolldowne. Whalley acknowledged the above indenture in Chancery on 12 May 1654 when it was enrolled.

The next transaction, which took place on 4 July 1654, by the process of levying a fine, would appear to indicate that Whalley was able to redeem the mortgage and discharge his debt to Hawkins by sale of the premises to one Anthony Samuel³ of Westminster. The indenture records that Samuel paid

1. P.R.O. C54/3792/15.

2. Hawkins, a Westminster merchant 'was one of the Trustees for raising £50,000 for Ireland. He also supplied oars for shallops at Newcastle. It is in lieu of salary and of money owing to him in other ways by the Government that he makes purchases of land.' H. E. Chesney, 'The Transference of Lands in England, 1640-1600', T.R.H.S., 4th Series, XV (1932), 195. See also C.C.C., I, 362; III, 1735, 2185; IV, 2635; C.S.P.D. 1651, 435, 560.

3. Samuel or Samwell of Dean's Yard, Westminster was the son of Sir William

£3,000 to Hawkins and the nominal sum of 5/- to Whalley whereby both of them did 'fully, freely and absolutely grant, alien, bargain and sell' the premises, and Whalley covenanted that these were completely discharged from every encumbrance. Both Hawkins and Whalley acknowledged the indenture in Chancery on 7 July and it was enrolled on 27 November 1654.¹

In so far as the property to be conveyed is concerned, the indenture of July 1654 is identical with that of November 1653 except in one respect. Whalley in the earlier indenture had not 'mortgaged' the advowson,² presentation and right of patronage of the rectory and church of Tormarton. This explains the differing amounts in the two transactions. In July 1654, the advowson was sold with the rest of the premises and presumably Whalley retained the remainder of the £400 difference after repaying the few months interest on the £2,600 loaned to him by Hawkins.

Whatever Whalley's real reason for disposing of Tormarton, and it may well be, as indicated above,³ a greater desire to purchase lands in the fen district, the total sum he received for the Manor - namely £2,280 from Richard Blackwall and something less than £3,000 in the second transaction - was not so favourable a proposition in monetary terms alone as the retention and later sale of Flawborough would have been.

(continued) Samwell of Upton, Northants (auditor to Queen Elizabeth and knighted at James I's accession), by his wife Jane, dau. of Sir Henry Skipwith of Keythorpe in Leic. See J. Burke, A Genealogical and Heraldic History of the Commoners of Great Britain and Ireland ...,⁴ vols. (Lond., 1833-1838), + Index (Ox., 1907), I, 440; Burke, Extinct and Dormant Baronetcies, 465; Vis. of Northants. (Harl. Soc. LXXXVII, 1935), 185. He was probably the one who purchased property of the delinquents the Earl of Derby and Sir John Culpepper. C.C.C., II, 1117; V, 3277.

1. P.R.O. C54/3793/5.

2. For the disposal of advowsons by patrons lay and ecclesiastical see C. Hill, Economic Problems of the Church from Archbishop Whitgift to the Long Parliament (Oxford, 1956, Panther reprint 1971), Ch. IV, 'Benefices and Advowsons', pp. 50-73.

3. p.120.

IX

On 6 July 1654, two days after the sale to Anthony Samuel, Whalley combined with William Wheeler¹ of Westminster to purchase from Samuel and his son William, certain property in Eagle, Lincolnshire.² The sale included 'All that Capital Messuage or Grange House with the appurtenances ... called Woodhouse', and 160 acres of land belonging to it. The premises had been purchased by the Samuels only a short while earlier from Dame Jane Harrington, James Harrington³ and Thomas Woodward. The sum involved was £800.

The parish of Eagle itself, to the north east of Newark, was conveniently near the original estates in Nottinghamshire of the Whalley family, and some sixteen miles as the crow flies from the manor of Sibthorpe, but the lordship at this time was not prosperous.

In 1656 the Lord of the Manor received a petition from the tenants and copyholders urging enclosure without delay. The wretched condition of the parish and its inhabitants was described in detail. 700 of the 1,300 acres were said to be not worth 6d per acre as they were then cultivated. 18 of the 60 families containing some 330 persons were in receipt of poor relief: 'no land hath been held two generations but the owners have been forced to sell or borrow on mortgage'. Such wretchedness, the tenants maintained, was directly attributable to holding land in common.

1. (c. 1601-1666). M.P. for Westbury, Wilts. in Long Parliament 1640. Active Presbyterian and lay member of Westminster Assembly. Secluded in 1648. Of considerable wealth, his properties included his home in Canon Row, Westminster, over 30 other houses in or near London and manors in Hants., Bucks. and Wilts. Keeler, Long Parl., 386-387; D. Underdown, Pride's Purge (Oxford, 1971), pp. 50, 168 n., 195, 252 and Appendix A p. 389. Wheeler is said to have been knighted by Cromwell in 1657. He was returned to the parliaments of 1659 and 1660 and created bart. 11 Aug. 1660. G.E.C., Complete Baronetage, III, 1649-1664, 106.

2. P.R.O. C54/3825/30.

3. Author of 'Oceana' and the eldest son of Sir Sapcote Harrington of Rand, Lincs. by his wife Jane, dau. of Sir William Samwell of Northants. D.N.B. Anthony Samuel was his uncle.

... 'our mores and coman not able to keepe halfe the stinte our stock pine and selves much wronged, the keeping and seeking our catle more then the worke the continuall charge labor and vexation that wee are at with our catle trespasinge upon others is intolerable, and without enclosing unavoydable; for these causes we are inforsed to improve, which wee suppose neyther reason or law can or will denye.'¹

After the Lord had given his consent, the eventual enclosure of the three fields and two moors was effected in 1665.²

It was probably because of the relatively unproductive nature of their holdings that Whalley and Wheeler decided to sell their interests in Eagle, hardly two years after their purchase from the Samuels. Before such sale, however, an indenture dated 10 November 1655³ is of some interest. This records a transaction between Whalley (who having recently been appointed Major-General of five Midland counties was living at Sibthorpe) and Major-General James Berry⁴ and his wife Mary. For the sum of £5, Whalley purchased a fee-farm rent or 'tenth' of 6/8 per annum issuing out of 'divers closes or pastures in Old Eagle called Woodhouse and Westwood', which had originally been granted by Henry VIII on 19 June 1534 to William Riggs and Richard Disney. Berry had purchased this on 18 May 1652 from the Trustees for the Sale of Fee-farm Rents.⁵ It was disposed of by Whalley

1. V.C.H. Lincs., II (1906), 334-335. See also M. James, Social Problems, pp. 112-113.

2. Ibid.

3. P.R.O. C54/3878/20.

4. Berry had made Lincoln his home after the Civil War. He had purchased the Bishop's Palace there c. 1652. See Sir J. Berry and S. G. Lee, A Cromwellian Major-General: the Career of Col. James Berry (Oxford, 1938), pp. 4, 88, 107.

5. The first Act for sale of Fee-farm Rents was passed 11 Mar. 1649/50. Subsequent Acts were passed on 13 Aug. 1650, 6 Feb. 1650/1, 3 June 1652, 9 Sept. 1652 and 8 Sept. 1653. Firth and Rait, Acts and Ordinances, II, 358-362, 412-419, 498-500, 583-588, 614-618, 720-722.

on 29 April 1656¹ with the premises which he and Wheeler had contracted for in July 1654. The purchasers were John Disney² of the Close, Lincoln and his trustee Vincent Amcotts of Gray's Inn, Middlesex. It is possible that Whalley and Wheeler were satisfied with the £746 received, and believed that they had secured a reasonable bargain in view of the earlier remarks on the state of farming in Eagle.

X

Whalley's other major purchase - the manor of Sibthorpe - is to be described in the following section of this chapter. That transaction and those involving Flawborough and Tormarton are by far the most important of his landed dealings. The remaining sales recorded in the Close Rolls, and relating to the disposal of some property in Nottinghamshire, are important only because of their probable connection with the larger transactions. Presumably they gave Whalley a certain amount of capital to effect his purchases and to repay the loans he may have had to borrow. Both these sales involved property formerly belonging to the late Chapter of the late Collegiate Church of Southwell which Whalley purchased on 30 May 1650 from the Trustees for sale of Dean and Chapter Lands.³

By indenture dated 5 January 1651/2, Whalley disposed of various

1. P.R.O. C54/3918/40.

2. John Disney of a well-known Lincs. family was Treasurer of the County Committee for Sequestration. C.C.C., I, passim; II, 955, 1431. He was later a Commissioner appointed by the Act of 28 Aug. 1654 for ejecting 'Scandalous, Ignorant and Insufficient Ministers and Schoolmasters'. Firth and Rait, Acts and Ordinances, II, 972. He was one of the Lincs. Commissioners with whom Whalley worked as Major-General. Berry and Lee, op. cit., pp. 109-111; Bodl. Rawl. MSS. A 32 f. 335; Thurloe, op. cit., IV, 185.

3. C. Hill observes that 'Eighty-one per cent of the dean and chapter lands sold under the Act of 30 April 1649 was earmarked for the army and its officers.' But he later indicates that these lands, like Bishops' lands 'seem to have gone primarily to City business men and speculators, secondly to gentlemen.' See 'The Agrarian Legislation of the Revolution', Puritanism and Revolution, pp. 177, 179.

tenements and lands to the value of £66.14.4. in Westthorpe, Southwell, Edingley and Halam to one Bartholomew Fillingham of London.¹ The other sale which occurred on 30 August 1652,² also involved cottages, toftsteads and lands, most of which were enclosed in Halam and Edingley. The purchasers were William Coule, yeoman and three husbandmen - Matthew Woodcocke, William Redman and Lawrence Watts - all of Halam. Whalley received £460 for these sales.

Relatively small as the sums were, they were presumably necessary to Whalley at this juncture. The proximity of the above dates to those larger transactions in which he was involved in 1651 and 1652 - particularly in the second half of this latter year - would appear to be significant.

(b) Sibthorpe and Welbeck

I

On 23 March 1651/2, the Treason Trustees directed the Nottinghamshire County Committee to release the manor of Sibthorpe from sequestration and forbear to collect any further rents from it.³ Whalley had paid half the purchase money due on his contract to regain this former family possession, originally granted to his great-great-grandfather by letters patent dated 4 July 1545.⁴ The re-acquisition of this valuable manor appears to have been the dominant feature of Whalley's ambition - at least in so far as his landed transactions were concerned.

The above purchase related to the Marquis of Newcastle's life interest⁵ in the manor since he had earlier made over the reversionary rights to

1. P.R.O. C54/3603/16. The purchase price seems relatively small for the premises noted in the indenture. Whalley may have been indebted to Fillingham.

2. P.R.O. C 54/3702/7.

3. P.R.O. SP.23/16/f. 187; C.C.C. III, 1735.

4. See above, pp. 1-2.

5. See e.g. Port. MSS. DD4P.22/323, 326, 330, 333, 338; P.R.O. C54/3698/4.

feoffees in trust. These feoffees included Newcastle's brother, Sir Charles Cavendish of Wellingore, Lincolnshire, his secretary John Rolleston of Welbeck and his servants James Whitehead of Welbeck and Robert Butler of Southwell. Before the outbreak of civil war, Newcastle had entrusted certain of his estates to these feoffees for the purpose of discharging his debts and raising portions for his younger children,¹ and when such was accomplished, the residue was to go to his son and heir Charles Cavendish.

Whalley naturally wished to acquire a more permanent interest in Sibthorpe and thus negotiated with Newcastle's trustees to obtain the reversionary rights of the manor. Newcastle and his son Henry, Viscount Mansfield² later claimed that Whalley 'by his power forced an agreement (upon what consideration he pleased) with the Trustees', and the latter far undervalued Sibthorpe 'in awe and respect of his power'.³ This appears to be an exaggerated and biased statement, for though Whalley was obviously intent on securing a bargain, in the propositions he submitted to these trustees⁴ there is no suggestion that he was blatantly misusing or abusing his authority. What is certain is the fact that Whalley was allowed an abatement of £2,500 in the purchase price,⁵ as will be explained below.

1. See e.g. P.R.O. C54/3871/30, 31, 32; 3728/43; 3730/1; 3813/11. This was in line with the policy of a number of wealthier families who had contracted debts before the Civil War. If such trust had been effected before 20 May 1642, the estates escaped sequestration. With the dislocations of civil war and its aftermath, it was in the interest of a delinquent family if such trustees had actually entered upon the property assigned to them, especially if doubts as to the date of the trust arose. See H. J. Habakkuk, 'Landowners and the Civil War', *Ec.H.R.*, 2nd Series, XVIII (1965), 143-144, 150 n.; Stone, *Crisis*, pp. 177-178, 181.

2. Newcastle's eldest son and heir Charles Cavendish died in 1659.

3. Port. MSS. DD4P./22/323; P.R.O. C5/529/5.

4. DD4P./22/316.

5. DD4P.22/323, 326, 330, 333; P.R.O. C5/529/5.

II

Owing to the extraordinary expenses incurred in the Civil War, Parliament had introduced the device of 'doubling' in order to raise loans. Thus, for example, if a creditor had advanced £500 to Parliament on the public faith, he could, by advancing a further sum equal to £500 plus the accumulated interest owing, receive the whole debt due in the form of Bishops'¹ and later of other confiscated land.

The device was subsequently applied to army arrears of pay as well as to loans. An Ordinance of 23 June 1649 declared 'That liberty be given to all Officers and Souldiers, who have money due to them in arrear from this Commonwealth, for their service in the late Wars, to double the same upon Dean's and Chapters Lands.... Provided That such Arrears be stated and allowed of by the Committee for the Army, or any other Committee or Commissioners appointed by authority of Parliament, for that purpose ...'²

An indenture of 14 July 1652³ records Whalley's purchase from Newcastle's feoffees in trust of their reversionary rights in Sibthorpe for £4,183 of 'doubled money'. His case alone affords a striking example of the extent of Parliament's indebtedness to the army over arrears of pay - particularly in relation to those long serving and high ranking officers such as Whalley.

1. Firth and Rait, Acts and Ordinances, I, 884, 'An Ordinance for securing of all those that shall advance the Two hundred hundred thousand pounds for the service of the State' (13 Oct. 1646). The process, next applied to Dean and Chapter Lands was then extended to include the lands and rents of the Crown and the land of delinquents as Parliament was induced by pressure of the army to sell these. See e.g. S. J. Madge, Crown Lands, pp. 100, 113-114, 228, 237, 400; P. Hardacre, Royalists, p. 101, citing Mercurius Politicus, No. 67 (11-18 Sept. 1651), 1075.

2. Firth and Rait, op. cit., II, 154; See also Berry and Lee, A Cromwellian Major-General ..., pp. 92-93; H. E. Chesney, 'The Transference of Lands in England 1640-1660'. T.R.H.S., 4th Series, XV (1932), 201; H. J. Habakkuk, 'Public Finance and the Sale of Confiscated Property during the Interregnum', Ec.H.R., 2nd Series, XV (1962), 70-87.

3. P.R.O. C54/3698/4. Charles, Viscount Mansfield, Newcastle's then heir was a further party to the transaction.

It has been related how he had previously been authorised by Parliament to utilise his arrears up to 3 November 1647 in the purchase of Flawborough and had later transferred his interest to Tormarton.¹ Now £2,091.10.0. of further arrears were used to regain Sibthorpe.

It seems unusual that Whalley purchased the reversionary rights of the manor in 'doubled money', though the term as used in the transaction has not the specific meaning of 'doubling' defined in the Ordinances cited above. Whalley was to pay £2,091.10.0. 'in real money' and a similar sum in bills and debentures.

Since it was necessary to double on public faith bills and debentures if these were used to obtain delinquent or Church land,² Whalley was legally bound to do so if he used such means to purchase Newcastle's life interest in Sibthorpe from the Drury House Trustees. Alternatively, he could have obtained this by paying fully in cash. Whichever way he chose, the Treasurers of Drury House authorised the use of debentures in the purchase of the reversionary rights.³ Newcastle's trustees were also willing to accept part payment in debentures since they were legally entitled to use these⁴ (and presumably they would do so) to repurchase other parts of Newcastle's estates from the Parliamentary trustees. It is probable also that Whalley could not pay the full sum in cash at this stage. Whalley appears to have been in a stronger bargaining position, but doubtless the transaction had advantages to both parties. It seems likely that a decisive factor

1. See above, pp. 113, 115 ff.

2. See Gentles, thesis, 'The Debentures Market ...', p. 11.

3. This is indicated in the transaction.

4. A provision regarding debentures was that they could be sold or assigned to anyone and that people who bought them were to have the same freedom to use them as that granted to original creditors. Unlike public faith bills which bore interest at 8%, 'debentures always had the same face value no matter how many years had elapsed since their issue.' Gentles, thesis, op. cit., p. 65; Firth and Rait, Acts and Ordinances, II, 184.

influencing Newcastle's trustees was Whalley's possession of Newcastle's life interest in Welbeck¹ Manor which they wished to acquire. He also expressed his readiness to discharge an encumbrance on Sibthorpe, to relinquish to them his pre-emptive rights in the manors of Meering and Hawksworth,² and to 'give his assistance to them for advancement of their trust in that which he may fairly effect.'³

The encumbrance on Sibthorpe mentioned above was a mortgage, and it is in connection with this, that the later history of the manor is bound up. A brief digression is necessary here to explain how it had arisen.

III

In 1640, the Earl of Newcastle had borrowed £2,500 at 8% interest⁴ from Dame Dorothy Warren.⁵ By an agreement of 19 May of that year,⁶ Newcastle and his brother Sir Charles Cavendish had granted as security, a 99 year lease of Sibthorpe and other properties at a peppercorn rent, such lease to become effective only if Newcastle or those acting on his behalf failed to pay £200 yearly interest on the loan.⁷ This sum was to be paid

1. See below, p. 140.

2. Meering was purchased by Wm. Hawkins and Hawksworth by Col. Rob. Birch. C.C.C., III, 1734-1735.

3. Propositions to the Trustees. Port. MSS. DD4P./22/316 undated. Unfortunately, these are not given in detail.

4. The maximum legal rate between 1624 and 1651 when it was reduced to 6%.

5. Widow of Sir Arnold Warren (Waring) of Thorp Arnold, Leic. See Rev. T. Warren, A History and Genealogy of the Warren Family, p. 35. For references to the loan, see P.R.O. C5/529/5; Port. MSS. DD4P.22/319-326 and 329-40.

6. Noted in the indenture of 14 July 1652, P.R.O. C54/3698/4; in the statement of Arthur Warren in the action Newcastle v. Stapley et al., ~~and~~ P.R.O. C5/529/5; Port. MSS. DD4P. 22/325, and also in P.R.O. KB.27/1847/Rot.399.

7. For such type of mortgage, see W. S. Holdsworth, A History of English Law, 2nd ed. (Lond., 1937), VII, 375.

in two amounts on 11 May and 11 November each year.

The original parties to the agreement with Newcastle and his brother, were John Moore,¹ a doctor of physic, Robert Wollveridge and William Allestrey who acted as trustees for Dame Dorothy. By an indenture of 12 February 1641/2² the benefits of the rent charge were made over to Arthur Warren, Dame Dorothy's son by her husband Sir Arnold. Arthur Warren,³ noted in 1645 as of Gray's Inn, London, and Simpson, Bucks., compounded for delinquency on 28 October in that year,⁴ and in a later petition to Goldsmiths' Hall, he stated that his whole estate amounted to £2,500, with annuities of £160 and £40 for one life issuing out of lands in Staffordshire and Oxfordshire. This £2,500, Warren claimed, had long since been delivered to Newcastle in return for the £200 rent charge from Sibthorpe and other lands in Flintham, Elston, Syerston, East Stoke and Knighton (Kneveton or Kneeton).⁵

Warren later complained that the rents had been detained in the tenants' hands. He applied to regain possession of the mortgaged lands until the capital sum and £600 arrears (apparently accumulated during the Civil War) had been paid, but Goldsmiths' Hall in a directive of 8 August 1650 simply instructed the County Committee to let the manor at the highest rents obtainable and to ensure that Warren received his £200 per annum.⁶

This was the situation therefore when Whalley purchased the reversionary

1. For Moore and Allestrey see e.g. C.C.C., IV, 2545-2547, II, 991. Moore was formerly physician to the Duke of Buckingham and frequently employed by the latter in negotiating sales of peerages. See C. R. Mayes, 'The Sale of Peerages in Early Stuart England', J.M.H., XXIX (1957), 32, and 'The Early Stuarts and the Irish Peerage', E.H.R., LXXIII (1958), 244.

2. Noted in P.R.O. C5/529/5; Port. MSS. DD4P.22/325.

3. For the family, see Rev. T. Warren, op. cit., p. 35; Notts. and Derbyshire Notes and Queries, I (1892-1895), 41 and pedigree in The Genealogist, New Series, II (1885), facing 288.

4. P.R.O. SP.23/180/401; C.C.C., II, 937.

5. P.R.O. SP.23/127/701; C.C.C., II, 937; C.J. V, 241.

6. P.R.O. SP.23/127/705; 28/8/184; 23/228/165; 23/11/69, 261, 262; C.C.C., II, 938.

rights of Sibthorpe. He agreed in the indenture of 14 July 1652 that Sibthorpe alone should bear the rent charge and that the other properties on which it had also been charged originally should be freed from the burden.¹ Because of such undertaking, he received an abatement of £2,500 from the sum of £6,683² - the true purchase price of the manor. The total sum he paid for Sibthorpe, however, was still substantial since it comprised also the amount paid to the Trustees of Drury House for Newcastle's life interest.

In the original agreement, it was stipulated that the owner of Sibthorpe had to repay the capital sum by 1700, but this could be discharged earlier if desired on 11 May or 11 November of the particular year - such payment to be made in the Parsonage House of St. Andrew's, Holborn.³

IV

In view of Whalley's ultimate aim - so far as he was able - to restore the family possessions to something approaching their former extent, and to free them from encumbrance - it is logical to assume that he would seek to discharge Warren's capital sum at his earliest opportunity. The evidence available supports this conclusion. Having regained the manor, he was also anxious to ensure that it 'may and shall remain, continue and be settled in the name and blood of ... Edward Whalley so long as it shall please Almighty God to continue the same.'

By an indenture of 1 September 1655,⁴ he entrusted⁵ Sibthorpe to Henry

1. P.R.O. C54/3698/4. See also Port. MSS. DD4P.22/330.

2. See Port. MSS. DD4P.22/326 where this figure is incorrectly stated as £6,583.

3. See P.R.O. C5/529/5, the evidence of Newcastle and Stapley in Newcastle v. Stapley et al.; SP.23/11/69. There is an error in the transcription of Stapley and Campion's evidence in Port. MSS. DD4P./22/324 where the date for repayment is given as 1670.

4. P.R.O. C54/3876/43.

5. The trust had developed after the Statute of Uses of 1535. A. W. B. Simpson, An Introduction to the History of the Land Law (Oxford, 1961), pp. 191-192 notes that 'In 1535 the term "trust" and "use" were interchangeable.' In the 17th C., however, it was usual to relate the term

Middleton¹ of Westminster and Edward Birkhead² of Twickenham to the use of himself for life, then to his wife Katherine for her life as her jointure. After Katherine's death, Henry Whalley, his eldest son by her, was to succeed and Henry's male heirs after him. In default of such issue, then Sibthorpe was to pass to Edward (Whalley's younger son) and his heirs.

The elaborate arrangements made were intended to provide for a succession of life interests in order that no one tenant would be able to alienate other than for his own life time.³ Since Edward, the younger son by Katherine, would in all probability not inherit, provision was made for him to receive a rent charge of £120 per annum out of the manor to take effect after the death of Whalley or his wife - the longer lived of them.

There was also a clause in the indenture allowing Whalley to revoke the uses stated therein (if he should think fit) apart from the life interest settled upon his wife.

Whether Whalley made any further provision for his eldest son John, by

(continued) "use" 'solely for uses executed by the Statute.' The former term was reserved for 'interests protected in Equity only.' Both, however, had similar advantages: e.g. (a) it became possible to devise lands; (b) conveyances and settlements were facilitated; (c) forfeiture and escheat could be avoided; (d) certain feudal incidents such as wardship could be avoided. See *ibid.*, pp. 171-172; T. F. T. Plucknett, A Concise History of the Common Law, 5th ed. (Lond., 1956), pp. 582, 598-602; L. B. Curzon, English Legal History (Lond., 1968), p. 310.

1. At this time Serjeant-at-Arms attending the House of Commons. L.J., VIII, 283, 285. See also C.S.P.D. 1655/56, 282; 1656/57, 100, 192, 372, 384; 1659/60, 596. Prior to this he had been Serjeant-at-Arms to the Great Seal. L.J., VI, 559.

2. Serjeant-at-Arms attending upon the Chancellor, Keepers or Commissioners of the Great Seal of England. L.J., VIII, 645; X, 48; C.J., V, 466. See also C.S.P.D. 1655/56, 281-282, 306, 317; 1659/60, 24.

3. See Simpson, Land Law, 'The Family Settlement', pp. 218-224; G. E. Mingay, English Landed Society in the Eighteenth Century (Lond., 1963), pp. 32-36, 176-177; and references below, p. 212 n.

his first wife Judith,¹ other than the agreement on John's marriage discussed below,² has not been discovered. Presumably his eldest daughter Frances would have received a marriage portion when she became the wife of William Goffe, though the couple during the period of the government of the Major-Generals at least, were far from affluent.³

The impression gained from the indenture above is that Whalley appears to have been more concerned to provide for his issue by his second wife, though on such limited evidence this is merely a speculative assumption.

V

The surviving documents among the Portland Manuscripts and those in the Public Record Office relating to the Marquês of Newcastle's action to recover Sibthorpe in 1662,⁴ record that Edward Whalley borrowed a sum of money from Sir Charles Harbord (Herbert), former Surveyor General to Charles I and later to Charles II,⁵ in order to discharge the sum owing to Warren. It

1. There were two daughters Mary and Judith who appear to have died young. See above, p. 102 n.

2. pp. 212-214.

3. Shortly after his appointment as Major-General, Goffe wrote to Thurloe attributing his shortage of ready money to the expenses attendant upon his regimental command and major-generalship. He indicated that the £100 allowed for such service was spent before he received it, and asked that a further loan of £100 may be 'delivered into the hands of my wife', with part of which she may pay the bills. Thurloe, *op. cit.*, IV, 217. See also *ibid.*, V, 150.

4. P.R.O. C5/529/5; Port. MSS. DD4P. 22/319-326 and ³29-340 (John Whalley's Actions of Ejectment re - Newcastle's tenants).

5. Harbord was regranted this office in June 1660 at a fee of £200 per an. C.S.P.D. 1660/61, 72. The office was confirmed upon him in June 1662 with reversionary rights to his son William, C.S.P.D. 1661/62, 420. It had earlier been disputed by Col. Daniel Treswell. C.S.P.D. 1660/61, 206, 259. For Harbord's work in this capacity see Gentles, thesis, 'The Debentures Market ...', Ch. VI, 'The Stewardship of the Crown Lands, 1650-1660', pp. 186-210; Ch. VII, 'The Crown Lands and the Restoration,' pp. 211-228; C.S.P.D. 1660-1670 *passim*. For details of Harbord's genealogy, see W. Rye, *Norfolk Families*, 2 vols. (Norwich, 1911-1913), I (1913), 297; F. Blomefield, *Norfolk*, VIII (1808), 121. Of Somersetshire descent, Harbord's later connections were with Norfolk. He held lands in Stanninghall, Frettenham, Horstead and Besthorpe. He was a Trustee for Henrietta Maria after Charles I's death in 1649, hence his connection with the manors of Terrington and West Walton. See below, Ch. 6, pp. 171-172.

is stated in one document that Whalley 'did solicit and request' Harbord 'to lend or procure for him the money'.¹ However, it is not clear from the evidence whether Harbord loaned the whole amount or the major part of it, though the former would appear to be the case. Robert Butler² and John Hanson in the indenture to be mentioned below were presumably acting on Harbord's behalf.

What degree of relationship existed between Whalley and Harbord at this particular juncture has not been discovered though it seems to have been an 'amicable' one and advantageous to both parties. In view of Harbord's former influence and the doubts in the mid 1650s about the permanence of the existing settlement, it is conceivable that Whalley may have regarded him as an important person to have on one's side in case of a reversal of fortune. We have seen Whalley's concern to try and make such arrangements as would ensure the continuance of Sibthorpe in his family whatever might happen. Might not Harbord's possible influence in the future have some effect in this respect? Perhaps this may be to read too much into the relationship. It could quite simply have been that Harbord had money to lend and Whalley had been put in touch with him by an intermediary - perhaps a scrivener or goldsmith. Whatever the truth may be, Harbord loaned Whalley the money to pay Warren, and in return (if one small but vital piece of evidence is correct) he saved himself from decimation.³

Details of the repayment of the £2,500 debt are indicated in Arthur Warren's own statement⁴ and in the indenture enrolled in Chancery.⁵ Whalley

1. Port. MSS. DD4P.22/326. Information of Sir Geoffrey Palmer, Attorney General to Charles II, in the action Newcastle v. Stapley et al., 1662.

2. This is Robert Butler the younger, barrister of Gray's Inn and son of Robert Butler the elder of Southwell, Notts. - one of Newcastle's feoffees in trust noted above, p. 128.

3. See Port. MSS. DD4P.22/330, 333.

4. Evidence given 6 Dec. 1662 in the action Newcastle v. Stapley et al., P.R.O. C5/529/5; Port. MSS. DD4P.22/325.

5. P.R.O. C54/3928/44. Search has failed to reveal details of the agreement of 21 Nov. 1656 among the Close Rolls. The Registers of Grantors and

was one of the parties in a tripartite agreement of 21 November 1656. The other parties were Warren, his mother Dame Dorothy and her husband Nicholas Lanyan; and Sir Charles Harbord, Robert Butler of Gray's Inn, Middlesex esq. and John Hanson of London gent. Warren related that on payment of the £2,500 capital sum, he conveyed the mortgage of Sibthorpe and all his interest therein to Harbord, Butler and Hanson.

VI

The Indenture of 25 November 1656 is between Whalley of the one part, and Richard Newman of Westminster esq., and Humphrey Butler of Gray's Inn, Middlesex gent. (son of Robert Butler the elder of Southwell), of the other. It is a conditional 'bargain and sale'¹ of the mortgage of Sibthorpe to take effect only if Whalley defaults on the payment of the capital sum and interest which are stated to have been mentioned in the transaction of 21 November 1656, and are here indicated a second time. At 6% interest (the legal maximum since 1651) the amount due was to be paid in two instalments - one of £75 on 27 May, and the other of £2,575² on 20 November 1657 'in the Common Dining Hall of Lincoln's Inn.'

Since Richard Newman³ was Sir Charles Harbord's son-in-law, the latter apparently wished to settle the mortgage upon him if Whalley failed to repay

(continued) Grantees were checked under the appropriate names but without success. There is, however, a summary of the indenture given in P.R.O. KB.27/1847/Rot.399.

1. For examples of such type of mortgage, see W. West, The First Part of Simboleography ... (Lond., 1605), Sections 418, 419. See also W. Holdsworth, A History of English Law, VII, 375.

2. i.e. £75 interest after 6 months; £2,500 principal + £75 interest after 1 year. Since the £200 rent charge to Warren had been calculated on 8% interest, Whalley was saving £50 per annum - a fact indicated by Sir Geoffrey Palmer, in the action Newcastle v. Stapley et al., Port. MSS. DD4P.22/326.

3. Newman of Dorsetshire descent, married Anne, eldest daughter of Sir Charles. For Genealogy of the family, see J. Burke, Commoners, II (1835), 111-112; Somerset Arch. and Nat. Hist. Soc. Proceedings, XXXVI (1890), 156.

the loan.¹ Humphrey Butler presumably was acting on Newman's behalf in a similar capacity to that performed by Robert Butler and John Hanson for Sir Charles.

The indenture clarifies the various interests in the Manor at this time. In addition to the mortgage now held by Harbord, there is mention of a lease granted to William Clayton,² gent. of Romeley, Derbyshire and Roger Jackson gent. of London by the Drury House Trustees for the life of Newcastle,³ and also the jointure made to Katherine Whalley in 1655.⁴ Whalley apparently renewed the lease to Clayton and Jackson when he acquired the reversionary rights of Sibthorpe from Newcastle's trustees. No further details, however, have come to light regarding this lease, thus it is not possible to state whether it was still in existence when Whalley was forced to flee abroad in 1660, and whether Clayton and Jackson were still tenants then.

The further history of Sibthorpe is closely connected with the marriage of Whalley's eldest son John in 1658 and is therefore resumed in Chapter 8 of this study.

VII

On 31 August 1652, five months after his purchase of Sibthorpe, it was recorded that Whalley had contracted with the Drury House Trustees to purchase Welbeck Manor and Park, Bellhouse (Bellers) Grange and Sloswick Close,⁵

1. It may be that Harbord actually owed Newman some part of a dowry for his daughter, and this was security for it.

2. See above, p. 119 and n.

3. Presumably they had been granted this lease after the confiscation of Newcastle's life interest in the property but before the sale to Whalley. This lease may have been noted in Whalley's purchase of Newcastle's life interest. For Clayton's purchases of Newcastle's property, see C.C.C., III, 1735-1737.

4. C54/3876/43. See above, p. 134. Since the 1655 transaction, Whalley must have made use of the power he had reserved in that settlement regarding the life interest of Henry Whalley after Katherine's death, otherwise it would have been impossible for him to state in the bargain and sale of the mortgage that Sibthorpe was 'freely and clearly acquitted from all other titles, troubles, charges, encumbrances and demands whatsoever.'

5. P.R.O. SP.23/17/195; C.C.C., III, 1736.

further estates which had originally been the property of the elder Richard Whalley.¹ Welbeck was thus released from sequestration and Goldsmiths' Hall as was the usual procedure in such circumstances, directed the County Committee to forbear to levy or collect further rents. Whalley had paid in half the purchase money due on the contract by this date. It seems most probable, however, from the available evidence that Whalley did not long retain his interest in Welbeck.

There are three instances recorded by Margaret, Duchess of Newcastle in the memoirs of her husband which tend to confirm this.² Two quotations will suffice. She states: '... and my Lord's estate being then to be sold outright, Sir Charles, his brother, endeavoured, if possible to save the two chief houses, viz. Welbeck and Bolsover, being resolved rather to part with some more of his land, which he had lately compounded for, than to let them fall into the enemy's hands.'³ Complaining of the destruction of Newcastle's parks wrought during the Civil War and Interregnum, the Duchess indicated that Welbeck was the only one in some state of preservation⁴ '... for my Lord's brother Sir Charles Cavendish, who bought out the life of my Lord in that lordship, saved most part of it from being cut down;...'

No indenture has been discovered in the Chancery close rolls recording the purchase by Whalley of the reversionary rights in Welbeck; nor is there any indication of such transaction among the Portland Manuscripts. In view of these facts, it seems likely that Whalley concluded a private agreement with Sir Charles Cavendish and Newcastle's other trustees. If so, then this must have been effected within the few months after Welbeck was released from sequestration and the death of Sir Charles on 4 February 1653/4.⁵

1. See above, p. 1.

2. Firth, Newcastle, pp. 57-58, 64-65, 70-71.

3. Ibid., pp. 57-58.

4. Ibid., pp. 70-71, and see below, pp. 199-200.

5. See Firth, Newcastle, p. 58 n. where the portrait of Sir Charles as depicted by Clarendon (Life VI, 29) is quoted in full. See also Turberville,

What is particularly significant is that Whalley's payment of the first moiety of the purchase price for Welbeck occurred almost exactly at the time when he had been concluding the agreement with Sir Charles and the others to buy their reversionary interest in Sibthorpe.¹ Could it be that there was some kind of exchange agreement with Cavendish?

Assuming that Whalley could buy from the Treason Trustees no more than Newcastle's life interest in either Sibthorpe or Welbeck, he needed also to purchase the reversionary interest of Newcastle's heirs if he were to obtain the full ownership or fee simple of either estate. If therefore he had acquired Newcastle's life interest in both manors and Cavendish et al. held the reversionary interest in both, might both parties not have arranged a series of transactions resulting in transferring complete ownership of Sibthorpe to Whalley and of Welbeck to Cavendish? The fact that Whalley had acquired a life interest in Welbeck would have given him a strong bargaining position to induce Cavendish and the others to surrender their reversionary interests in Sibthorpe. Admittedly, this is again mere conjecture and no evidence has been found to verify it but it seems the most plausible guess under the circumstances.

(continued) op. cit., I, 135; D. Grant, Margaret The First, A Biography of Margaret Cavendish, Duchess of Newcastle 1623-1673, p. 132.

1. See above, pp. 129-130.

Chapter 6

EDWARD WHALLEY'S MAJOR LANDED TRANSACTIONS. (II)

(a) Whalley's Scottish Donative

I

It was at the conclusion of the Scottish campaigns¹ terminating at Worcester on 3 September 1651 that a grateful Parliament had shown its appreciation of the victories of its military commanders, and as a major participant in these actions, Whalley's services were recognised with a grant of land.

The sequestered Scottish estates which were under the management of Richard Saltonstall, Samuel Disbrowe and Edmund Syler (three commissioners sitting at Leith)² provided the fund from which Parliament rewarded its officers and officials. The most important officers who benefited in this way were Major-General Lambert who was granted lands valued at £1,000 a year and Lieutenant-General Monck, Commissary-General Whalley and Colonels Ingoldsby, Overton and Pride - lands at £500 a year apiece. Colonels Okey and Lilburne received landed grants of £300 and Colonel Alured £200 yearly.³

1. Whalley had been promoted to Commissary-General by Cromwell before the latter began his march into Scotland in late June 1650. As second in command of the horse under Lieut.-General Fleetwood who had been similarly promoted, both had to wait some time for the pay due to them in this capacity. Cromwell wrote to Bradshaw on their behalf on 17 June 1651, asking that they be placed in the establishment - a request which was granted when the Commons on 26 June ordered that both Generals be paid 'from the Date of their said respective Commissions.' See Abbott, *op. cit.*, II, 424, citing Lomas - Carlyle, Supp. 66; H.M.C. Portland MSS. I, 607; C.S.P.D. 1651, 264; C.J., VI, 592.

2. C. H. Firth, ed., Scotland and the Commonwealth, 1651-1653 (Scottish Hist. Soc. XVIII, Edinburgh, 1895), Introduction, xxxi. For details of the settlement of the civil government and the apportionment of 'the public revenue of Scotland arising by way of assessment, custom, late King's revenue, sequestrations or otherwise', see *ibid.*, Intro., particularly xxxiii-xxxvi.

3. *Ibid.*, xxxii, citing C.J., VII, 14, 77, 132, 247. The actual entry in C.J., VII, 14, relating to Whalley is as follows: 'Resolved that Lands of Inheritance in Scotland, of the yearly Value of Five hundred Pounds

On 23 January 1651/2 the Commons ordered that the votes relating to the settlement of lands on Lambert, Alured, Whalley and Okey be made known to the Commissioners of Parliament in Scotland who were then to proceed with all expedition to effect the settlement.¹

There were difficulties, however, regarding the Scottish lands to be allocated to Whalley, for a further entry of 26 February 1651/2 refers to a petition presented by him to the Commons. Creditors of the dispossessed Scottish royalist, had apparently a prior claim on the estate designated for Whalley, for his petition was 'referred to the Committee of Obstructions for Sale of Lands forfeited to the Commonwealth for Treason, to hear and determine the Business, and to consider of other lands to be set out for Satisfaction of the Creditors.' If this could not be conveniently effected, then other lands of equal value were to be settled on Whalley and his heirs, 'in lieu of those lands to which the Title of the Creditors shall be allowed.'²

Finally on 1 September 1652, Disbrowe and Saltonstall wrote to Lenthall, stating that according to the orders of the Parliamentary Commissioners, 'they had surveyed the Manor House and lands of Liddington amounting to 500 l. per annum and set out the same to Commissary General Whaley'.³

(continued) Sterling, be settled on Commissary General Whalley, and his Heirs, for his great Services'. See also The Parliamentary or Constitutional History of England ..., 2nd ed., XX (1763), 50; C. H. Firth, Cromwell's Army, p. 189; C. H. Firth, ed., The Memoirs of Edmund Ludlow, 2 vols. (Oxford, 1894), I, 285; D. Masson, The Life of John Milton ..., 6 vols. + Index (Lond., 1871-1894), IV (1877), 296.

1. C.J., VII, 77. Of the £500 rental, in the cases of Ingoldsby, Overton and Pride, £100 was reserved for use of the state. Ibid., 132.

2. Ibid., 97. The lands originally allocated to Whalley are not specified, nor is it stated whether his claim or that of the creditors was given precedence. It cannot be assumed that Liddington was a different grant from that first named simply because it was settled upon him on 1 Sept. 1652, some seven months after his petition was read.

3. H.M.C. Portland MSS., I (1891), 658. The same letter noted that the manor and lands of Kineale had been allocated to General Monck. Ingoldsby was granted the manor and park of Hamilton. C. H. Firth ed., Scotland and the Commonwealth, 74, letter to Lenthall from Saltonstall, Disbrowe and Syler, dated Leith, 18 Jan. 1652/3, citing Tanner MSS. LIII, f. 202.

II

Liddington or Lethington¹ in Haddingtonshire was part of the estates of John Maitland, second Earl of Lauderdale, one of the most prominent Scottish Commissioners involved in the drawing up of the Solemn League and Covenant, a lay elder on the Westminster Assembly, member of the Committee of Both Kingdoms and foremost in the tortuous negotiations designed to effect a settlement between Charles and his Scotch subjects at the expense of the Parliamentary Presbyterians and Army Independents.

Lauderdale's career is too well known to demand more than brief mention at this stage.² Never a popular figure with the army, his meetings with Charles during June and July 1647 rendered his intentions highly suspect. It was rumoured in June 1647 that he was entrusted with a letter to Prince Charles urging the latter to come to Scotland and take up arms on his father's behalf.³ On a second meeting with the King on 22 July, plans were discussed for bringing the Scottish Army into England, and Charles offered to write a letter to Edinburgh to this effect.⁴

As a leading figure in the Army Council, involved in the Army's negotiations with Charles, and custodian of the King from June until the escape from Hampton Court on 11 November 1647, Whalley doubtless gained much insight into Lauderdale's character and was as suspicious of the Scottish Earl's intrigues as the common soldiery were.

On 30 July when Lauderdale again visited Charles at Woburn, presumably to get the letter for Edinburgh, some of the soldiers, extremely apprehensive

1. A number of variants of the spelling exist: e.g., Ledington, Leidingtoun, Lethingtoun. For details of some of the Lauderdale estates see The Acts of the Parliaments of Scotland, VII (1820), 134-161.

2. For his career see e.g., D.N.B.; W. C. Mackenzie, The Life and Times of John Maitland, Duke of Lauderdale (1616-1682), (Lond., 1923).

3. S. R. Gardiner, History of the Great Civil War, 1642-1649, 4 vols. (Lond., 1893-1894), III (1894), 120; Firth, Clarke Papers, I, 136.

4. Gardiner, op. cit., III, 125, 164.

of Lauderdale's designs, entered the Earl's chamber, forced him to rise and dress and leave the Court. Since such conduct might be construed as an affront to the Scottish nation (as Lauderdale himself declared it would be) Whalley endeavoured by command and then by persuasion to induce the soldiers to permit Lauderdale to stay - but to no avail.

On the complaint of the Scottish Commissioners at 'the hard usage of the Earl of Lauderdale',¹ Whalley was directed by Fairfax to give his account of the affair. Though incensed at the breach of discipline in failing to obey his command, and unable to condone their method of procedure, it is certainly evident from his narrative where Whalley's sympathies lay. He could understand the soldiers' provocation and though his remarks on Lauderdale's conduct are not designed to give offence, it is plain to see that his dislike of the Earl is scarcely less than that of the soldiers.²

Such digression may perhaps be excused to illustrate Whalley's previous known contacts with Lauderdale and to explain his attitude to the Earl. It is not without significance that he should be rewarded with the family seat of this premier Scottish delinquent who had been one of those directly responsible for the English Army's 'invasion' of Scotland in 1650.

After Lauderdale's capture at Worcester on 3 September 1651, he was imprisoned, first in the Tower, then in Windsor Castle from which his release was ordered on 3 March 1659, and at Portland until Monck's entry into London in March 1660.³

1. Letter to the Speaker of the Lords, dated 1 Aug. 1647. B.M. Thomason Tracts. E. 400 (33). Fairfax apologised for the 'rudeness of the soldiers' in his letter to Lenthall to be communicated to the Scottish Commissioners, dated 20 Aug. 1647. T.T. 669 f. 11 (67). See also T.T. E. 404(28).

2. See 'A Narrative of the Souldiers demeanour towards the Lord Lauderdale at the Court at Woburne in July last ...,' dated 11 Sept. 1647, T.T. E 407(36).

3. D.N.B.; C.J., VIII, 860. For the sequestration in Sept. 1648 of Lauderdale's property in Aldersgate St. London, and sale of his goods for £601, see ibid., VI, 39, 44, 48; L.J., X, 511, 524, 528-529, 533-536. On 24 Mar. 1652, the Treason Trustees discharged from sequestration 5 houses in the above street and sold them to Thos. Burgh. C.C.C. IV, 2978.

In the Ordinance of Pardon and Grace to the People of Scotland, dated 12 April 1654,¹ Lauderdale was one of those specifically excepted from pardon.²

III

Though Whalley had been granted the estate of Liddington, he did not take actual seisin of it until 1655,³ presumably owing to circumstances which did not permit of a straightforward and speedy settlement. Provision had to be made for the wives⁴ and children of the excepted persons, the claims of creditors⁵ and other debts on the estates of the excepted persons had to be met, and the Government was anxious to honour the gifts bestowed by Parliament on those who had done service to the Commonwealth. An Ordinance was therefore passed on 12 April 1654 designed towards this end.⁶ It was enacted that all the lands and tenements of the excepted persons which belonged to them on 18 April 1648 were 'vested and settled ... in the real and actual possession and seizin' of seven Commissioners, among whom were Richard Saltonstall and Edward Syler, previously mentioned.⁷

The task of these Commissioners was far from easy as they attempted in the ensuing months to tackle the major problems concerned with the settlement of these Scottish estates. Their difficulties are adequately borne

1. See Acts of the Parliaments of Scotland, VI, part II (1872), 817-821; Firth and Rait, Acts and Ordinances, II, 875-883.

2. Ibid., 876.

3. See below, p. 150.

4. e.g., The Countess of Lauderdale had lands settled on her to the value of £300 p.a., later increased to £600 p.a. A.P.S., VI, part 11, 819; Firth and Rait, op. cit., II, 879; C.S.P.D. 1655, 298.

5. For the clause relating to creditors and the specific time limit for making claims, see A.P.S., VI, part 11, 818-819; Firth and Rait, op. cit., II, 878.

6. Entitled 'An Ordinance For Settling the Estates of severall Excepted Persons in Scotland, in Trustees to the uses herein expressed.' A.P.S., VI, part 11, 821-822; Firth and Rait, op. cit., II, 884-888.

7. See above, p. 141.

out in a petition to the Protector from Colonel David Barclay on behalf of his fellow Commissioners.¹

One of the major complaints relates to the release from forfeiture of the estates of some of these excepted persons. The Earls of Seaforth, Lowdown, Athol, Glencairn; Lords Kenmure, Lorne and Machlin, and the Laird of Womatt are cited as examples in this respect.² One of the clauses of the Ordinance of 12 April 1654 had declared that if the estate of any excepted person was insufficient to meet the claims on it of wives and creditors etc., then 'a proportionable abatement of what the premises shall fall short to satisfie ...' was to be made from the lands of other excepted persons.³ Barclay had thus just cause for complaint that 'by the release of so many of them,... the remnant will not answer the ends for which they were invested in them ...'⁴ Those lands that are overburdened with donatives, Barclay asserted, will 'hardly bear their own incumbrances, and those that should have granted relief are released from forfeiture.'⁵ To further emphasise the difficulties and justify their complaints, the Commissioners submitted a list of the owners of forfeited estates, the yearly value of these and the charges upon them. The estates of James and William, Dukes of Hamilton and the Earl of Lauderdale will suffice as examples.⁶

1. C.S.P.D. 1655/56, 361-362 under date 10 June 1656.

2. Noted in a further letter to the Protector from the Commissioners, dated Leith, 16 Dec. 1655, ibid., 362.

3. A.P.S., VI, Part 11, 821; Firth and Rait, op. cit., II, 887.

4. i.e. the commissioners.

5. C.S.P.D. 1655/56, 361.

6. Owners	Yearly Value	Charges	£	s.	d.
James and William	£2,838. 5. 0.	Debts	112,041.	6.	3.
Dukes of Hamilton		Donatives a year:			
		[6 names are given]	2,080.	0.	0.
Earl Lauderdale	£2,161.14. 1.	Debts	33,892.	18.	4.
		Donatives a year:			
		Com-Gen. Whalley	500.	0.	0.
		Judge Swinton	400.	0.	0.

Ibid., 362. For a further reference to difficulties of the Commissioners, see C.S.P.D. 1656/57, 45.

IV

As early as May 1654, the Council of State was obliged to consider an alternative method of satisfying those who had been granted donatives and could not enjoy them, 'on account of the Ordinance for settling Scotland.'¹ From a report presented by a Council member, Colonel Philip Jones, that body approved the suggestion that holders of donatives might, if they wished, be satisfied in cash rather than in actual lands 'out of the fines imposed by the late Ordinance of grace after the rate of 10 years' purchase, to be paid out of the first moneys that come in from the said fines.'² These terms were later embodied in an Ordinance of 31 July 1654.³ All who wished to avail themselves of this method were to declare to the Scottish Trustees by 1 September 1654 their willingness to do so. This method was certainly supported by the creditors in Scotland, as is illustrated by a spokesman on their behalf, one Andrew Ramsey, asking that the estates may be freed from donatives entirely and 'made liable to their just debts'. He also desired 'that the forfeit persons may be restored to their estates, on paying as much as, with the rest received, will answer the donatives at 10 years' purchase'.⁴ The creditors thus wished the fines to be the sole means of satisfying donative holders and not merely an alternative method.

Whalley somewhat tardily decided originally to accept satisfaction in money as the following note from Cromwell indicates:

Upon the humble desire of Com: Gen: Whalley to have money for his donative in Scotland, out of the Scotch fines, as others

1. i.e. because of the numerous heavy claims on the estates which demanded prior satisfaction. See C.S.P.D. 1654, 186.

2. Ibid., See also, 220, 260. For the amounts of fines imposed on the Scottish delinquents, see Firth and Rait, op. cit., II, 881-882.

3. See C.S.P.D. 1654, 276; A.P.S., VI, part 11, 829. Not printed in Firth and Rait.

4. C.S.P.D. 1655/56, 94 dated 2 Jan. 1655/56. For further orders of the Council of State relating to the 'fine' to be paid by excepted persons in satisfaction of donatives and the conditions whereby their estates might be released from forfeiture, see ibid., 1656/57, 108, 134-135, 151, 357, 361.

are to have, not^{wth} standing he hath omitted to put in his clayme according to the time formerly prefixt. I Referre his humble request to the Consideration of the Councill.¹

As a result of this, the Council of State gave Whalley liberty to make his declaration before 25 February 1655/6.² Had Whalley availed himself of this offer, with lands valued at £500 yearly, he would have received £5,000 cash settlement, but for some reason he decided to retain his interest in the estate of Liddington. His motive for doing so is not recorded, but it is possible that the problems relating to the settlement of the Scottish fines induced him to change his mind. As the delays in settling these became apparent, and the anticipated sum not fully realised, Whalley perhaps decided that it would be more advantageous to enjoy the estate itself.

A few months after the Ordinance of Pardon of 12 April 1654, the Council began to receive petitions for the reduction of fines.³ By Ordinances dated 6 and 19 April 1655, several of the fines were reduced, some suspended and others discharged completely.⁴ There were also other claims to be met from the fines other than those of the donative holders. The sum of £9,717.18.6. owing to former creditors of the late King, his Queen and Prince Charles was to be deducted from them, by an Ordinance of 2 September 1654⁵ - a claim which long remained unsettled. There were also the sums the Council of State ordered to be paid to individuals such as Colonel Thomas Horton for his services to the Commonwealth, to Sir

1. P.R.O. SP.18/98 No. 6, p. 61, dated 4 June 1655; C.S.P.D. 1655, 197. Whalley's 'desire' is not included with Cromwell's letter. See also Abbott, op. cit., III, 735 where he comments 'that the Scottish Philistines were being spoiled for the benefit of their Independent masters in much the same fashion as the English.'

2. P.R.O. SP.25/76/127; C.S.P.D. 1655, 202.

3. See e.g. C.S.P.D. 1654, 246, 249, 251, 263, dated 7, 11, 12 and 25 July respectively.

4. See e.g. ibid., 1655, 116-118, 129-130, 134, 247; A.P.S., VI, part 11, 829.

5. See e.g. C.S.P.D. 1654, 361; ibid., 1655/56, 116, 117, 140, 312, 320, 330-331; 1657/8, 264, 287-288.

William and Lady Selby and to Alderman Fowke of London.¹ Also, Mary Howard (former wife of Archibald or Patrick Hamilton) in lieu of lands of £500 per annum settled on her and her children, claimed satisfaction out of the fines at 10 years' purchase.² Such in fact was the pressure on the fines that an Ordinance of 13 July 1655 directed the method and priority of the payments.

Those donative holders who had elected to receive money payment instead of land were given pride of place, for George Bilton, Deputy Treasurer at Leith, was ordered to pay one half of the sum due to them 'in the same order as they did one before the other declare in writing under their hands and seals' their willingness to accept cash payment. The Ordinance then specified the order in which other moieties should be paid, and when these were settled, the second moieties were to be discharged in similar fashion. The Council, however, saw fit to add that in case the fines were insufficient to discharge the second moieties, then 'some other way' should be found to do this.³

Between 4 June - the date of Cromwell's letter to the Council - and 27 July 1655, Whalley apparently decided to adhere to the original scheme of accepting the Scottish estate. The Ordinance for payment of the first moieties, it will be noted, had been passed within this period.

V

Whalley was granted the estate of Liddington by charter from the Protector on 27 July 1655 in implement of the earlier grant by the English Parliament which had been finalised on 1 September 1652.⁴ Thomas Ffoules,

1. See A.P.S., VI, part 11, 829-830; C.S.P.D. 1655, 243-340; *ibid.*, 1655/56, 71; 1656/7, 249, 301, 310.

2. *Ibid.*, 1655/56, 173-174, 192, 223, 303, 361.

3. P.R.O. SP.25/76/181-183; C.S.P.D. 1655, 243; A.P.S., VI, part 11, 829-830.

4. See above, p. 142.

clerk to Whalley's brother Henry, who was then Judge Advocate to the Army in Scotland, was directed to act as attorney in conveying the estate¹ to Whalley who took 'sasine' of it on 25 September 1655.² The various parcels of land on the estate, their acreage and the former tenants where known are specified in detail, as is the usual procedure in such conveyances. For some reason, however, and one which seems particularly unusual in view of his former course of action, Whalley resigned the lands in the following year, only to receive a new charter on 7 August 1656. An abridged copy of the warrant for the second charter is entered in the Register of Signatures kept in the Scottish Exchequer,³ but no text exists for the first charter to note the difference between them and thus explain the earlier resignation.⁴ In most cases where someone took a new grant in favour of himself it incorporated a change in the succession to the property, either by taking a wife or a son in as joint proprietor, or else listing the heirs who were to succeed in various eventualities. No such explanation applies in Whalley's

1. The term manor in Scotland is used in the limited sense of the actual manor house. Liddington or Lethington which was later renamed Lennoxlove by the Earls of Lauderdale lies just south of the borough of Haddington in Haddingtonshire or East Lothian.

2. Scottish Record Office, Edinburgh. Register of Sasines 26/3 f. 271. Date of recording, 4 Oct. 1655.

3. E2/60 f. 144. Confirmatory letter from the Assistant Keeper, Scottish Record Office, Edinburgh, 18 May 1971.

4. Resignation formed an important element in Scottish conveyancing. Unlike England, Scotland retained the feudal system of landholding in its entirety, that is every new vassal had to enter with (i.e. be accepted by) the King, or the subject superior where the vassal was not a tenant-in-chief of the Crown. Thus if lands were sold or changed hands in any other way, the old proprietor resigned them into the hands of the King or other superior, who re-granted them to the new owner. Secondly, as stated above, the proprietor could resign in favour of himself and a third party or a new series of heirs. Lastly, the proprietor could resign in order to get a new grant which was in some way different from the one by which he had previously held the lands - as apparently Whalley did. See e.g. *An Introduction to Scottish Legal History*, by various authors (Stair Society, XX, Edinburgh, 1958), pp. 161-162.

case, however.

It is not possible to give the exact date of Whalley's resignation of Liddington since the Exchequer Register of Registrations for this period does not exist.¹ Under Scottish law, however, for technical reasons of conveyancing, it was the standard practice to give the resignation, warrant and charter the same date.² Obviously, Whalley must have resigned the lands shortly before the warrant since preliminary negotiations to prepare this for signature would have been necessary. After this it took some time to prepare the charter which, as indicated, was held to be granted on the date of the warrant.

These technicalities, however, still do not explain the reason for the two grants, and unfortunately we have no means of knowing this. We must simply accept the fact that it was so in the absence of any further information.

VI

Whalley again took 'sasine' of Liddington on 5 September 1656,³ and retained possession of it until he was forced into exile shortly before the Restoration.⁴ Confirmation of this is afforded by the fact that on two occasions in 1656 and 1659, Whalley was named Commissioner for Supply for

1. Confirmed as above in n. 3, p. 150.

2. The reason for this was that since technically the resigned lands returned into possession of the King or subject superior until they were re-granted, it would have been possible for the King in certain circumstances to have demanded the rents or profits of the lands falling due in the intervening period. It was to obviate such claim that the dates were made to coincide - established practice by the 17th century.

3. Scot. Rec. Off. Reg. of Sasines 26/4 f. 326. Date of recording 12 Sept. 1656. Reference to both 'sasines' are contained in the Index to Particular Register of Sasines for Sheriffdoms of Edinburgh, Haddington, Linlithgow and Bathgate, VI, 1654-1660, 474. (H.M.S.O., Edinburgh, 1959).

4. Whalley and Goffe took ship for America on 4 May 1660. They arrived on 27 July. T. Hutchinson, The History of the Colony of Massachusetts' Bay, I, 231; L. A. Welles, The History of the Regicides in New England, p. 25.

Haddingtonshire.¹

On 28 April 1657, at a meeting in Council, it was recommended that a letter be sent to the Council in Scotland informing them of 'a summons lately sent from an officer of the Earl of Lauderdale to the persons holding part of his estate under a donative from Parliament to quit their possession', and requesting them to take particular care of the interests of those so threatened.²

A further entry in the State Papers on 13 May 1658 indicates that Sir Charles Wolseley, Lord Strickland and Mr. Secretary [Thurloe], were to speak with Lord Whalley about his donative and the rents detained from him and to report to the Council.³ On 25 May, the report of the Committee on Whalley's business was read. It appears that the Scottish Council had misinterpreted some words in a letter sent to them by Cromwell who had been prevailed upon to write on behalf of the Countess of Lauderdale.⁴ The Scottish Council had then made an order prejudicial to Whalley, and one which entrenched upon

1. An Act begun at Westminster 17 Sept. 1656, entitled 'An Act for Raising of Fifteen Thousand Pounds Sterling in Scotland,' and to be levied from 25 Mar.-25 Jun. 1657 at £5,000 per month. Haddingtonshire was assessed at £192.8.6. monthly. See A.P.S., VI, part 11, 849, 852; Firth and Rait, Acts and Ordinances, II, 1142, 1150. Also, an Act of 26 Jan. 1659/60, entitled 'An Act for an Assessment of One Hundred Thousand Pounds by the Moneth, upon England, Scotland, and Ireland, for Six Moneths.' Scotland was to contribute £12,000 monthly. Haddingtonshire was assessed at £463.14.4. monthly. A.P.S., VI, part 11, 879, 882; Firth and Rait, op. cit., II, 1355, 1356, 1390.

2. C.S.P.D. 1656/57, 357; A.P.S., VI, part 11, 763.

3. P.R.O. SP.25/78/617; C.S.P.D. 1658/59, 23.

4. Neither Abbott nor Carlyle (ed. Lomas) prints any letter sent by Cromwell to the Scottish Council alluding to the Countess by name. It is possible though it seems very unlikely that the order prejudicial to Whalley may have arisen from Cromwell's letter to the Scottish Council on 8 May 1658. This directed that £1,200 should be set aside for the provision of preachers and teachers in the Highlands out of the still recoverable rents and revenues of alienated Chaplaincies, Deaneries, etc. of the old Popish and Episcopal Church of Scotland. See Abbott, op. cit., IV, 783 n., 794-795, citing A.P.S., VI, part 11, 875; Carlyle (ed. Lomas), op. cit., III, 512-513; D. Masson, Milton, V, 346-348. Nothing more directly relevant to the matter has been found.

the rights of his donative 'whereof he hath been divers years in possession.' Whalley's workmen had in consequence been debarred from felling some alder trees, and the tenants, taking advantage of the order, had detained the rents. The Committee believed that such action had been far from Cromwell's intention and directed 'That it be offered to his Highness as y^e advise of y^e Counsell' that he 'wilbe pleased' to write to the Scottish Council commanding it to revoke any order made by them on the said letter, which had been detrimental to Whalley's interests. The latter Council were also to give notice of this directive to Whalley's Chamberlain at Liddington, in order that the tenants might not neglect their duties to him.¹

Whether Whalley continued to enjoy Liddington without further trouble until he was forced to flee in 1660 is not recorded. If such were the case, then less than two years remained to him to do so.

The Earl of Lauderdale, after the Restoration, with consummate skill and craft, set about to repair his ruined fortunes, regaining by Acts of Parliament lands confiscated from him by the usurped government.²

(b) Terrington and West Walton

I

When we come to consider the facts relating to Whalley's possible purchase of the Crown manors of Terrington and West Walton in Norfolk, the evidence is very slight. It rests on two entries in the Journals of the

1. P.R.O. SP.25/78/633, inscribed in margin, 'Letter sent 29 touching the Lo. Whalley.' C.S.P.D. 1658/59, 32.

2. See A.P.S., VII, 131-134 (for 1661). Under one Act (p. 134), Lauderdale was secured against the effects of the Act Rescissory which had swept away those liberties secured for the people of Scotland by Scottish Parliaments since the troubles with Charles I began. 'All rights and infestments granted to him or his father depending on the rescinded Acts were to be valid notwithstanding the Act Rescissory.' See W. C. Mackenzie, The Life and Times of John Maitland ..., p. 212 n. A further Act appointed a Commission to enquire into Lauderdale's losses during the Cromwellian occupation. As a result, he was granted the forfeited lands of Judge John Swinton.

House of Commons.

Under the date 23 June 1660,¹ are listed the purchasers of the Honours, Manors and Lands which were part of Queen Henrietta Maria's jointure and as such were to be restored to her possession. Whalley is shown as the purchaser of Terrington and West Walton. A further entry on 27 June,² however, renders the possibility that he may have possessed both manors more uncertain, for the Committee considering the Queen's jointure lands directed 'That the Manno^r of Tirrington be omitted out of the ord^{er} of this House of the 23d of June instant.' No further entry reveals why this was done.

Brief as the details in the Journals are, they must be regarded as reliable in the absence of further confirmation or a contradictory assertion, and this chapter assumes, therefore, that at some stage during the Interregnum Whalley appears to have owned one or perhaps both of the manors. Since the evidence is, however, of such a limited nature, the chapter cannot be so directly concerned with Whalley's landed transactions as the one for example, which dealt with his negotiations to acquire Flawborough and later, Tormarton in its stead. It may also be argued that much of the material discussed below is not directly relevant to the family fortunes in general or to Edward's in particular. This may be so, but since the probability exists that Edward was associated with these manors, then I believe it justifiable to include any matter bearing upon their history during the Civil Wars and Interregnum.

The purpose of the chapter is thus to examine certain key factors relating to Terrington and West Walton from their sale by the Trustees of Worcester House in 1650, the acquisitions of parcels of them by Whalley's officers and probably by Whalley himself, and the eventual restoration of

1. C.J., VIII, 73; House of Lords MS. Vol. LI, Commons' Journal from 25 April-13 Sept. 1660. ff. 388-391.

2. C.J., VIII, 76; MS. Vol. LI f. 408. In the MS. entry f. 390, Terrington has been struck through and a marginal note added later - 'omitted by ord^{er} of 27 June 1660.'

the manors to Henrietta Maria in 1660. None of the sources examined can be regarded as conclusive in proving Whalley's ownership - the most they can do is to support the probability and lend weight to the statements in the Commons' Journals.

II

The most comprehensive and compact piece of evidence relating to the purchase of Crown lands by Whalley's regiment is supplied by Harleian MS. 427.¹ A particularly useful feature of this volume is that it lists the names of every trooper in the regiment in February 1649/50 when negotiations were first begun to acquire Crown property.² The signatures of 732³ soldiers follow the letter of attorney⁴ authorising Captain John Grove and other officers to act on their behalf in bidding for Crown lands with the debentures owing to them.⁵ The arrears of each officer (apart from Whalley) and every trooper are listed in the MS. - first, those owing for service in Manchester's army⁶ and then for that in the New Model under Fairfax.⁷

1. Undated but c. 1650.

2. Gentles, thesis, 'The Debentures Market ...', p. 135 observes that it is misleading to speak of lands being 'set aside for the payment of particular regiments', as for example, Firth does (Cromwell's Army, p. 203). To bid for is a more appropriate term for there was no prior allocation. See also the writer's description of the power of attorney which 'enabled large numbers of debentures to be brought together and concentrated on a single property,' pp. 133-137, and below, pp. 161-162 in this study.

3. B.M. Harl. MS. 427 ff. 47b-53b. Whalley's own troop, 111 names; Major Swallow's troop, 124; Capt. Grove's, 155; Capt. Evanson's, 103; Capt. Savage's, 110; Capt. Chillenden's, 129. Gentles strangely did not make use of this MS.

4. Ibid., ff. 47a-47b.

5. The trustees appointed to act with Grove were Captains Evanson, Savage and Chillenden, Captain-Lieutenant Daniel Dale and Lieutenants Sabbarton and Chamberlen. See Appendix J for their arrears, and for details of their military careers see Firth and Davies, Regimental History, I, passim, but particularly Ch. 11, Sect. 12 on Whalley's Regiment, 209-230.

6. B.M. Harl. MS. 427 ff. 25 to 34b. 588 names are noted as compared with the 732 who later served in Whalley's regiment.

7. Ibid., ff. 35-46.

Whalley's name is significantly absent, since, as we have seen, he had been authorised to use his arrears in purchasing Flawborough.¹

Under the terms of the Act of 16 July 1649² for the sale of Crown Lands, Grove and the other trustees contracted for the manors of Terrington and West Walton, Norfolk; part of Havering Park, Essex; part of the manor of Hemel Hempstead, Hertfordshire; Bestwood Park and Forest, Nottinghamshire, and certain tenements in the Strand in the parish of Mary le Savoy, Middlesex.³

Grove first negotiated for the purchase of the Norfolk Manors on 8 July 1650.⁴ The payment was divided into two moieties involving equal sums of £6,053.16.7 $\frac{3}{4}$. The first contract headed Terrington contains 230 names,⁵ and the second one, 301 names.⁶ In the first moiety, the two main troops involved are those of Whalley and Major Swallow with 99 and 69 names

1. Ch. 5 above.

2. For the Act see Firth and Rait, Acts and Ordinances, II, 168-191; Gentles, op. cit., Ch. 11, particularly pp. 54-69. \wedge

3. B.M. Harl. MS. 427 passim. S. J. Madge, Crown Lands, p. 223 lists the purchases of 35 Regiments, the locality of Crown lands purchased and the contracts which amount to £497,242.12.0. He records the total for Whalley's Regiment as £37,264.2.0. which comprises 7 contracts made by Grove, ranging from £1,120 [sic] to £12,108. These figures conflict with those given in Harl. MS. 427 which are confirmed by B.M. Add. MS. 30208, General Index of Crown Lands (classified under counties), and Gentles, op. cit., p. 135.

Terrington and West Walton (2 moieties)	12,107.13. 8 $\frac{1}{2}$.
Havering Park	4,158.14. 3 $\frac{3}{4}$.
Bestwood	6,953. 8. 3.
Hempstead	2,032. 5. 7 $\frac{1}{2}$.
Strand (2 moieties)	4,095.12. 4.
	<u>29,347.13. 9$\frac{3}{4}$. Total</u>

4. B.M. Harl. MS. 427 ff. 116-117.

5. Ibid., ff. 111-116.

6. Ibid., ff. 118-126. See also Certificates of Sales (Norfolk), P.R.O. E 121/3/6. The sale value of Crown land for the whole of Norfolk is assessed by Gentles, op. cit., p. 111 as £22,718.0.0. Terrington and W. Walton etc. thus represent more than half the total.

respectively.¹ In the second one headed Terrington and West Walton and including the smaller manors of Walsoken, Emneth and Tilney, the names of the troopers are more evenly distributed - those of every troop commander in the regiment, except Captain Chillenden, being concerned in varying degrees.

A clause in all the contracts for sale of Crown lands specified that the first moiety was due eight weeks after the signing of the contract, and the second moiety, six months after that.² Despite this time allowance, it was not always possible to meet the deadline and in some cases there were delays of up to several years before the second moiety was paid. Gentles observes³ that contracts were rarely revoked on this account because the Trustees of Worcester House recognized that the delay was due not to any fault of the soldiers themselves but to other circumstances such as the difficulty in rendering the accounts of some regiments.⁴

Grove had paid the first moiety by 25 November 1650,⁵ but the second was not discharged until December 1652.⁶ The delay in this case appears to have been due to two factors - regimental participation in the Scottish campaigns and other claims on part of the manor of Terrington. The latter will be discussed shortly.

The conveyance of the manors to Grove and the other officer trustees was dated 4 January 1652/3,⁷ and the debentures were later forwarded by

1. Some troopers presented more than 1 debenture.

2. See e.g. B.M. Harl. MS. 427 f. 117.

3. Op. cit., p. 108.

4. e.g. Twistleton's. See Gentles, op. cit., p. 108, citing P.R.O. E 121/3/3/113; H. J. Habakkuk, 'The Parliamentary Army and the Crown Lands', Welsh History Review, III (1967), 406-407.

5. B.M. Harl. MS. 427 f. 117. The contract had been signed on 3 Oct. 1650. Ibid., f. 116.

6. Ibid., f. 126.

7. P.R.O. E 304/5/M3. The trustees for sale of the manors and lands of the late King and Queen named in the Indenture were William Steele, Recorder

the Treasurers appointed for sale of Crown Lands to William Potter, Registrar of Debentures, and accordingly cancelled on 12 August 1653.

It would seem appropriate at this stage to record a few interesting details about these manors. Again, the most comprehensive information is that contained in Harleian MS. 427, but most of the facts relating to the manor boundaries, the various lands and their acreage, tenements within the manors, tenants-in-chief, landholders etc. correspond with the conveyance and the indentures of bargain and sale enrolled in Chancery.

The manors were originally part of the see of Ely and are often referred to as the Bishop of Ely's Manors. After the death of Bishop Richard Cox in 1581, they had come to the Crown 'by an act of Parliament made in the 4th of Elizabeth'.¹ James I had granted the manors to his eldest son Henry, and afterwards in the 21st year of his reign to Charles, Prince of Wales.² The Crown lessees or tenants-in-chief of the manors when these were marked for sale under the Act of 16 July 1649, all held their land, with one exception, by lease from Charles I, ^{or Henrietta Maria.} Sir Thomas Walsingham³ was the chief leaseholder: the others were Sir Robert Winde,⁴ gentleman of the

(continued) of the city of London, Thomas Cook, William Boseville, John Sparrowe, William Kenrick, Ralph Harrison, William Scott, Silvanus Taylor, Thomas Hubbard, Cornelius Coke esquires; John Hunt gent., and Sir Edward Barkham bart.

1. Blomefield, Norfolk, continued by Rev. C. Parkin, IX (1808), 91. Presumably an adjunct of the Act 1 Eliz. c. 24, entitled 'An Acte to annexe to the Crowne certayne Religious Houses and Monasteries and to refourme certayne Abuses in Chantreis'. Statutes of the Realm, IV (1819), 397-400. There is no separate act printed under 4th Eliz.

2. Ibid.

3. For Walsingham (1594-1669) of Scadbury in Chislehurst, Kent, see Keeler, Long Parl., pp. 378-379; D.N.B.; Arch. Cantiana, XVII (1887), 391.

4. The same Sir Robert who had held extents on Richard Whalley's lands for numerous years (See Ch.1). No evidence has been discovered to prove that Edward Whalley's possible ownership of New Marsh and the connection thus with Winde was anything more than mere coincidence.

Privy Chamber who leased 510 acres known as New Marsh in Terrington St. Clements, Roger Ramsey and Samuel Boardman, gentlemen.

The Particulars for the sale of Terrington Manor record that one Anthony Williamson, gent., now held the lease of New Marsh and that Sir Robert Winde, whose estates had been sequestered, was in France at that time with 'the late Queen' Henrietta Maria.¹ Later, in May 1653, Lieutenant-Colonel Henry Winde, Sir Robert's son and heir, was allowed to compound for ~~part of~~ his now deceased² father's estate for the sum of £1,166.11.8.³

Whilst Captain Grove and his colleagues had been negotiating the contracts between July and October 1650 for the purchase of Terrington and West Walton, the County Committee of Norfolk, on the application of Thomas Toll of Lynn, M.P., had granted the latter a lease of certain of Sir Robert Winde's lands in South Wotton and New Marsh.⁴ The lease was confirmed by the Central Committee for Compounding for 7 years on 6 February 1650/1.⁵

Accordingly, as the purchase of the manors was deemed to have taken effect from 25 March 1650,⁶ and since Grove had paid in the first moiety on 25 November 1650, he petitioned on behalf of Whalley's regiment for arrears due to them for New Marsh, and this was referred by the Central Committee on 5 December 1650⁷ to Sir William Brereton. The issue was a protracted

1. B.M. Harl. MS. 427 f. 95b; P.R.O. E 320/M3 (Norfolk). Williamson was confirmed in his lease for a year, ending 25 Dec. 1650. P.R.O. SP.23/27/59. This was in line with the new instructions issued to County Committees based on the Act of Parl. of 25 Jan. 1649/50. See C.C.C., I, Preface, xiv and 170-171.

2. W. Rye, Norfolk Families, II, 1011 errs in giving the date of death as 1660. The pedigree in Bodl. Rawl. B 143 f. 55b states this as 15 Dec. 1652.

3. C.C.C., II, 1475; Rawl. B 143 f. 41.

4. C.C.C., II, 1475. For Toll's career see Keeler, Long Parl., pp. 361-362; D. Brunton and D. H. Pennington, Members of the Long Parliament (Lond., 1954), pp. 64, 78-79.

5. P.R.O. SP.23/10/393; C.C.C., II, 1476.

6. See P.R.O. SP.23/27/27, 49.

7. P.R.O. SP.23/10/248; C.C.C., II, 1476. The petition is missing.

one and was not finally determined in Grove's favour until 1654. The Central Committee ordered that the business be heard before them as a Committee for Indemnity. Counsel was heard for the parties involved - namely, Thomas Toll, son and heir of the M.P.¹, Captain Joseph Sabbarton on behalf of Grove, and Sir Robert Winde's son and heir² who was to have liberty to offer proof to his title to the property. Sir William Brereton was ordered to examine the evidence and report.³

The result was that the Committee for Compounding declared Toll's lease null and void, concurring with the judgment already given on 25 March 1652/3 by the Committee for Removing Obstructions to whom Grove had originally complained. It also ordered that any moneys on New Marsh 'unduly received' by the Treasury, plus the profits made by the County Committee for the half year ending 29 September 1650 (Michaelmas), should be paid to Grove.⁴

The County Commissioners reported that Thomas Toll and Anthony Williamson had paid £368 as the rent due on their leases for the half year ending 29 September 1650 on South Wotton and New Marsh. Of this amount, Nicholas Salter, the commissioner for sequestrations in Norfolk, by an order of 16 May 1654 was directed to pay to Grove £241.16.7. arrears relating to New Marsh.⁵ A further order of 30 May stated that the quarter's rent due on 29 September 1650 on Anthony Williamson's lease had been twice paid, thus £42.10.0. should be repaid to his executor, Henry Williamson.⁶

1. Toll the elder had died 29 Oct. 1653. Keeler, Long. Parl., p. 362.

2. Sir Robert Winde had assigned the lease of New Marsh to Henry Winde his son on 27 Dec. 1646. Bodl. Rawl. B 143 ff. 44b-45b, and duplication ff. 47-48.

3. P.R.O. SP.23/25/156, 158, 289; SP.23/143/123; C.C.C., II, 1476.

4. P.R.O. SP.23/25/323; C.C.C., II, 1476, dated 21 Mar. 1653/4.

5. P.R.O. SP.23/27/49; C.C.C., II, 1476.

6. P.R.O. SP.23/27/59; C.C.C., II, 1476. Anthony Williamson had died in Sept. 1652.

III

Under the letter of attorney, a regimental officer was authorised to act on the soldiers' behalf in the purchase of crown land with the express intention of buying out their claims on completion of the conveyance.¹ Though there is no absolute proof of this latter factor in the case of Grove and the other trustees, the evidence tends to point in this direction, for the property acquired eventually became concentrated in the hands of Grove himself and the other officers - namely, Major Swallow, Captains Chillenden and Evanson, Captain-Lieutenant Daniel Dale and Lieutenants Sabbarton and Chamberlen.²

To follow through the individual purchases of Whalley's officers in relation to all the Crown property acquired on behalf of the Regiment would be a fascinating study, but it is to Terrington and West Walton that we must confine our attention.³

Gentles has shown that there were a number of advantages to both officers and men in using the device of the letter of attorney.⁴ The major advantage as far as the common soldiers were concerned was that if they sold out after a collective purchase had been made, they were in a better position to bargain with the buyers of their claims when these represented a tangible

1. Gentles, thesis, 'The Debentures Market ...', p. 134.

2. Captain John Savage, though a trustee appointed under the letter of attorney, does not appear to have acquired any of the crown property obtained in the regimental purchase. See *ibid.*, Appendix III, p. 331.

3. Grove became the absolute owner of Bestwood Park and Forest, Notts. which was rated at £6,953.8.3. P.R.O. C54/3818/4, dated 20 Jun. 1654. See also J. T. Godfrey, The History of the Parish and Priory of Lenton (Lond., 1884), pp. 362-385 for a detailed account of the estate; A. C. Wood, Nottinghamshire in the Civil War (Oxford, 1937), p. 159; Gentles, thesis, *op. cit.*, Appendix III, p. 289. Evanson acquired a moiety of the manor of Hemel Hempste(a)d for £1,300, 22 March 1654. P.R.O. C54/3731/33; V.C.H. Herts., II (1908), 220; Gentles, thesis, *op. cit.*, Appendix III, p. 279. For the purchases of the other officers, see *ibid.*, pp. 264, 265, 272, 329, 341. Gentles observes (p. 135) that 'junior officers and rank and file evidently received none of the roughly £30,000 in crown lands that were acquired in their names'.

4. *Ibid.*, pp. 133-134.

piece of property. If soldiers sold their debentures in the open market, they usually did so at a very heavy discount; thus as Firth observed, when the sale of debentures was 'in full swing' as early as 1649 soldiers were selling for as little as 3/6 and 4/- in the pound, and at one time prices of 1/- or 1/6 were common.¹ On the other hand, Lambert's Regiment involved in a collective purchase 'strongly held out for 12 shillings in the pound for their bills which had been used to purchase Nonsuch Little Park and House'.²

There is no indication of the price per pound which Grove and his colleagues paid to acquire the claims of their troopers, nor exactly when such transactions occurred. A remark of Captain Chillenden in a letter written to William Clarke on 5 June 1652³ is, however, of interest in this respect. He stated that he was 'put to great straits' because he had bought up the arrears of his own troop, 'and a fourth part of the Colonel's troop which will come to at least £3,500 and shall have to mortgage what cost me £900 for £500....'

Once the property had been acquired on the regiment's behalf, the usual procedure was for soldiers to sell their claims. As Colonel Sydenham said in Parliament in 1657, 'They are poor, and if you assign lands to them, they must sell again'.⁴ Corporate regimental ownership in the sense of large bodies of troops enjoying the profits of their purchases for lengthy periods was both impractical and unrealistic. The soldiers wanted cash - many officers wanted land and since joint ownership would have satisfied

1. Cromwell's Army, pp. 204, 205; H. E. Chesney, 'The Transference of Lands in England, 1640-1660', T.R.H.S., 4th Series, XV (1932), 193, citing L. H. Berens, The Digger Movement, p. 136; C. Hill, 'The Agrarian Legislation of the Revolution', in Puritanism and Revolution, pp. 175-176.

2. Gentles, thesis, op. cit., p. 134.

3. H.M.C. Leyborne Popham MSS., 102. See also Chesney, op. cit., 193; Firth, op. cit., p. 204.

4. J. T. Rutt ed., The Parliamentary Diary of Thomas Burton, 4 vols (Lond., 1828), II, 240. Quoted by C. Hill, Puritanism and Revolution, p. 176.

neither, there was nothing to justify it.¹

IV

After the question of arrears relating to the leases of New Marsh, Terrington had been settled in Grove's favour,² he and the other officers of the Regiment³ were now in a position to arrange for the parcelling of the Norfolk manors among their group. It is evident that the division of Terrington and West Walton and the smaller manors of Walsoken, Emneth and Tilney was decided by lot for the following preamble to the Indentures enrolled in Chancery is common to each transaction:

... upon and under several trusts betweene the said parties ... this Indenture witnesseth that in pursuance and part of performance of the said Trust and of Divers Articles, Covenants and agreem^ts thereupon made and lotts drawne between the said parties and these pntes [present] and others and in consideration of five shillings ... to them paid ...,

Grove and his partners do grant, alien, bargain and sell etc.

The lots fell to Lieutenants Sabbarton and Chamberlen, Captain Chillenden and Major Swallow.

By indenture dated 15 March 1653/4,⁴ Lieutenant Joseph Sabbarton of London, nominated Thomas Stiles, tallow chandler of the same city to act on his behalf and to hold the lands in Terrington in trust for him and his

1. See Gentles, thesis, *op. cit.*, pp. 136-141 in which there are a number of arguments militating against collective ownership. The writer cannot thus agree with H. J. Habakkuk's interpretation that the transactions of Col. P. Twistleton's regiment relating to Spalding Manor were 'a genuinely collective purchase'. See 'The Parliamentary Army and the Crown Lands', *Welsh History Review*, III (1967), 407-409, 412.

2. See above, pp. 159-160.

3. i.e. apart from the Regimental Commander Whalley himself and Captain Savage who appears not to have participated in the division. See above, p. 161 n. 2.

4. P.R.O. C54/3781/35. Details of Sabbarton's acquisitions and those of the other officers can be cross-checked in P.R.O. E 304/5/M3. and in B.M. Harl. MS. 427. Here, the old yearly rents and the clear improved values are recorded for each Crown lease.

assigns. Sabbarton acquired the Manor of Terrington itself, and all the lands, tenements, hereditaments etc. appertaining to it, except for New Marsh in Terrington St. Clements, and the holdings relating to one of Sir Thomas Walsingham's Crown leases granted by indenture of 6 February, 10th Charles I (1634/5).

Captain Edmund Chillenden of London nominated Edmond Page, haberdasher and John Adis, fishmonger of the city to act on his behalf and hold in trust for him two thirds of New Marsh (270 acres) and two thirds of the Salt Marsh (166 acres) which had fallen to him by lot.¹ It was not long, however, before Chillenden sold his land to Thomas Loddington of West Ham, Essex, for £2,000.² In view of the fact that Chillenden had resigned from the army in 1653,³ and devoted himself increasingly to sectarian preaching, his sale is not surprising.

The other third of New Marsh (113 acres), 'near adjoining to the town of Lynn Regis' and the remaining third of Salt Marsh (86 acres) fell by lot to Major Robert Swallow of Norwich.⁴ Swallow had also acquired by an earlier indenture of 15 March 1653/4, the manors of West Walton, Walsoken, Emneth and Tilney in their entirety.⁵

The remaining holdings in Terrington - namely the lands leased to Sir Thomas Walsingham which Joseph Sabbarton had not acquired⁶ - became the possession of Lieutenant Thomas Chamberlen who had appointed John Parkes^r

1. P.R.O. C54/3781/39 dated 3 April 1654.

2. P.R.O. C54/3781/9 dated 8 June 1654. Indenture between Chillenden, Page and Adis of the one part and Loddington of the other.

3. For Chillenden's activities as a sectarian preacher in London, see Firth and Davies, Regimental History, I, 226-227 and sources cited there. His theological writings are noted in D.N.B.

4. P.R.O. C54/3781/40 dated 3 April 1654.

5. P.R.O. C54/3753/1.

6. See above.

of Hackney and John Adis of London trustees on his behalf.¹

The Norfolk manors in early 1654 then, were concentrated in the hands of Major Swallow and Lieutenants Sabbarton and Chamberlen, and Thomas Loddington of West Ham who soon sold his interest in New Marsh for £2,000 - the price at which he had purchased it - to Richard Hutchinson of London.² Sabbarton held the largest share in the manors.³

It is necessary now to return to the two entries in the Commons' Journals to which reference was made previously.⁴

There appear to be two main possibilities regarding these Norfolk manors - neither of which, however, can be proved conclusively.

Even though the Commons had directed on 27 June 1660 that Terrington be omitted from the list of jointure lands in possession of regicides and republicans whose estates were in danger of forfeiture, it does not invalidate the possibility that at some time after April⁵ 1654, Whalley had owned both manors. If such were the case then he may have alienated Terrington at a later date.

Alternatively, and this seems the more feasible explanation, Whalley may have purchased merely West Walton, and the smaller manors of Walsoken, Emneth and Tilney included with it.

1. P.R.O. C54/3753/2 dated 15 Mar. 1653/4.

2. P.R.O. C54/3802/6 dated 15 Mar. 1654/5. There is no subsequent transaction in the Close Rolls relating to Whalley's purchase from Hutchinson.

3. The values of these were as follows:

<u>Manor</u>	<u>Old yearly rents</u>	<u>Clear improved values</u>	<u>Total value</u>
Terrington	£118.13.11.	£919. 3. 1.	£1,037.17. 0.
West Walton, etc.	£ 22. 5. 5.	£164.11. 7.	£ 186.17. 0.

P.R.O. E 304/5/M3 (Conveyance). See also B.M. Add. MS. 30208 which differs in the figures for Terrington by 10/- and for West Walton etc. by £1. Madge, Crown Lands, uses the latter MS. as his source. See his Appendix V, 368, 374.

4. See above, pp. 153-154.

5. The latest month in which one of the transactions of Whalley's officers had been made.

It may be that the Committee discussing the jointure lands on 23 June, believed Whalley to be the owner of both manors and then evidence had later been presented stating that this was not so. On the evidence given in the Journals this appears to be a satisfactory explanation and there is no further information to suggest a better one. What is significant is the fact that the Lords concurred with the votes of the Commons relating to the jointure lands and entered the manor of West Walton only, against Whalley's name.¹

In view of either of the above possibilities, prior to the Restoration, Terrington manor may have been in the ownership of Richard Hutchinson and some other individual or individuals unknown, to whom Whalley had alienated the manor; or more likely, Whalley had negotiated with Major Swallow for West Walton, and Terrington was still in the hands of Hutchinson, the civilian and the three officers - Sabbarton, Swallow and Chamberlen who had acquired their holdings by lot in 1654.²

In either eventuality, one would expect the transactions to have been enrolled in Chancery according to the usual procedure³ - particularly since other transactions of Whalley's regimental officers relating to their

1. House of Lords MS. Vol. XLVIII, Lords' Journal 25 April 1660 - 29 Dec. 1660 ff. 301, 303; L.J., XI, 77-78.

2. The fact that these officers were closely associated with the Eastern Counties strengthens the possibility that they may have retained their original crown purchases. Swallow was of Norwich and captained the 'Maiden troop' in Cromwell's Ironsides. Firth and Davies, Regimental History, I, p. 11. See also landed transactions P.R.O. C54/3749/27; 3792/20. Sabbarton was said to be of London but he had Norfolk connections. See e.g. P.R.O. C54/3841/16. Chamberlen is referred to as of Suffolk in the regimental purchase (B.M. Harl. MS. 427, ff. 116, 126; P.R.O. E 304/5/M3), but in other transactions he is noted as a merchant of London. His landed dealings embraced various counties. See e.g. P.R.O. C54/3777/35; 3804/8; 3871/33; 3931/35. When Whalley in 1659 lost command of his regiment through his adherence to R. Cromwell, all three officers were still serving in the army. See Firth and Davies, op. cit., I, 225, 226, 228, 229; C.J., VII, 710, 713, 715, 749; Firth, Clarke Papers, IV (1901), 38.

3. See below, p. 175.

purchases of Crown land were so carefully recorded there.

Assuming the second possibility discussed above to be the more likely one, there ought to be a record of Whalley's purchase of West Walton from Major Robert Swallow, but no Indenture has been discovered. Search in the Close Rolls has failed to reveal any details,¹ nor are there entries in the Registers of Deeds enrolled in the Common Pleas, 1650-1717,² in the King's Bench, 1656-1760,³ the Exchequer, 1655-1659,⁴ or in the Feet of Fines, 1655-1659.⁵

Though the law required the enrolment of all sales of land, for one reason or another, it was not always observed and thus there are instances of transactions which are not recorded anywhere. Gentles observes that the 'records of the restoration contain several instances which demonstrate that sales of crown land had gone unrecorded.' He cites the example of Major Thomas Lilburne who became the sole owner of Holme Cultram, Cumberland, though there is apparently no record of his transaction with the officers who first bought the manor.⁶ Whalley's possible purchase of one or both of the Norfolk manors appears to be another such instance of non-enrolment.

There would be a significant difference in the price Whalley paid, according to whether he purchased both manors or merely one of them. When these were put up for sale in 1650, Terrington was valued at £10,989 and

1. Every item relating to Whalley recorded in the Registers of Grantees 1653-1660 has been checked in the close rolls. The transactions of Swallow, Sabbarton, Chamberlen and Richard Hutchinson between these dates have similarly been checked. Not one concerns the manors in question.

2. P.R.O. MS. Index 16944.

3. P.R.O. MS. Press Mark 13/64.

4. P.R.O. MSS. Indices 4521-4524.

5. P.R.O. MSS. 17239, 17240 (arranged under counties).

6. Thesis, op. cit., p. 14, citing Surveyor General's Book of Constats (1660-1661), P.R.O. Crest 6/1/11, 232.

West Walton, Walsoken, Emneth and Tilney at £1,119.¹ On the one hand therefore, he could have acquired lands valued at £10,108, discounting the sum of £2,000 which represented Loddington's (and later Richard Hutchinson's) interest in Terrington marshland. On the other, the price paid would have accorded with the more realistic figure at which West Walton etc. was valued.

Even though the years 1655-1659 were the ones in which Whalley's influence and presumably his wealth were at their peak; in view of his other major landed transactions in the early 1650s, it is reasonable to suppose that the purchase of West Walton would have been more in line with his financial capabilities.

In so far as the possession of Crown property in the county of Norfolk may have had decided advantages and attractions to Whalley, the following points are worthy of note. In the first place, the manors were within easy access of Helgye, Sothery, Hockwoud, Wilton and Wicken - comprising the 572 acres of fenland in Norfolk and Cambridgeshire which Whalley had purchased from Richard Blackwall in October, 1653.² Secondly, such possession would be in keeping with his status as one of the leading grandees and close confidant of the Protector, and would accord with the actions of others of his military colleagues in this respect.³ It is also probable that Whalley

1. P.R.O. E 320/M3 (Norfolk). Since the smaller manors of Walsoken, Emneth and Tilney are invariably included with West Walton, my figure differs from that given by Gentles, thesis, op. cit., p. 173. He represents the value of West Walton as £280, one quarter of £1,119. Thus he credits Whalley with purchases of £9,269; i.e. £10,989 (full value of Terrington) - £2,000 (Loddington's share) + £280. He fails to take into account the further entry of 27 June 1660 (C.J., VIII, 76) and thus to allow for the possibility that Whalley merely acquired West Walton, etc.

2. See above, pp. 120-121.

3. There were 449 military purchasers of Crown lands - virtually all of them officers. 42 Colonels were included in this total. 33 officers obtained lands worth over £5,000, and 12 of these, lands worth over £10,000. See Gentles, thesis, op. cit., pp. 2, 170, 171-176. Thurloe's remark relating to the appointment of the Major-Generals in 1655 is an appropriate indication of the importance of the grandees at the time '... the greatest creation of honours, his highness hath made since his access to the government.' Letter to Henry Cromwell, dated 16 Oct. 1655, op. cit., IV, 88.

may have been influenced by the prestige value attached to the ownership of Crown land, as many other officers were.

V

In the absence of enrolment of the transactions in a central court of record such as Chancery, entries in the Manorial Registers of Terrington and West Walton etc. would confirm whether or not Whalley was one time lord of these. Unfortunately, the records for the particular period 1654-1660 relating to these specific manors no longer exist. A number of sources confirm this statement.

First, the Rev. C. Parkin (continuing the history of Norfolk begun by F. Blomefield), traces the history of the manor of Terrington¹ until Charles, Prince of Wales acquired it by grant from his father in the 21st year of the latter's reign. There is then a significant gap during the Interregnum and for a number of years after the Restoration, for having described rents due to the prince, the author continues: 'After this it was assigned to Queen Catherine, consort of Charles II as part of her dowry ... and in the year 1696 was granted to William Bentinck, Earl of Portland.'² There is also a similar omission relating to West Walton.³

The General Index of Crown Lands indicates the grant of both manors to John Grove in 1650 as attorney of the regiment and the next grantee for Terrington is shown as the Earl of Portland in 1696. A number of grantees are named for parcels of West Walton and the smaller manors, but the earliest recorded grant is dated 22 February 1715.⁴ Once again there is a void for the significant years.

1. Op. cit., IX, 90-91, and see above, p. 158.

2. Ibid., 91.

3. Ibid., 134

4. B.M. Add. MS. 30208 f. 96b.

The absence of information regarding Whalley's lordship of the manors is further confirmed by the archivist of Norfolk and Norwich Record Office. This repository holds no Court Rolls for these manors during the period in question.¹ The Wisbech and Fenland Museum in Wisbech, another repository holding Norfolk Court Rolls and Registers, also lacks any significant record.²

The Public Record Office has some estreats of Court Rolls for Terrington and West Walton but these do not include entries under the relevant dates.³

Mr. M. J. Sayer of Sparham Hall, Norfolk, is currently working on an index of Norfolk Manorial Records. His researches have also confirmed the total lack of information for the manors late of the Bishop of Ely during the Interregnum period.⁴ In view of such evidence therefore, the Court Rolls cannot verify Whalley's lordship of either or both of the manors or augment, as additional proof, the entries relating to them which were given in the Commons' Journals.

VI

To return now to the earlier assumption that Terrington was not among the Queen's jointure lands in Whalley's possession at the time he was forced into exile, this manor was nevertheless returned to Henrietta Maria shortly after the Restoration. In the eventual land settlement all regicides and traitors, either military or civilian, were dispossessed of Crown land, but there obviously had to be discrimination exercised towards various other groups in present possession. Sir Edmund Sawyer submitted a plan

1. Information supplied by letters of 5 Mar. 1970 and 20 April 1971.

2. Information supplied by the Curator, 12 May 1971. The correspondence in both cases has been confirmed from details in the archives of the Historical Manuscripts Commission, Chancery Lane.

3. The items relate largely to Elizabeth's reign, post Restoration years and the early 18th Century. P.R.O. LR 11/65/875, 877.

4. Letter dated 17 May 1971.

for classifying the various purchasers into six groups and his suggestions provided the outline for the settlement.¹ Sawyer advocated that all who held land in the Queen Mother's jointure should be dispossessed since she was only a tenant for life. Henrietta Maria's condition was also said to be 'very hard',² and she had herself asked that her lands be freed from any claims upon them. Moreover the disposition of these lands was not in the King's power to grant, so Sawyer's suggestion was effected.

If therefore the civilian Richard Hutchinson and Whalley's officers Swallow, Sabbarton and Chamberlen still held parcels of the manor of Terrington at the Restoration, then they surrendered these without compensation. Their loss was as irrevocable as was Whalley's forfeiture of his estates for treason.

When Henrietta Maria had recovered Terrington and West Walton etc., she appointed a number of trustees who were empowered to grant leases of these and other lands in her jointure. The most important of these trustees was Henry Jermyn, Earl of St. Albans and Master of the Horse, who had served her so devotedly during her years of exile and who, on no reliable evidence was rumoured to be her lover and even her husband.³ Others were Sir Kenelm Digby,⁴ Knight Chancellor and Keeper of the Great Seal to the Queen, Sir John Wintour, her principal secretary; Sir Charles Harbord,⁵ Surveyor General

1. See Gentles, thesis, op. cit., pp. 218-219.

2. Ibid., p. 221, citing the Surveyor General - Sir Charles Harbord's letter of 20 September 1660 to Charles II. P.R.O. LR 2/266/61. Gentles considers the decisions taken regarding claimants of Crown land in Ch. VII, particularly pp. 218-228. See also Appendix 11 (i), The coldstreamers claims, pp. 236-237 (30 names); (ii), Correspondents with the generall [Monck] or Sir George Booth, p. 237 (15 names - all officers); (iii), Claims to crown lands and rents by members of the standing army, pp. 238-243 (93 names, including that of John Grove).

3. For Jermyn see D.N.B.; G.E.C., Complete Peerage, VII (1929), pp. 85-86, under Baron Jermyn of St. Edmundsbury, and for his close associations with the queen, see C. Oman, Henrietta Maria (Lond., 1936), passim.

4. See D.N.B.

5. See above, p. 135 n.

to Charles II; Sir Peter Ball, Attorney General to the Queen's Majesty; Sir Henry Wood, bart., Clerk of the Green cloth of the Household and Robert Long, esq., Surveyor General to the Queen.

There are a number of indentures relating to the manors after the Restoration, which are of particular interest. The first concerns New Marsh in Terrington and is a tripartite agreement between Henrietta Maria, St. Albans et al. and William Winde, gent. of St. Martins in the Field, Middlesex.¹ The latter, on payment of £600 obtained a lease of the premises for 60 years, to take effect after the determination of the earlier lease which had been granted by the Queen to Sir Robert Winde, dated 11 June 1637.² William Winde was to hold the premises at the old yearly rent of £15.18.8. which included £1.12.0. 'for the increase of 2 sheep for provision of the household of the King ...'

A further tripartite indenture of 3 January 1661/2 in which Samuel Boardman esq. of Bullwell Park, Nottinghamshire, was the third party, records the grant of a lease to him for £50 of the site of West Walton Manor and its appurtenances for 10 years, to commence after the determination of an earlier lease granted to Samuel Boardman, gent. of Broadgate Park, Leicestershire for ²²~~21~~ ^{years} and dated 24 March 1636/7.³

Boardman of Bullwell Park, however, appears to have surrendered the lease for it was acquired by one, Gerrard Leigh, gent. of London less than

1. P.R.O. LR 1/61 ff. 45a-46b, dated 8 Feb. 1660/1. Winde was most probably grandson of Sir Robert who died in 1652, and son of the latter's heir, Henry Winde who died in 1658. See Bodl. Rawl. B 143 ~~no.~~ 8; W. Rye, Norfolk Families, II, 1011; Blomefield, Norfolk, IX, 199, and above Ch. 1 and pp. 158 and n.-159.

2. An earlier lease of New Marsh had been granted to Sir Robert Winde on 29 June 1608 for 40 years. Another lease for 16½ years to take effect after the expiry of this one was granted by H. Maria to Winde on 7 May 1635. Rawl. B 143 f. 42b. This latter lease was apparently altered by the one dated 11 June 1637 above. Sir Robert's father, Thomas Winde (the original creditor of Richard Whalley) appears to have first acquired a lease of New Marsh c. 35th Eliz. Rawl. B 143 f. 43b.

3. P.R.O. LR 1/61 ff. 163a-164b. The Boardmans may have been father and son, but no evidence has been found to verify this. Samuel Boardman of

a year later on 20 December 1662.¹

For a fine of £2,000, the site of the manor of Terrington and its appurtenances and those lands which before the Commonwealth Sale had been leased by Roger Ramsey gent, were acquired by Henry Jermyn² of London. The lease for 21 years was to commence after the expiry of the former lease which had still 6 years to run. The pre-Commonwealth rental of £77 yearly was to apply.³

Finally, Sir Charles Harbord's son and heir Philip, was appointed steward of Terrington, West Walton, Walsoken, Emneth and Tilney and also of the manor of East Dereham and the hundred of Milford, Norfolk.⁴ The wheel had indeed turned full circle.

Sufficient evidence has thus been given in this chapter to illustrate the transactions relating to these particular Norfolk manors from their sale by the Trustees of Worcester House until 1654, and their return to Henrietta Maria after the Restoration.

It is unfortunate that so much of what may have happened in the intervening period has had to be based on speculation, because the vital pieces of information necessary to establish Whalley's lordship of Crown land are so significantly lacking.⁵

(continued) Leic. was one Crown lessee of West Walton - the other was Sir Thomas Walsingham. See above, pp.158-159. The rental in the new lease was to be the 'ancient' yearly one of £11.6.8.

1. P.R.O. LR 1/61 ff. 297a-299a.

2. Jermyn (1636-1708) was nephew of Henry, 1st Earl of St. Albans. He was created Baron Dover, 1685. See D.N.B.; G.E.C., Complete Peerage, VII, 87.

3. P.R.O. LR 1/61 ff. 250b-252a. Indenture dated 7 Mar. 1662/3.

4. Ibid., ff. 169a-170b.

5. It is almost certain that details of Whalley's purchases would be revealed if the records of the commission of enquiry appointed to investigate the accounts of Commonwealth purchasers of Crown and Church land could be found. M. S. Giuseppi, Guide to the Contents of the Public Record Office, 3 vols., Revised ed. (Lond., 1963), I, 66, listed these among the special commissions of inquiry, Records of the Exchequer - King's Remembrancer; but as J. Thirsk indicates, they are missing from this class of documents. See 'The Restoration Land Settlement', J.M.H., XXVI (1954), p. 327 n.

Chapter 7

LAND AND LANDOWNERSHIP

I. Attitudes and Uncertainties in the 1650s

I

As Joan Thirsk has shown in her article on Royalist land sales,¹ there was always an element of risk in the purchase of confiscated lands, and the precarious or more stable nature of their tenure varied with the fortunes of the Commonwealth and Protectorate Governments, and their successes or failures in dealing with the succession of crises that beset them.

Whalley himself like other grandees and army officers who had purchased land from the Treason Trustees at Drury House² or the Trustees for the sale of Crown Lands at Worcester House, must have been troubled on occasions by the shaky foundations on which his acquisitions were based. Examples of the uncertainties of tenure are afforded by the grant of Liddington as described above,³ but his desire, perhaps even anxiety, to preserve what he had gained so hardly is best illustrated by his attempts to retain the manor of Sibthorpe in the family - witness the most detailed legal clauses in the indenture of 1 September 1655 between Whalley, Henry Middleton and Edward Birkhead in order to do so.⁴ Such attempts, however, were to prove worthless at the Restoration.

Once having purchased forfeited lands, grantees often revealed their very real fears that titles would prove defective, by their anxiety to

1. 'The Sales of Royalist Land During the Interregnum', Ec.H.R., 2nd Series, V (1952), 191.

2. H. E. Chesney, 'The Transference of Lands in England, 1640-1660', T.R.H.S., 4th Series, XV (1932), 193 indicates that approximately 100 officers purchased land from these Trustees alone.

3. Ch. 6. sec. a.

4. P.R.O. C 54/3876/43. See above, pp. 133-134.

strengthen such titles in every possible way. Thus, in addition to the transaction between the purchaser and state, there was also in a number of cases, the no less important contract made between the purchaser and the old owner to supplement the insecure Commonwealth title.¹

Commonwealth land bargains and sales, as the majority of Whalley's transactions indicate,² were most carefully enrolled in Chancery. The Treason Trustees observed the terms of the Statute of Enrolments of 1536 in this respect, but purchasers of forfeited land were equally concerned to do so because of the general uncertainties of the times and the 'considerable suspicion attached to the legality and permanence of the sales'.³

Perhaps Whalley's qualms regarding the durability of his landed purchases were more frequent and intense than those of army officers in a less exalted position. It is difficult to say. Certainly as a regicide he had more to lose than most. His dedication to the cause from the onset of the war, his assent to the King's execution, his prominence in the military, religious and political affairs of the Commonwealth and Protectorate, his close personal relationship with Cromwell and the similarity of their aims and ideals - all these marked him as a traitor and emphasised the danger of his position in the event of a restoration of monarchy.

There was undoubtedly less cause to worry in the early 1650s when the sales of land were at their height than during the later years of the

1. See Hardacre, Royalists, p. 99. He cites the case of the manor of Hawarden confiscated from the Earl of Derby, legally conveyed by the latter's indenture to the new owner John Glyn (Cf. Parkins, 'The Lords of Mold', p. 23). Sir Arthur Hesilrige also paid Nicholas Errington £600 for an undisputed title to part of the land the gov. had taken from the latter, though it was later alleged that Hesilrige applied pressure on Errington (Cited H.M.C. 7th Report, Appendix, 99).

2. The only major transaction whose enrolment has not been discovered was the almost certain purchase of West Walton and the possible purchase of Terrington. See above, Ch. 6, sec. b.

3. Thirsk, Royalist Land Sales, 191. ...'every acre of land sold was a bond attaching the purchaser to the Commonwealth.' S. R. Gardiner, History of the Commonwealth and Protectorate (1903), I, 251, cited by Thirsk, 'The Restoration Land Settlement', J.M.H. XXVI (1954), 315.

Protectorate when conditions were much less stable. Thus, those assailed with doubts, must have 'weighed the long-term risk against the short-term advantage and deemed the chance worth taking'.¹

There were several requests to Parliament triggered off by the political crises of the later fifties, asking for legislation to confirm land sales.² Sir Anthony Ashley Cooper was one of those obviously worried by the turn of events for he remarked in the Commons in March 1659, 'I have sat sixteen years here, ventured my life, and bought lands, and my friends and interest have done so. I always hoped whenever you came to a settlement you would confirm all those sales'.³

A passage from the diary of Johnston of Wariston dated 15 June 1659 reveals the unstable situation in England at that time. He states: 'I heard of a motion in the House for every man refunding what he had gotten by any place or gift since the Protectors coming to the gouvernement. Some would have them to go back till 1642.'⁴ There was, however, no real likelihood that such interference with property would occur among that traditional body of landed representatives whose 'permanent interest' in the country had been so staunchly defended at the Putney Debates in 1647. The uncertainty was present nevertheless.

II

The dislocation of the Civil Wars tended to accelerate the breakdown of those comprehensive ties which had bound the interests of landlord and tenant so closely together in medieval times.⁵ The century and a half

1. Thirsk, Royalist Land Sales, 191.

2. Ibid., citing Diary of Thos. Burton, I, 410; 'A letter from Lord General Monck and the officers to the several and respective regiments and other s^ur^uces in England, Scotland and Ireland, 21 Feb. 1659'. [160].

3. Ibid., citing Diary of Thos. Burton, IV, 51-52.

4. J. D. Ogilvie ed., Diary of Sir Archibald Johnston of Wariston, III, 1655-1660 (Scottish History Society, 3rd Series, XXXIV, 1940), 119.

5. On this point see e.g. M. James, Social Problems and Policy during the

before 1640 had seen the steady progress of these changes - the weakening of a communal, co-operative system based on custom, and the substitution of individual and competitive methods of agriculture based on self interest. The elements of the great Agrarian Revolution of the second half of the eighteenth century were already well under way long before the close of the seventeenth century - in fact, as E. C. K. Gonner has shown, the later movement was merely a continuation of the Tudor and Stuart enclosures.¹

When Parliament thus authorised the sales of Church, Crown and delinquents' land, it hastened on those forces of change and effected a redistribution of the ownership of land comparable to that which had occurred after the Dissolution of the Monasteries.²

H. E. Chesney's article³ describes in detail the various types of people who purchased forfeited lands. In short, these 'new gentry' could be divided into two groups. On the one hand were the rich citizens and moneyed men who had either bought portions of royalist estates outright, or who had lent money on mortgage to embarrassed Royalists; on the other, were two kinds of state creditors - namely those who had advanced money to the government and received land grants in satisfaction of their debts - and soldiers, the majority (as was indicated in the previous chapter)⁴ being officers whose arrears were settled in this way. Thus as we have seen,

(continued) Puritan Revolution, 1640-1660, Ch. III, 'The Land Problem', passim; C. Hill, 'The Agrarian Legislation of the Revolution', in Puritanism and Revolution, particularly Secs. 1, 9 and 10, pp. 156-157, 184-191.

1. 'The Progress of Inclosure during the Seventeenth Century', E.H.R., XXIII (1908), 477-478. For concise accounts of the Agrarian Revolution of the 17th century, see C. Hill, Reformation to Ind. Rev., pp. 146-154; C. Wilson, England's Apprenticeship, 141-159.

2. Under the Acts of 1651 and 1652 for sale of delinquents' land, slightly more than £55,000 appears to have been received in the first 8 months under the former Act (16 July), and about £50,000 in a similar length of time under the latter Act (18 Nov.). Hardacre, Royalists, citing H.M.C. Portland MSS., I, 633; C.J., VII, 210; C.S.P.D. 1653/54, 7.

3. T.R.H.S., 4th Series, XV (1932), 181-210.

4. See above, particularly pp. 161-163, 168 n.

Whalley almost certainly became the owner of West Walton, Fleetwood the proud possessor of Woodstock Manor, Lambert of Wimbledon, Baynes of Holdenby park and manor, Pride of Nonsuch Great Park and Walton of Crowland, to mention merely some of the purchasers of Crown lands alone.¹ Even Whalley's landed possessions were considerably less extensive than those of some of the greedier officers, of whom Skippon and Hesilrige were notorious examples.²

III

It is difficult yet to assess the extent of the redistribution in land ownership during the Interregnum in view of the recent pioneering researches of J. Thirsk. She has shown that large numbers of Royalists in the south-east had regained their estates even before 1660, and, as C. Hill³ observed some few years after the appearance of her thesis, this important contribution 'must modify our view of the Restoration.' Mrs. Thirsk's findings have to some extent been confirmed by other historians,⁴ and further research

1. See C. H. Firth, 'The Royalists under the Protectorate', E.H.R., LII (1937), 640-641; Gentles, thesis, op. cit., list of military purchasers of Crown lands worth over £5,000, pp. 171-176. S. J. Madge, Crown Lands, calculates the value of regimental contracts for purchase of such land as £497,242.12.0. (Table LXIII, p. 223), out of a total sum of £1,424,892.2.0. (Table LXXIIB, p. 255). Gentles, pp. 8-9 and n. gives the total as £1,434,249.

2. For Skippon's transactions see Thirsk, Royalist Land Sales, 201-202. For Hesilrige's see D.N.B.; J. Nichols, Leicestershire, II, part 11, 744-745.

3. 'Recent Interpretations of the Civil War', and 'The Agrarian Legislation of the Revolution', in Puritanism and Revolution, pp. 14n., 165n.

4. See e.g., Hardacre, Royalists, pp. 97-100; H. J. Habakkuk, 'Landowners and the Civil War', Ec.H.R., 2nd Series, XVIII (1965), 130-151. Though dealing with a different theme, the latter writer's own researches confirm Mrs. Thirsk's conclusions that 'royalists regained their land in all but exceptional circumstances.' Ibid., 130. See also Mrs. Thirsk's further observations on Leicestershire in V.C.H. Leics. II (1954), 214-218; and for Yorkshire, see P. G. Holiday, 'Land Sales and Repurchases in Yorkshire after the Civil Wars, 1650-1670,' Northern History, V (1970), particularly 73-92. Holiday indicates that by 1660, ⁸67% of Royalist land had been retrieved in this county.

or shortly after

along these lines will probably show a similar pattern in counties other than those already studied.

Though over many estates in England, one set of landlords did replace another, there was no real loss of influence by the gentry class as a whole.¹ Merchants of middle-class stock, wealthy citizens and army officers who ousted the older gentry were mainly interested in their estates from a commercial point of view; hence their administration of them tended to be more efficient than some of the Royalists they had replaced. There is, however, danger of exaggerating this difference, for commercialism motivated many a Royalist long before the upheavals of civil war.²

The shock to agrarian relationships was a marked feature of the years of the Interregnum, for the many changes in ownership could not but affect the attitude and conduct of landlords and tenants towards one another. Though the evidence³ tends to indicate that the purchasers of forfeited lands were more to blame for rack-renting, the eviction of tenants and much suffering caused by enclosure of common and arable, Royalists who were anxious to recoup their war losses were also guilty in this respect,⁴ for in the competitive and capitalistic spirit of the times 'they had to get on or get out'.⁵

An intercepted letter of 14 December 1653⁶ is frequently quoted to

1. See e.g., P. Zagorin, 'The Social Interpretation of the English Revolution', Journal of Economic History, XIX (1959), 399-400.

2. See G. Davies, The Early Stuarts, 1603-1660, 2nd ed. (Oxf. Hist. of Eng. IX, 1959), p. 274.

3. See e.g., M. James, Social Problems, Ch. III 'The Land Problem', passim; C. Hill, 'The Agrarian Legislation of the Revolution', op. cit., particularly Secs. 9-11, pp. 184-193; C.C.C., III, 1649, 2253; IV, 2954, 2982-2983; V, 3251 under Maj. Lewis Audley and Col. Rob. Fenwick.

4. See e.g., Hardacre, Royalists, pp. 102-103; M. James, Social Problems, pp. 88-89.

5. C. Hill, 'The Agrarian Legislation ...', op. cit., p. 193.

6. Thurloe, op. cit., I, 633; C. Hill, 'The Agrarian Legislation ...', op. cit., p. 186; M. James, Social Problems, p. 87, citing T. Rymer, Foedera, 1744, IX, iii, 246; Hardacre, Royalists, p. 104.

emphasise the harshness of the new landowners of Crown, Church and delinquents' land. The tenants 'doe perfectly hate those who bought them, as possibly men can do; for these men are the greatest tyrants everywhere as men can be; for they wrest the poore tenants of all former immunitys and freedoms they formerly enjoyed.'

To offset the severity of this statement, however, it is well to remember how harsh could be the attitude of compounded Royalists towards those tenants who had balked at paying rent to 'delinquent' landlords, or who had co-operated too readily with sequestration committees. John Cook, Solicitor General who prosecuted the King in 1649, summed up the attitude of such Royalists in his remark: 'Says the old miser, "I must pay many thousand pounds to the Parliament and must get it up again!" ... "Oh", says he, "I'll be sure to be revenged on that Roundhead!"'¹

It would be unrealistic to suppose that Whalley did not also regard his landed purchases as a commercial proposition and intend to reap benefit from his cash outlay. It was, however, less a matter of greed with him than with numerous other 'nouveaux riches' thrown up during these revolutionary years. To him, the ultimate end of his transactions was the restoration of former family estates and the honour and prestige which had been attached to them.

H. J. Habakkuk has shown in his recent article² how differences in temperament and motives affected the leading officers with the means to purchase forfeited land. It is one of the reasons he advances which determined whether such land came into the hands of particular individuals, or whether they were purchased collectively by small groups of officers or by larger groups of officers and soldiers.³ He cites the case of Okey who

1. Quoted by C. Hill, The Century of Revolution, 1603-1714, pp. 146-147.

2. 'The Parliamentary Army and the Crown Lands', Welsh History Review, III (1967), 424-425.

3. Whilst recognizing the importance of differing motives and temperaments, I cannot reconcile these with Habakkuk's other premise in view of the very convincing arguments against 'genuine collective ownership' advanced by Gentles. See above, pp. 162-163 and n.

acquired sole control of the manor of Ampthill and a large part of Brogborough Park in Bedfordshire. Okey was spurred on by ambition, Twistleton, however, whose regimental purchases were concentrated in the hands of a small group of officers, was not so, in Habakkuk's opinion. Also, whereas Twistleton was of a gentry family with property, Okey was of more obscure origins to whom the ownership of land had greater appeal.¹ Ambition certainly motivated Whalley, but it was of a less selfish type than that possessed by Okey. There was less the desire to acquire solely for acquisition's sake as must have been the aim of numerous other officers. His single-mindedness was designed for more worthy ends. Realising this, therefore, it is probable that Whalley showed greater consideration for the welfare of his tenants than many other 'new gentry'. One cannot place him in the category of grasping, 'tyrant' landlords referred to in the quotation above.² What has been discovered of his conduct and character contradicts such a statement, and his attitude towards the harmful effects of enclosure, reveal that he had a much more sensitive social conscience than some of his colleagues in this respect.

II. Whalley and Enclosures

I

It is significant that Whalley became Major-General over five densely populated and intensively cultivated counties³ where the problems attendant upon enclosure had been long in evidence.⁴ Though the greater part of the

1. For further insight into motivation etc., see H. E. Chesney, 'The Transference of Lands in England, 1640-1660', T.R.H.S., XV (1932), 193-194.

2. p. 180.

3. Notts., Lincs., Derbys., Warwks., Leic.

4. The most important Governmental commissions appointed to enquire into the effects of enclosure particularly as affecting the Midland Counties were those of 1517-1519, 1548, 1566, 1607, 1614 (Lincs.), and 1632-1636. E. M. Leonard, 'The Inclosure of Common Fields in the Seventeenth Century,' T.R.H.S., New Series, XIX (1905), 125-130.

Midland counties over which Whalley's rule extended were still farmed on the open-field system,¹ there is ample evidence to show that enclosure in certain areas was extensive enough to cause depopulation and much poverty.²

In 1630, following their policy of 'spasmodic benevolence',³ a rise in corn prices resulted in the Privy Council's directive to the justices of five Midland counties⁴ ordering the restoration of enclosures which had been made within the last two years. It is evident that this injunction was not obeyed for during the years 1630 and 1631, 10,000 acres were enclosed for pasture in Leicestershire and a similar amount in Northamptonshire.⁵ Commissions were appointed in 1632, 1635 and 1636 and justices of assize given specific instruction to enforce more vigorous action. As a result, pasture land was ploughed up in some counties,⁶ and between 1635 and 1638 some 600 people were fined for enclosures.⁷ This was not a purely disinterested

1. See e.g. W. G. Hoskins, 'The Leicestershire Farmer in the Seventeenth Century', in Provincial England (Lond., 1963. Papermac reprint, 1965). The author states (p. 152) that in Leic. 'only 10 per cent, at the most, of the open-field area had been enclosed by 1607;' citing L. A. Parker, 'The Tudor Enclosure Movement in Leicestershire, 1485-1607' (unpublished thesis, University of London, 1948). Using Gilbert Slater's evidence that parliamentary enclosure acts dealt with about 38% of the acreage in Leic. between 1730 and 1850 (see The English Peasantry and the Enclosure of Common Fields (1907), p. 189), Hoskins (p. 163) estimates that 52% of the county must have been enclosed between 1607 and 1730.

2. For evidence of increased enclosure and depopulation in the Midlands, see E. C. K. Gonner, 'The Progress of Inclosure during the Seventeenth Century', E.H.R., XXIII (1908), 482-483, 485-487, 493-494. E. M. Leonard, 'The Inclosure of Common Fields ...', op. cit., 103-104, 117-118, 125-144.

3. M. James, Social Problems, p. 79.

4. Derbys., Hunts., Notts., Leic., Northants.

5. H. N. Brailsford, The Levellers and the English Revolution (Lond., 1961), p. 429. Figures based on statistics in E. M. Leonard, 'The Inclosure of Common Fields ...', op. cit., 130-131.

6. M. James, Social Problems, p. 79, citing R. H. Tawney, The Agrarian Problem in the Sixteenth Century (1912), p. 391. See also E. M. Leonard, op. cit., 134-35.

7. Brailsford, The Levellers, p. 429, citing E. C. K. Gonner, Common Land and Inclosure, p. 167. The compositions for 3 counties Whalley was later responsible for are:

attempt to put down enclosures on the part of Charles I's government: it was also a useful means of financial extortion. Landowners were particularly incensed at the government's interference with rights of ownership, and much bitterness was directed against Laud by courtiers who saw their profits curtailed by his high-handed actions. Witness Clarendon's remark on the Archbishop in this respect.

The revenue of too many of the court consisted principally in enclosures, and improvements of that nature, which he still opposed passionately except they were founded upon law ... And so he did a little too much countenance the Commission for Depopulation.¹

II

There are too many diverse geographical and geological factors involved over different areas of the Midlands to assume that one particular type of husbandry held sway - especially in the first half of the seventeenth century.² Undue significance should not therefore, be given to the extent of sheep farming, even in Leicestershire, during these years; for as W. G. Hoskins has shown, the county was a great corn growing area until the later decades of the century.³ A mixed type of husbandry with a sensible balance between corn and grassland was generally the rule over the county as a whole,

(continued)	<u>1635</u>	<u>1636</u>	<u>1637</u>	<u>1638</u>	<u>Total</u>
Lincs.	£3,130	£8,023	£4,990	£2,703	£18,846
Leic.	£1,700	£3,560	£4,080	£ 85	£ 9,425
Notts.	-	-	£2,010	£ 78	£ 2,088

See Gonner, 'The Progress of Inclosure ...', op. cit., p. 487.

1. History of the Rebellion, Oxford, 1847 ed., p. 131, cited by M. James, Social Problems, p. 81.

2. See J. Thirsk ed., The Agrarian History of England and Wales, IV, 1500-1640 (C.U.P., 1967), Sec., 'The East Midlands', pp. 89-99; and the same author's Tudor Enclosures (Hist. Ass. Pamph. G. 41, 1958, reprint 1967), particularly pp. 14-21.

3. 'The Leicestershire Farmer ...' op. cit., p. 149. According to an early 17th century writer, Leicestershire's 'great manufacture was tillage'. Quoted by Hoskins, p. 150.

though in many Leicestershire villages livestock farming was increasing at the expense of arable.¹ Hoskins distinguishes between two aspects of pasture farming in the county in the seventeenth century; firstly, that of ley ground in the common fields mixed with the arable strips - the extension of a system of long leys over wider areas though still under the open-field pattern, as the century progressed - and secondly, the complete enclosure of open fields and their extensive conversion to pasture for sheep and cattle.² This latter movement towards large scale grazing received its greatest impetus from 1660 onwards.

Sufficient evidence is available from the above, however, to indicate that depopulation tended to increase as the movement for pasture farming gathered force. It was certainly a cause for concern in the 1630s as we have seen, and in the early 1650s a vigorous controversy developed centring round the enclosures of Leicestershire, Northamptonshire and the adjacent Midlands. John Moore, a minister of Knaptoft in Leicestershire, was one such writer who complained of the harmful effects of enclosure - subjecting such enclosure 'to the test of morality',³ but there were other writers who as warmly praised the advantages of the movement.⁴

It is likely that Whalley was influenced by the writings of Moore and the petitions of others against enclosure during his Major-Generalship and it is most probable that he was moved to take action as a result of his own experience of the distress he saw whilst governing his counties.

The Major-Generals had been directed to carry out the existing poor law regulations effectively⁵ and Whalley was particularly thorough in this

1. Hoskins, op. cit., p. 162.

2. Ibid., p. 161.

3. M. James, Social Problems, p. 106.

4. For details of the writings of opponents and protagonists see ibid., pp. 106-117; Gonner, 'The Progress of Inclosure ...', op. cit., 482-483; J. Nichols, Leicestershire, IV part 1, 83-99.

5. Instruction 5 of their orders. The Parliamentary or Constitutional History of England, XX (1763), 462-463.

respect.¹ Whilst determined to suppress vagrancy however, he was equally concerned for those who were unemployed through no fault of their own. His actions in this direction were motivated by a deeper understanding of the problems involved, and a more humane attitude in dealing with them than that shown by some of his colleagues. Justice was tempered with mercy.²

The last serious attempts by the Government to control enclosure terminated with the onset of civil war³ - perhaps to be more exact, with the meeting of the Long Parliament in November, 1640. The breaking down of the old institutions, the dislocations caused in every aspect of political, social and economic life, the weakening of the central authority by the abolition of the prerogative courts, and the greater realization of the benefits of enclosure by the landowners themselves - all those largely explain the absence of a vigorous anti-enclosure policy by the Interregnum governments.⁴ 'The logic of enclosure'⁵ was becoming too strong to resist. This is not to state that no action was taken, but it was a more half-hearted and spasmodic attempt than that shown during Charles I's personal rule.⁶ On occasions attempts were made to revive the old restrictions on enclosure, 'or at least

1. For the success he achieved, his general attitude to idle and dissolute rogues and his call to the gov. to take positive action - a plea that was reinforced by certain other Major-Generals - see Bodl. Rawl. A 37 ff. 229, 570; A 40 f. 297; A 41 f. 538; Thurloe, op. cit., IV, 534, 632-633, 686, 718; V, 211, 320; S. R. Gardiner, The History of the Commonwealth and Protectorate, 4 vols. (1903), IV, 32-35; C.S.P.D. 1656/57, 73, 101.

2. For further indications of Whalley's 'social conscience', see Bodl. Rawl. A 37 ff. 229; A 35 f. 77; A 40 f. 297; Thurloe, op. cit., IV, 686, 509; V, 211 - his proposals for improved market regulations and a uniform system of weights and measures.

3. E. M. Leonard, 'The Inclosure of Common Fields ...', op. cit., 130.

4. For Government policy and opinion see M. James, Social Problems, pp. 90-106.

5. C. Wilson, England's Apprenticeship 1603-1763, p. 141.

6. Obviously, the Long Parliament was compelled to take action against the enclosure riots of the early 1640s. See James, op. cit., pp. 90-94.

to obtain a regulated inclosure which might secure the economic advantages of severalty while safeguarding the interests of the poor,¹ but these fell by the wayside in view of the changing attitude as was so clearly revealed to Whalley in 1656. It was impossible to stay the forces of progress.

III

In 1653, when the pamphlets of John Moore, H. Halhead, Pseudonismus and Joseph Lee were broadcasting the merits and demerits of enclosure, the Nominated Parliament made some effort to consider the enclosure problem as a whole, for the Committee for the Poor was ordered 'to consider of the Business where Inclosures have been or shall be made, how there may be a prevention of Depopulations, and Decay of Tillage; and offer to the House what they shall think fit to be done therein'.² The Parliament, however, came to an end on 12 December 1653 - probably before the Committee had a chance to report for there is no further record of positive action until three years later when Whalley introduced his Enclosure Bill into the Commons.

It is possible that the anti-enclosure movement in the Midland counties and in Leicestershire in particular gathered impetus after 1653 because of Cromwell's advent to power. His previous opposition to enclosures in Huntingdon (even though this had occurred in the 1630s) was well known and this may have given encouragement to the increased agitation.³

1. E. M. Leonard, 'The Inclosure of Common Fields ...', *op. cit.*, 130. Under the date 16 Feb. 1641, there was a resolution before the Commons for the appointment of a Commission to settle Wastes and Commons. *C.J.*, II, 435.

2. *C.J.*, VII, 358 under date 28 Nov. 1653. For details of some duties of the Committees for the Poor (there ~~were~~^{was} more than one), see *ibid.*, VI, 374, 481; VII, 127, 129, 287. The last reference under the date 19 July 1653 would seem to be the Committee to which the enclosure problem was referred.

3. See Records of the Borough of Leicester, 4 vols. (C.U.P., 1899-1923), IV, 1603-1688, ed. H. Stocks, Introduction, xxxix.

Among the Records of Leicester there is mention of a meeting of the Mayor and Aldermen on 13 October 1653 where a petition against depopulation was discussed. It was agreed that the petition 'shalbe faire ingrossed and coppies written out, and hands to be gotten to the same, and then to be sent to London by M^r Moore Minister of Shearsby'.¹ Another petition around the same time also appears in the Records.² It is moderate in tone and offers constructive suggestions for the mitigation of some of the harmful results of enclosure. It is addressed to Parliament from 'the poorer sort of the Commonalty' in certain counties, the names of which are erased. The petitioners thankfully observe Parliament's 'unwearied endeavours' to do justice to all and are thus hopeful that their grievances will be remedied. They indicate 'Inclosinge of Common feilds' and 'Intercommoning' as the main reasons for increased poverty. Enclosure has become so frequent that during the past two years there have been [blank] towns affected in Leicestershire and one other county, and further towns are agitating against it. The result is that 'Tillage doth daylie decay whereby many of the Inhabitants are constrayned either for want of worke, or through cruelty of Landlords to fly to other places and especially to markett townes, whereby they are not onely opprest with multitude of poore, but disabell to mainetaine them through the decay of the markett, and traffique;...'

The petitioners recognize, however, the disadvantages of land held in common where through 'ye ignorance of some, and willfulnes or mallice of others', efficient tillage is prevented and therefore this inclines 'many to thinke of Inclosure as the onely Remedy for such diseases which as it is managed by some persons proves both the overthrowe of their families which doe attempt it, and the apparent damninge of ye publike.' The remedy they advocate is the management of enclosure by some body ('In the nature of

1. Records of the Borough of Leicester, 414, from Hall Papers XIII, No. 567.

2. Ibid., 428-430, from Hall Papers XIV, No. 89. See also M. James, Social Problems, pp. 123-124.

a Corporacion') who whilst directing the work would look after the interests of the poorer people. No open-field village should be enclosed without the approbation of such a body, but once a joint policy had been decided, it should be pursued even without the unanimous consent of the commoners.

IV

When Whalley became Major-General, Moore was still the driving force behind the opposition to enclosure. It is apparent that Moore and the Leicester authorities collaborated in their determination to prosecute the business in earnest, and to enlist Whalley's help to bring them redress if this could possibly be attained. Further petitions¹ were organised and Moore travelled up to London to give added support. The Chamberlain's accounts of 1655-1656 indicate that the inclosure of Belgrave was of particular interest to Leicester at that time, and the following entries are amongst those which serve to illustrate the activities of the opponents to enclosure.²

Item paid for carryinge of letters which M^r Maior sent to M^r Moore and M^r Yaxley³ about Belgrave inclosure att two severall tymes 2s 4d.

Item paid to M^r Moor and M^r Yaxley by order of the Maior and some of the Commissioners towards their charges in goinge to London with divers petitions against the said inclosure and of their attendance there £10.⁴

Item payd for three horses hire for M^r Stanley M^r Cradocke and Chamberlayne Cooke⁵ for Three dayes when they went to Nottingham to the Maior Generall and for their expenses in that Journey £2..9..1.

1. See e.g., C.S.P.D. 1655/56, 21 dated 14 Nov. 1655. 'The petition of divers well-affected inhabitants of the Borough of Leicester read, and with 3 others concerning enclosures in co. Leicester annexed, referred to Lisle, Pickering, Strickland, and Wolsley, to speak with the parties that attend the business, and report what they think should be further done.'

2. Records of the Borough of Leicester, 440-441.

3. John Yaxley, minister of Kibworth, Leicester. See C.S.P.D. 1654, 207-208, 382-383, 403; ibid., 1655, 37; C.C.C., V, 3213-3214.

4. Another entry records a further grant of £4 for their charges 'in prosecuting the busines against Inclosure'.

5. William Stanley, Edmund Cradock, Jonathan Cooke, members of the 'Twenty Four', i.e. senior Burgesses of the 48 burgesses of the town corporation. Cooke was also granted 4s. 8d. on another occasion when he visited Whalley at Nottingham on the same business.

It is probable too that the enclosure problem figured prominently on the agenda on these occasions recorded in the Accounts when Whalley met the senior councillors of Leicester.

Item paid for Wine and Bisketts when the Maior and Aldermen went to visit the Maior Generall at the Red Lyon as appeares by bill £1..4..6.

Item payd for a Banquett, Wine and Sugar when the Maior and some Aldermen went to visit the Maior Generall at Maior [Major] Babingtons house as appeares by bills £2..13..Od.

Also among the Leicester Records there is a letter written by one who signs himself S.M.M.¹ It is directed to Mr. Moore of Shearsby and indicates the positive action Whalley had taken to acquaint himself with the problem of depopulation in Leicestershire.

The writer states that according to the Major General's instructions he has enclosed a list of places within the County wherein depopulation had resulted from enclosure. 'All or the greatest part whereof were formerly greate Townes and places of husbandry and tillage some of them maintayneing tenn some Twelve some sixteene and some Twenty Teames and upwards and now inclosed and depopulated ...' In most of these 'towns', the writer emphasised, tillage had decayed to such an extent that only one or two teams at the most are employed. He indicates that he could add even more 'towns' to the list so that the total would amount to above a third of the county. S.M.M. concludes his letter with the request that his list be speedily forwarded to Whalley.

The first indication that he had attempted to apply a remedy to the problem is given in a letter to Cromwell written from Warwick on 31 March 1656, in which Whalley expresses the hope that he has composed things 'soe as to give satisfaction to all p[ar]ties with p[ro]vision for the publique good.'²

1. Op. cit., 428, from Hall Papers XIV, No. 64 (undated). See also M. James, Social Problems, p. 124.

2. Bodl. Rawl. A 36 f. 709; Thurloe, op. cit., IV, 663.

On 9 April Whalley wrote to Thurloe that the Grand Juries of Leicestershire and Warwickshire were agreed in presenting the business of enclosure, and had reached their decision without any prompting from him. 'I assure you,' he states, 'though I mynded them of other thinges I mentioned not that, their owne sensiblenes of the Com[m]on greivance & oppression, put them upon it'. He is sure that the other counties under his charge, particularly Nottinghamshire and Lincolnshire, would have done likewise had they thought of it. Having considered the Leicestershire petitions which he had asked for, Whalley had sent for all the parties concerned and composed the problem to the apparent satisfaction of all. He writes: 'at least they seeme to be pleased, upon their¹ referreing themselves to mee I ordered two parts of three of their arrable land should for ever be kept in tillage; the minist^r's liveings not lessened¹ the poore amply provided for, & upon these termes I hope God will not be provoaked, the poore not wronged depopulation prevented, and the state not dam[m]nified.' To ensure that the above terms were carried out Whalley instructed the parties 'to give bond to his Highnes & his successo^r's: in larg sum[m]es.'²

V

Whalley's concern over the depopulation which he had seen in the Midland counties under his charge, impelled him to seek Parliamentary legislation to deal with the problem on a wider scale. On 9 December 1656 he first tendered a bill for the consideration of the Commons and the House ordered that it should be read the following day.³ It was not, however, until 19 December⁴ that the bill 'for Improvement of Waste-Grounds, and Regulating

1. Wrongly transcribed 'the' and 'lesse' in Thurloe, op. cit., IV, 686.

2. Rawl. A 37 f. 229. Written from Nottingham.

3. C.J., VII, 465.

4. Ibid., 470.

of Commons and Commonable Lands, and preventing Depopulations', was read for the first time. It was significant as 'the last of the long series which sought to preserve the common fields,' for in the next century when Parliament returned to this subject, 'it was to facilitate their destruction.'¹

Whalley proposed that the division of commons and other matters be entrusted to three commissioners who were to act with a jury.

The bill, however, never proceeded beyond its first reading, for there was too much vested interest at stake to allow for its success. In the ensuing debate, Lenthall, Master of the Rolls and ex-Speaker, declared that 'he never liked any Bill that touched upon property. It can never be made a good Bill what in itself had a tendency to any inconvenience; this the putting of the power of determining property in three persons. Time was when I durst hardly have trusted the justice of peace with determining of a cow grass. You have good justices now: who can tell what may be hereafter.'²

That Whalley's motives were disinterested is evident from his remark that he would be a loser rather than a gainer by the bill since all his commons were enclosed. He declared that it was 'for the general good to prevent depopulation and discourage[ment] to the plough, which is the very support of the commonwealth. It is not to put it in these commissioners' power, but in a jury also.'

Mr. Fowell replied that Whalley's bill was 'the most mischievous ... that ever was offered to this House. It will wholly depopulate many, and destroy property'.³ It was resolved therefore, that the bill should be rejected - a further triumph for that sacred institution, private property - the right to do what one wished with one's own.⁴

1. H. N. Brailsford, The Levellers and the English Revolution, p. 430.

2. Quoted from J. T. Rutt ed., Diary of Thomas Burton ..., 4 vols. (Lond., 1828), I, 175-176.

3. Ibid.

4. A clergyman in the year Whalley's bill was rejected wrote, 'Everyone by the light of nature and reason, will do that which is for his greatest advantage', (and will plough up pasture if corn is in short supply). Quoted in C. Hill, Reformation to Ind. Rev., p. 151.

Whalley's bill is significant also because it was his sole attempt at legislation - one of the rare instances¹ when he played a leading, rather than a secondary, political rôle. He put himself forward as the spokesman for the interest of the urban bourgeoisie and a section of puritan ministers - impressed by their desire for remedial action and convinced himself, that the Government should take positive measures to alleviate this long-standing social problem.

It is unfortunate that the text of the bill has not survived and we have only the barest outline of Whalley's constructive proposals. What, for instance, were to be the functions and terms of reference of the proposed commissioners? Were they to be central commissioners for the whole country, or were they for separate regions? How were they to be appointed? Were they to be salaried officials? How were the jury helpers to be chosen? Such are a few of the queries to which we have no means of knowing the answers.

Perhaps it was inevitable that Whalley's bill should fail at this juncture; there had been too many revolutionary changes in these years - politically, socially and economically - and too many progressive forces had been unleashed to ensure the success of what (to the landowning interest) appeared to be a retrograde measure.²

Laud had been the last English statesman who had tried to stop depopulation which had resulted from enclosure, but even in the 1630s, the Government had been at variance with the many landowners and agricultural writers who had come to regard open-field farming as wasteful. Governmental policy now was much more in line with the interests of private individuals.³

1. The debates on Naylor's case afford a further example. See Diary of Thomas Burton, I, particularly pp. 54, 80, 101, 153, 260.

2. It may not have been a retrograde step since the purpose of the bill seems to have been, not to prevent enclosure altogether, but to ensure that the interests of all parties were regarded when it occurred.

3. See M. James, Social Problems, pp. 120, 128.

R. H. Tawney notes that half the members returned to the Long Parliament in 1640 for the five Midland counties had themselves been fined for depopulation or belonged to families which had been fined.¹ It is hardly surprising therefore that Governmental attempts to check the harmful consequences of enclosure were never more than half-hearted and desultory.

The changing attitude to enclosure from those in authority was more fully revealed in the years immediately after the Restoration. In 1664, a bill introduced into the Lower House to enclose commons and wastes was referred by only 105 votes to 94. Two years later, another bill was read in the Lords to confirm all enclosures made by court decree within the past sixty years. This too was unsuccessful,² but the significance of the introduction and debate upon these measures is too apparent to need further comment.

III. Changing Fortunes: Forfeiture at the Restoration

I

The fate of the regicides has been treated in depth by so many historians that it would be superfluous to add further general details on this subject.³ The Act of Attainder⁴ had stipulated how those who 'are notoriously knowne to have beene wicked and active Instruments in the prosecution and compassing that traiterous Murther of His late Majesty ...' were to be punished.⁵ As one of the late King's judges, Whalley was one of those 'absolutely excepted'

1. 'The Rise of the Gentry, 1558-1640', Ec.H.R., 1st Series, XI (1941), 34-35.

2. M. James, Social Problems, pp. 128-129, citing W. H. R. Curtler, The Enclosure and Redistribution of Our Land (Oxford, 1920), p. 136; W. E. Tate, The English Village Community and the Enclosure Movements (Lond., 1967), p. 127.

3. For a concise treatment see C. V. Wedgwood, The Trial of Charles I (Lond., 1964. Fontana reprint 1967), Epilogue: 'The Regicides', pp. 245-254.

4. Statutes of the Realm, V, 1625-1680 (1819), 288-290.

5. Ibid., 288.

from the Act of Indemnity with no hope of life if he were captured.¹ He had been too active a participant in affairs of these revolutionary decades - his fortunes and interests too closely related to those of the arch-traitor Cromwell to expect any mercy. Thus with his son-in-law, Goffe, he became a fugitive from justice, making his escape shortly before the Restoration, while there was yet time.

It was not cowardice that impelled him to flee - that much seems certain, for his whole military career contradicts such a possibility. His great personal valour, his skill in warfare, his consistency and enthusiasm for the cause cannot be questioned. Nor is there any reason to doubt his moral virtue and honesty. It is difficult to divine his precise motives in leaving England: self preservation must have been the over-riding one, but this did not mean that he feared death. Perhaps he believed that by seeking to preserve his life, he might later have the opportunity, even in exile, to further that cause for which he had risked his life on numerous occasions. He never regretted his actions, for later in Massachusetts he had emphatically declared that if what he had done against the King 'were to be done', he would 'do it again'.²

In the absence of any personal written record left by Whalley that might explain why he sought exile, to speculate upon a number of possible reasons would be fruitless. Suffice it to say that having made the decision, he did not retract despite the many privations and dangers that he and Goffe suffered during their long years of exile. There is no evidence to

1. Statutes of the Realm, V, 1625-1680 (1819), 231-232; C.J., VIII, 85. For a detailed treatment of the question of indemnity and an abstract of the Bill, see D. Masson, Milton, VI, 25-56. See also M. P. Schoenfeld, The Restored House of Lords (The Hague, 1967), Ch. X, 'The Convention Parliament', pp. 184-195.

2. Deposition concerning Whalley and Goffe made by John Crown, 1661 - then a student at Harvard. See C.S.P. Colonial, 1661-1668, p. 54; L. Welles, The History of the Regicides in New England, pp. 27, 121. Crown's deposition is printed in full in Chalmers, Political Annals, p. 263.

suggest that either of them ever once doubted the righteousness of their cause. Their strength appears to have lain in their deep and abiding faith - their implicit trust in God and their belief (like that of Cromwell) that God had supported their actions. Had they so doubted then they would not have signed Charles I's death warrant. Both were convinced that Charles I was incorrigible and that the troubles of England would not be resolved until the King was removed.¹

II

The Restoration saw the nadir of Whalley's hopes and ambitions, for he lost the lands and personal estate which he had so zealously acquired within the past decade or so in his attempts to restore family honour and prestige.

Under the Act of Attainder, real estate legally the property of the regicides on 25 March 1646, or at any time since, was absolutely forfeited to the Crown. Also, 'all and every the Good[es] Debts and other the Chattells personall whatsoever ...' held by the regicides or others in trust for them on 11 February 1659/60 were similarly forfeited.² There were a number of provisos in the Act, but the most important was that which affirmed the validity of any legal conveyance such as a bargain and sale, lease, assignment of lease, trust etc., entered into by the attainted since 1st January 1641/2, provided that such transactions did not involve the property of the Crown, the Church or the reputed delinquents.

The Royal Proclamation offering £100 for the apprehension of Whalley and Goffe was issued on 22 September 1660 when it was rumoured that the

1. See Welles, History of the Regicides, p. 14.

2. Statutes of the Realm, V, 289. See also Masson, Milton, VI, 114-115. P.R.O. LR2/266 ff. 4-5 has a list, unfortunately incomplete, of the yearly values of the estates of 73 regicides. Those of Whalley and Goffe are not recorded. See also Gentles, thesis, op. cit., p. 228 and n.

fugitives had returned to England.¹ Shortly after this on 28 November, Thomas Wriothesley, Earl of Southampton and Lord Treasurer, issued a warrant to Sir Thomas Fanshaw, King's Remembrancer, authorizing him to appoint commissioners 'to inquire of and seize the estates' of a number of the 'traitors'.² Whalley is shown as having estates in Nottinghamshire and in Cambridgeshire and the Isle of Ely.³ As recorded earlier, Liddington, Whalley's Scottish donative eventually returned to Lauderdale⁴ and the Crown property he presumably held in Norfolk was restored to Henrietta Maria.⁵

The manor of Sibthorpe - the choicest of the family properties which Whalley had regained from the Newcastle trustees by indenture of 14 July 1652,⁶ was among those lands of the regicides which Charles II primarily conveyed to John, Lord Berckley (Berkeley), Baron of Stratton, Sir Charles Berckley the younger and Henry Brunckard esq., in trust for the Duke of York.⁷ Two other regicides, Gilbert Millington and Francis Hacker, had also purchased lands⁸ in Nottinghamshire - formerly part of the Newcastle estates. At Newcastle's request, and at the desire of Charles, in consideration of

1. B.M. Thomason Tracts, 669 f. 26/9; W. Kennett, A Register and Chronicle Ecclesiastical and Civil ... (Lond., 1728), p. 264; C.S.P.D. 1660/61, 273. The proclamation to the Governor of New England to apprehend Whalley and Goffe is dated 5 March 1660/1. See M.H.S.C., 3rd Series, VII, 123.

2. Calendar of Treasury Books prepared by W. A. Shaw, I, 1660-1667 (1904), 92.

3. Though no further transaction has been discovered, Whalley may have acquired land in Cambridgeshire other than that fen-land noted in the exchange sale with Richard Blackwall. See above, pp. 120-121.

4. See above, p. 153.

5. See above, Ch. 6, sec. b.

6. See above, Ch. 5, sec. b.

7. It was the King's wish that the regicides' lands be settled on his brother. See e.g., Hardacre, Royalists, p. 149.

8. As regards these, see for Millington, D.N.B.; C.C.C., III, 1735; C.J., VI, 565, 567, 571 and for Hacker, D.N.B.; H. L. Hubbard, 'Colonel Francis Hacker, Parliamentarian and Regicide,' (Trans. Thor. Soc., XLV, 1941), 16.

the loyalty of the Marquis, the Duke of York graciously consented to surrender these lands.

The royal grant authorising their restoration is dated 5 September 1660.¹ It records that Sibthorpe, certain lands in Car-Colston purchased by Colonel Hacker, and the Granges of Kirby Woodhouse and Annesley Woodhouse acquired by Gilbert Millington, all 'the Inheritance' of Newcastle were to be returned to him 'and his heires as freely as he ever enjoyed the same whensoever the premises shall be in Our Hands....'²

It is apparent that Newcastle was obliged to petition Charles for the restoration of these lands, for as indicated earlier in this study,³ in regard to Sibthorpe, his trustees had freely alienated the manor, and legally, the Marquis had no further claim to it. Because Whalley was a regicide, however, and because of the signal services Newcastle had performed, the royal grant was made without question. Newcastle also maintained that all the above mentioned lands had been sold by the trustees 'without his Privitty' - a statement which is extremely improbable to say the least. The dubious nature of such an assertion is reinforced by a similar claim he made in regard to the manor of Flawborough. It will be remembered that Whalley had transferred his interest from this manor to that of Tormarton during the year 1652.⁴ Newcastle's trustees, with the latter's authority, had sold Flawborough to Sir John Cropley bart.⁵ in 1654.

1. B.M. Eg. MSS. 2551 f. 77, 'Nicholas Papers', Warrants, 1625-1662. The indenture of conveyance to Newcastle is dated 27 Jan. 1660/1. Port. MSS. DDP.8/135.

2. See also Firth, Newcastle, p. 69 and n.; Calendar of Treasury Books, 1660-1667, I, 296-297; Thoroton, op. cit., pp. 123, 171.

3. See above, pp. 128-131.

4. See above, Ch. 5, sec. a.

5. For Cropley of Clerkenwell, Middlesex, see G.E.C., Complete Baronetage, III, 190; J. and J. B. Burke, The Extinct and Dormant Baronetcies of England, p. 142; Misc.Gen. et Her., 5th Series, III (1918-1919), 256-257; Visitation of London, 1633-4 (Harl. Soc. XV, 1880), 206.

The Marquis later brought an action in Chancery against Cropley - claiming that he (Newcastle) had not consented to the sale of his life interest, but had merely intended that his trustees should dispose of the reversionary rights. Examination of letters which the Marquis had written to the trustees, however, proved that he 'did consent to the absolute sale of the Inheritance ...' Chancery thus decreed that Cropley should be confirmed in his purchase.¹

As will be indicated in the following chapter, the restoration to Newcastle of the manor of Sibthorpe was also contested in court, though on different grounds from those in the above action.

Among the Portland Manuscripts,² there is an abstract of a copy of the transference of Sibthorpe, Annesley Woodhouse and Kirby Woodhouse to Henry Cavendish,³ Viscount Mansfield, by appointment of his father, the Marquis. This document records in detail the extent of Sibthorpe at that time, and it is apparent from the forfeiture of this manor alone how great Whalley's losses must have been. The Restoration was one more fateful step in the progressive decline of his family - a process which Edward had managed to arrest and which his nephew Peniston was to stay for some years before the accumulation of misfortune finally overwhelmed him. The return of Charles II was the most damaging blow since it proved to be irreversible. Even the elder Richard Whalley had survived a period of imprisonment resulting from political indiscretion, and repaired a damaged fortune, and it is at least

1. See Reports of Cases Taken and Adjudged in the Court of Chancery, in the Reign of King Charles I, Charles II, James II, William III and Queen Anne, 2nd ed., 3 vols. (Lond., 1715-1716), I, 225-229. 'Cropley contra Marquiss of Newcastle,' 14 Car. 2 fo. 923. The purchase price of Flawborough was £7,400. Cropley paid £5,600 for this since Newcastle owed a debt of £1,200 (first contracted with the plaintiff's father) + £600 interest. The total purchase price for the manor when Whalley's Ordinance was passed on 22 Mar. 1647/8 was £6,151.10.0. See above, p. 113.

2. DDP.8/135, dated 27 Jan. 1660/1.

3. Now Newcastle's heir since the death of his elder brother Charles in 1659.

conceivable that given a few more years, Edward would have triumphed over a situation rendered precarious by the reckless expenditure and indebtedness of his father. This, however, was not to be.

III

Since the fortunes of the family had been so closely bound up with the power of the Cavendishes for many years, some details of Newcastle's position at the Restoration would seem to justify inclusion at this point.

With regard to the above mentioned lands forfeited by the three regicides, the Duchess of Newcastle in her account of the life of her husband, records that the Duke of York graciously restored to him property worth £730 a year.¹ She omits to mention, however, that the Marquis was fortunate enough to secure a private act² to which Charles gave his assent on 13 September 1660. This authorised the restoration of estates which he had held before the war or at any time since, and with which he or others acting on his behalf had not parted voluntarily.

The Duchess makes much of her husband's losses in the royal cause. She estimates these at over £940,000, but this figure cannot be accepted at its face value for a large part of it - namely £733,579 - was attributable to the loss of rent reckoned at compound interest for the eighteen years he had been in exile.

She complains of the depredations of the family estates during the Interregnum and notes that of eight parks formerly held by Newcastle, only

1. Firth, Newcastle, p. 69.

2. House of Lords MS. No. 25, 12 Car. 2; L.J., XI, 171, 'An Act for restoring unto William Marquis of Newcastle, all his Honours, Manors, Lands and Tenements in England, whereof he was in Possession on the 20th Day of May 1642....' Wrongly printed as 1640 in L.J., and quoted by Firth, p. 69 as such. For the debates on the Act see L.J., XI, 119, 120, 125, 128, 132, 135, 138, 160; C.J., VIII, 131, 139, 141, 155, 157. See also H.M.C. Appendix to 5th Report (1876), 155, 177. Newcastle was one of 20 peers who were aided by acts or orders of the House of Lords to regain their lands. See M. P. Schoenfeld, The Restored House of Lords, p. 113.

Welbeck was in some state of preservation.

By 1667, the Duke¹ had not managed to recover lands in direct possession valued at £2,015 per year and in reversion at £3,214 per year. He had been obliged to sell lands worth £56,000 to discharge debts occasioned by the wars.²

There is a note of reproach in his wife's remarks that the courts showed Newcastle no favour in his attempts to recover some of his lands. His suits were 'more chargeable than advantageous'³ to him. In answer to this, it should be noted that he himself did not always act in the best interests of justice.⁴ Peers were no more successful than lesser Royalists if they attempted to proceed in an arbitrary or illegal manner. It is apparent that Newcastle lost some actions because he had voluntarily acquiesced in the sale of certain lands to pay debts and raise portions. To try to regain such possessions therefore, contravened the terms of the Act for Confirmation of Judicial Proceedings.⁵ As we have seen, Newcastle failed to regain Flawborough in a Chancery suit and his final recovery of Sibthorpe was accomplished only after protracted litigation.

1. The dukedom was granted 16 Mar. 1665.

2. Firth, Newcastle, pp. 69-81. The Duchess of Newcastle's estimates of the rentals in 1667 of the following manors are of interest. Sibthorpe, £704.1.0.; Welbeck, £600.0.0.; Carcolston, £450.3.0.; Flawborough, £512.11.8. The latter figure should be compared with the rental of £410.2.0. for 1641, supplied by the Notts. County Committee prior to the Parliamentary grant to Whalley. See above, pp. 109-110, 113. For a concise account of the peerage and the land settlement see M. P. Schoenfeld, The Restored House of Lords, pp. 104-126.

3. Firth, Newcastle, p. 81.

4. See e.g., the case of George Sitwell in Sir G. Sitwell, 'The Loyal Duke of Newcastle,' (Derbys. Arch. and Nat. Hist. Soc. Journal, XIII (1891), 3-4, and cited by Hardacre, Royalists, pp. 98-99, 153.

5. See J. Thirsk, 'The Restoration Land Settlement', J.M.H., XXVI (1954), pp. 324-325 and for greater elaboration of the courts' attitude to 'voluntary land sales', see the author's 'The Sale of delinquents' estates during the Interregnum, and the land settlement at the Restoration ...' (University of London Ph.D. thesis, 1950), pp. 272-275; The whole complicated land problem at the Restoration is also dealt with by P. G. Holiday in 'Royalist Composition Fines and Land Sales in Yorkshire, 1645-1665' (University of Leeds Ph.D. thesis, 1966), Ch. 6, pp. 226-276.

Chapter 8

JOHN WHALLEY AND SIBTHORPE

I

In an earlier chapter,¹ some details were given about the Duffield family and Edward Whalley's first wife Judith. It was also noted that John Whalley was the eldest child of the marriage, probably born in Essex about 1633.²

John may have been the one who was admitted pensioner at Trinity College, Cambridge, on 28 April 1649, and who matriculated the same year.³ Nothing further has been discovered about his early years and information about his adult life also is very limited.

It is known, however, that John served under Henry Cromwell in Ireland for some time during the Protectorate, but left that service and returned to England - perhaps in the early summer of 1658, when he was replaced by his half-brother Henry, Edward's eldest son by his second wife Katherine (née Middleton).⁴ It is very improbable that John resumed his military duties in Ireland.

In July 1659, a committee of the restored Rump re-organised the Irish army and substituted Peter Wallis as colonel of the Regiment in place of Henry Cromwell.⁵ There is a list⁶ of the officers at that time and the proposed changes to be made. Among the list are noted a subaltern John

1. Ch. 4, pp. 88-89.

2. Above, p. 98.

3. Venn, op. cit., part 1, IV, 376.

4. See below, pp.204-205 for sources. For observations on Edward's 2nd wife, see above, pp.99-103.

5. C.S.P.D. 1659/60, 13.

6. P.R.O. SP.63/287/194; C.S.P. Ireland, 1647-1660, 700.

Whalley and a cornet Richard Whalley whom Firth and Davies¹ mistakenly identify as the sons of Edmund [sic] Whalley.² It is recorded that Cornet Richard Whalley was relieved of his command about September 1658, 'for refuseing to signe an addresse to his late highnesse & to appeare at pro-clayming of him ...'³ Cornet Henry Monck, nephew of General George Monck, replaced Richard, but the latter was later reinstated by the republican commissioners in July 16⁵49. These commissioners also displaced Lieutenant John Whalley because of his 'deboistnesse'.⁴

There is little doubt that the 'deboist' John Whalley referred to was the son of Henry Whalley, Edward's brother, and not Edward's own eldest son. Henry Whalley was appointed Judge Advocate in Ireland early in 1659.⁵ As an adventurer in the double ordinance, he became seized of lands in Galway and Athenry,⁶ and settled in Ireland shortly before the Restoration. The subsequent history of his family is connected with that country.⁷

On 15 March 1658/9, Henry Whalley wrote to Henry Cromwell, Lord Lieutenant of Ireland. His letter is worth quoting at length for it almost

1. Regimental History, II, 591.

2. No source used in this study indicated that Edward ever had a son Richard. This is not to deny the possibility, but it seems highly improbable.

3. P.R.O. SP.63/287/194. His 'late' highness must have been Richard Cromwell and not Oliver as suggested in C.S.P. Ireland, 1647-1600, 700 n. The P.R.O. MS. is unfortunately undated. A pencil superscription 1659 has been added later. See also Firth and Davies, op. cit., II, 591-592; Ludlow, Memoirs, II, 226.

4. i.e. debauchery, licentiousness.

5. see e.g. B.M. Lansdowne MSS. 823 ff. 253, 267.

6. For the difficulties H. Whalley had before confirmed in his Irish lands see C.S.P. Ireland, 1647-1660, particularly 586, 589, 614-615, 833. See also C.J., VII, 460, 463, 472, 474, 476; J. T. Rutt ed., Diary of Thomas Burton, I, 2-4, 222; B.M. Lansdowne MSS. 822 ff. 116, 134; H.M.C. 8th Report (1881), Appendix 99a.

7. See e.g. J. Lodge, The Peerage of Ireland, or a Genealogical History of the Present Nobility of That Kingdom - Revised, enlarged and continued to the present time by M. Archdall, 7 vols. (Dublin, 1789), VI, 711 n.; N. and Q., 4th Series, III (1869), 591; pedigree, B.M. Add. MSS. 23690 f. 59.

certainly establishes the true identity of Lieutenant John Whalley.

Sithence it hath pleased the Lord to call yo^u to be the Chiefe Governor of A greate people and Nation, I beseech yo^u to take care of my poore sonne Lt Whalley for I heere his wayes are such as are not well pleasing to the Lord and good men. My most humble request unto yo^r Ex^cie is that yo^u wilbe pleased to send for him & give him A sharp reproofe & yo^r grave & godlie counsell and then send him to his Troope with some private notice to be given from yo^r Ex^cie to his Capt. to have an eye over him. By this meanes it may please God that being from his acquaintance he may be reclaimed and yo^r Ex^cie being the Instrument of it may have comfort therein.¹

With regard to Cornet Richard Whalley, and the statement that he was Edward Whalley's son, the error appears to have originated with some details of the Whalley family submitted in 1869 by W. F. Littledale of Dublin.² The writer states that this Richard Whalley, a Cornet and afterwards Captain of Horse 'came to Ireland in 1658, with a letter of introduction from Oliver Cromwell (his cousin), [sic] to Henry Cromwell, Lord Deputy ...' As will be indicated shortly, this statement is incorrect.

Littledale indicates that Cornet Richard Whalley was later granted 3,420 acres, 3 roods, 12 poles of land in Kilkenny and Armagh which were enrolled in 1666, and that he later married Elizabeth, daughter of Richard Chappell of Armagh, Esq. These latter facts are probably correct but unfortunately no source is given to verify them.

According to the writer, Cornet Richard Whalley and Elizabeth had a son, also named Richard, of Newford in county Galway who became the husband of Susanna, daughter and co-heir of the 'deboist' Lieutenant John Whalley, Henry Whalley's son. That this latter marriage took place can be confirmed by at least two sources³ - neither of which, however, helps us to identify

1. B.M. Lansdowne MSS. 823 f. 253. See also R. W. Ramsey, Henry Cromwell (Lond., 1933), pp. 316-317.

2. N. and Q., 4th Series, III, 591.

3. Pedigree, B.M. Add. MSS. 23690 f. 59; The Peerage of Ireland, ed. M. Archdall, VI, 71 n. The latter authority records (p. 310) that Cornet Richard Whalley had a daughter Elizabeth who married Richard Cope, son of Walter Cope of Drumully in co. Armagh, esq.

Cornet Richard Whalley.

Of the numerous pedigrees consulted relating to the major branches of the Whalley family,¹ none has thrown further light on Cornet Richard Whalley. It is possible, therefore, that he may have been of Irish descent.

All subsequent accounts² which mention Cromwell's letter of introduction above, appear to have accepted as valid Littledale's statement that it concerned Cornet Richard Whalley. The son to whom Cromwell referred, however, was Henry Whalley, Edward's eldest son by his second wife Katherine (née Middleton).³

II

On 1 June 1658, the Protector wrote to Henry Cromwell, praising the worth of Henry Whalley and recommending him to the Lord Deputy's care.

I write not often to you [he begins]. Now I think myself engaged to my dear cousin Whalley to lay my commands upon you that you show all loving respect to his eldest son by his present lady, whom you are to receive in the room of his eldest brother,⁴ both into his command and into your affection. I assure you, though he be so nearly related to us, as you know, yet I could not importune on his behalf so heartily as now I can upon the score of his own worth;

1. The families of Leic., Lancs., Yorks., Northants., Somerset, Notts. See e.g. Misc. Gen. et Her., II (1876), 321; J. Nichols, Leicestershire, II, part 11, 736; Chetham Soc., New Series, LXXXV (1926), 100; J. Foster ed., The Visitation of Yorkshire in 1584/5 and 1612 (Lond., 1875), p. 218; J. Burke, Commoners, IV (1838), 606. Pedigrees of the Notts. family have been cited frequently in the text.

2. See e.g. J. Waylen, The House of Cromwell and the Story of Dunkirk. A Genealogical History of the Descendants of the Protector, with Anecdotes and Letters (Lond., 1891), pp. 294-295; Carlyle (ed. Lomas), op. cit., III, Supplement 145, 514-515; Abbott, op. cit., IV, 821 and n.; Firth and Davies, Regimental History, II, 591-592.

3. Whalley refers to both his sons by Katherine as Henry and Edward. See P.R.O. C54/3876/43. As stated above (p. 99), no definite date has been found for the death of Judith, Whalley's first wife, or for his second marriage to Katherine (née Middleton), though this probably occurred c. 1636. Edward first refers to his son Henry's serving under Henry Cromwell's command in his letter to the latter dated 19 Feb. 1656/7. A probable date for Henry Whalley's birth may be c. 1638-1640.

4. i.e. his half-brother John Whalley, Edward's eldest son by Judith (née Duffield) and the subject of this chapter.

which indeed is as remarkable as I believe in any of ten thousand of his years. He is excellent in the Latin, French and Italian tongues; of good other learning with parts suitable; and which completes this testimony is hopefully seasoned with religious principles. Let him be much with you, and use him as your own ...¹

If there were any doubt of the son referred to, Edward Whalley dispels this in three of his letters to Henry Cromwell. In one of them, dated 19 February 1656/7,² Whalley refers to the fact that his son desires to spend some time in France. The Protector has encouraged him to spend a year there, has granted him leave with pay, and Lord Deputy Fleetwood has also given his approval. In a second letter,³ and referring to the original grant of twelve month's leave, Whalley states that the pass for his son issued by either Henry Cromwell or Fleetwood 'was but for halfe a yeare.' On behalf of his son, he requests Henry Cromwell for 'a further enlardgem^t for his remayning in ffrance (for his better acquiring y^t language) till the spring ...'

The third letter,⁴ written shortly after Oliver Cromwell's recommendation and testimony of Henry Whalley's worth, is to implement the Protector's wishes.

I have sent my sonne Henry to wayte upon & attend you^r Excellencyes commandes, hitherto both beyond sea and at home he hath beene of a blamelesse conversation, may he but by his deportm^t receive the Testimonie of your^r Ex:^cles approbation it will be a great contentm^t to his mother and myself ...

Cromwell's letter of 1 June 1658 recommending that John Whalley be replaced by his half-brother Henry was probably written at the request of Edward Whalley himself, as an indication of the latter's displeasure over

1. J. Waylen, House of Cromwell, pp. 294-295; Carlyle (ed. Lomas), op. cit., III, 514-515; Abbott, op. cit., IV, 821.

2. B.M. Lansdowne MSS. 821 f. 286. Printed also in N. and Q., 5th Series, VII (1877), 81. It is apparent that Henry Whalley was serving under Henry Cromwell before going abroad to complete his education.

3. B.M. Lansdowne MSS. 822 f. 222, dated 15 Oct. 1657.

4. B.M. Lansdowne MSS. 823 f. 53, dated 7 June 1658. H.M.C. Ormonde MSS., New Series, III (1904), 416, mentions a sum due to Quartermaster William Hart in Capt. Henry Whaley's troop, 30 Aug. 1658 to 16 January 1659.

a duel John had fought with Philip Stanhope, second Earl of Chesterfield. The Earl was at this time, something of a roué - notorious for his amours, drinking, gaming and 'exceeding wildness.'¹

Chesterfield had previously been arrested for an intended duel with Lord St. John.² According to Edward Whalley's letter written to Henry Cromwell on 7 June, the challenge had originally been issued to Edward himself, for he states: 'though a meere strange^r to y^e Earle, meeting accidentalye wth him at y^e Hie Court of Justice, & y^e next morning receaving a challenge from him w^{ch} my sonne unwilling to beleeeve, went to his lodging immediately to him, to have avoyded it, yf possibly preserving his hono^r; but being furthe^r provokt, my sonne refusing to have a second and unwilling to involve any freind into an evill, y^t in could blood he condemned himself fo^r as also as unwilling to expose the person or estate of any to hazard, they ended theyr controversie at y^e Isle of Dogges.' He adds that his son Henry will describe the incident to the Lord Deputy in greater detail.

John Whalley had broken the law (which 'makes him as Hie an offende^r as y^e other') and thus had incurred his father's extreme displeasure; but at the same time Edward had to recognize that a point of honour was at stake and even 'hys Highnes thinkes he was very Highlye provokt'.

Another interesting feature of Edward's letter is the fact that the date of John Whalley's promotion to Captain is given as 12 April 1658.³ Since John could not write to Henry Cromwell himself because of the 'small hurt' received in the duel, he had asked his father to indicate this date

1. See an admonitory letter condemning Chesterfield's conduct, written to him by Lady Capel, sister of his first wife who was Lady Anne Percy, eldest daughter of the tenth Earl of Northumberland. Letters of Philip, second Earl of Chesterfield to several celebrated individuals ..., Anon. (Lond., 1837), pp. 97-99. For career see D.N.B.

2. C.S.P.D. 1657/58, 290-291, dated 16 Feb. 1657/8.

3. This further supports the evidence given above, p. 202 that Lieutenant John Whalley and Captain John Whalley were not one and the same, but cousins.

so that 'no stop may be put to his warrants to y^t time.'¹

III

As a result of the duel, both John Whalley and Chesterfield were committed to the Tower. Chesterfield wrote to Lady Capel, sister of his late wife, thanking her for the concern she showed over 'my little disaster'. He indicated that if John Whalley died, then on the Protector's orders his own life would be forfeit, 'but I think there is now little danger of it, and therefore, I suppose my confinement in the Tower can only last til the next quarter sessions ...'²

On 15 June, after a fortnight's incarceration, John Whalley petitioned the Protector for an order to be sent to Lord Barkstead, Lieutenant of the Tower, to release him on bail. He expressed his remorse for the incident and affirmed his loyalty to the Protector, declaring that were he alone concerned, he would willingly submit to his punishment, but since he was newly-married, another would suffer almost as much as he, and he was anxious to avoid the unhappiness a long separation might produce.³

Chesterfield had also submitted a petition, and as a result, both were bound over to appear at the next quarter sessions, having entered into fit recognizances to do so. Barkstead and Sir Lislebone Long, Recorder of London,

1. For Edward Whalley's other letters to Henry Cromwell, see B.M. Lansdowne MSS. 821 f. 136; 822 f. 49 and 823 f. 100, dated respectively 22 May 1656, 14 Apr. 1657, 18 Sept. 1658. In the latter letter Edward again thanks Henry Cromwell for the kindness shown to his (Edward's) son Henry. These three letters are also printed in N. and Q., 5th Series, V (1876), 463-464 and VII (1877), 81.

2. Letters of Philip, second Earl of Chesterfield ..., pp. 84-85.

3. P.R.O. SP.18/181/102; C.S.P.D. 1658/59, 62. See also ibid., 52 under date 8 June 1658. For a curious double acrostic composed on the marriage, see Sussex Archaeological Collections, IV (1851), 96-97. It is entitled 'An Epithalmie, presented on the names and nuptialls of the much honoured Cap. JOHN WHALLEY, Esquire, and the right vertuous lady, ELIZA SPRINGATE, his most endeared consort,' Anon.

were directed to examine witnesses and prepare an indictment. The duellists meanwhile were to be released.¹

It appears that Chesterfield was fined for his part in the duel but whether John Whalley was similarly punished is not stated.² Shortly afterwards in September 1659, Chesterfield was again imprisoned for suspected complicity in Sir George Booth's rising. He was, however, released on giving security for £10,000.³

IV

The wife to whom John Whalley alluded in his petition was Elizabeth, second daughter of Sir Herbert Springett of Broyle Place, Ringmer, Sussex, and descended from a notable family in that county.

Sir Herbert was elected to the Long Parliament as a recruiter member (probably replacing William Marlott gent. who had died in 1646) until secluded at Pride's Purge in 1648.⁴ He had signed the Parliamentary Protestation of 1641 to maintain and defend the true reformed Protestant religion along with 155 other citizens in Ringmer Church on 4 July of that year,⁵ and in April 1643 he was one of the commissioners appointed to sequester the estates of his Royalist neighbours in Sussex.⁶

1. P.R.O. SP.25/78/687; C.S.P.D. 1658/9, 62. See also *ibid.*, 66. Robert, Lord Tichborne and Christopher, Lord Pack were also to examine into the affair.

2. *Ibid.*, 254, 275. 'Earl Chesterfield 232 l. 16s. Od. paid at Exchequer'. The latter citation is dated 8 Feb. 1658/9.

3. *Ibid.*, 1658/59, 164, 240; D.N.B.; C.C.C., II, 1265.

4. A. H. Stenning, 'A Return of the Members of Parliament for the County and Boroughs of Sussex' [Eliz. I to Chas. II], S.A.C., XXXIII (1883), 88. See also *ibid.*, V (1852), 102; D. Underdown, *Pride's Purge, Politics in the Puritan Revolution* (Oxford, 1971), Appendix p. 386. See also p. 255 for Underdown's description of a typical secluded Member - his 'S' category M.P.; G.E.C., *Complete Baronetage*, III, 1649-1664 (1903), 153.

5. S.A.C., IV, 288.

6. *Ibid.*, IV, 98; V, 53-54.

Springett sat for Sussex in the first Protectorate Parliament of 1654-1655 and for New Shoreham again in both the Convention and Cavalier Parliaments.¹ It is not known at what stage he became a Royalist sympathiser - perhaps during the later years of the Protectorate - but his services were sufficiently recognized to gain him a baronetcy on 8 January 1660/1 - an honour which he did not long live to enjoy, for he died on 5 January 1661/2, aged 49 years.²

John Whalley was not blessed by a long marriage for his wife Elizabeth died in 1660 aged 22 years, and was buried in Ringmer church - the resting place also of her father, shortly afterwards.³

Sir Herbert, who held lands in Kent, Cambridgeshire and Sussex, directed in his will⁴ that his lands in Kent should be sold to pay his debts. The rest of his estate was bequeathed to his wife, Dame Barbara, for life, and after her death certain parts of it were to descend to his daughters, Barbara Springett and Mary Stapley,⁵ and to his son-in-law, John Whalley.

1. G.E.C., Complete Baronetage, III, 153; S.A.C., XXXIII, 90, 94, 96.

2. For further references to Springett, see J. and J. B. Burke, Dormant and Extinct Baronetcies, p. 502; M. A. Lower, 'Sir William Springett & the Springett family', S.A.C., XX (1868), 34-46; Sir W. Bull ed., J. Comber, Sussex Genealogies, 3 vols. (Cambridge, 1931-1933), Lewes Centre (1933), 280-281, and pedigree Appendix G.

3. S.A.C., LXX (1929), 161.

4. P.R.O. Prob.11/309/131, dated 2 Jan. 1661/2, proved 20 Oct. 1662.

5. Wife of Sir John Stapley, bart., who was the son of Anthony Stapley, the regicide. For Parliamentary father and Royalist son see D.N.B.; Keeler, Long Parl., p. 349; S.A.C., II (1849), pedigree, p. 105 and particularly, IV, V, XIII (1859), XVI (1864), XXXIII, LXXVII (1936), passim; G.E.C., Complete Baronetage, III, 97-98. D. Underdown, Royalist Conspiracy in England, 1649-1660 (New Haven, 1960), 209-211, 217, 221, 226-7, 318. The most detailed genealogical study of the Stapleys is H. W. Forsyth-Harwood, 'The Baronetcy of Stapley', The Genealogist, New Series, XVIII (1901), 140-162. See also details of the litigation regarding Sibthorpe, below, p. 212 ff. and pedigree, Appendix G.

John was to hold the manors of Southease and Heighton¹ until Herbert, his only son by Elizabeth, attained the age of twenty one years. Dame Barbara Springett, however, outlived Herbert Whalley, her grandson, and thus she retained the manors until her death at the age of eighty five on 6 March 1696/7.²

In 1688, it is recorded that Herbert Whalley and his wife Lucy, quit-claimed their future interest in the manors 'to Ezekiel Hutchinson Thomas Watson and the heirs of Ezekiel Hutchinson and subsequently to John Watson and his heirs'.³

Herbert was knighted at Windsor Castle by Charles II on 29 April 1684,⁴ and is stated to be of Broyle, Surrey [sic], the family residence. For a short period between 2 September 1684 and 14 March 1684/5 he served as corporal of the Yeomen of the Guard.⁵

A marble on the north wall of the south chapel of Ringmer church records that Sir Herbert Whalley, son of John and Elizabeth Whalley, and grandson of Sir Herbert and Dame Barbara Springett, died in 1689. His wife Lucy,⁶ who later remarried one, Thomas Harris, erected the monument to his memory.⁷ Thomas Harris and Lucy made a further quitclaim of Southease to

1. For history of the manors see T. W. Horsfield, The History, Antiquities and Topography of the County of Sussex, 2 vols. (Lewes, 1835), I, 191-197.

2. G.E.C., Complete Baronetage, III, 153; J. Comber, Sussex Genealogies, Lewes Centre, 281; P.R.O. Prob.11/437/83 dated 15 June 1694, proved 12 April 1697.

3. V.C.H. Sussex, VII (1940), 74, citing Fines, Sussex Record Society, XIX, 210.

4. W. A. Shaw, The Knights of England, II, 259; G. W. Marshall ed., P. le Neve, Pedigrees of the Knights (Harl. Soc. VIII, 1873), 385. No pedigree is given: merely the brief statement of the knighting.

5. C.S.P.D. 1684/85, 133; ibid., 1685, 94.

6. Referred to as Dame Lucy Whalley in Dame Barbara Springett's will of 15 June 1694 (P.R.O. Prob.11/437/83). Dame Lucy was bequeathed a diamond ring formerly belonging to Elizabeth, Sir Herbert's mother. Extracts from the will are also printed in The Genealogist, New Series, XVIII, 154-155.

7. S.A.C., LXX, 162.

John Watson, above named, who in April 1697 held his first court as Lord of the Manor.¹

To return now to John Whalley himself, and the period shortly after his marriage to Elizabeth Springett. He served as M.P. for the brief period of the Third Protectorate Parliament of Richard Cromwell which lasted from 27 January 1658/9 to 22 April 1659. An entry in the Commons Journals, dated 16 February 1658/9, records that 'Mr. Whaley being chosen to serve as a Member in this present Parliament for the town of Nottingham, and also for the Borough of Shoreham ... declared, That he did make Choice to serve for the Town of Nottingham; and waved his Election for the Borough of Shoram.' The House accordingly issued a new writ for a burgess to serve for the latter borough.²

Little further is known of John's activities between this brief parliamentary service and his going overseas about the year 1662, except for his involvement in the disputes with the Earl of Newcastle over the ownership of Sibthorpe, to which subject it is now necessary to return.

V

In the earlier chapter³ relating to Edward Whalley's transactions concerning Sibthorpe, it was noted that Whalley had agreed by indenture of 25 November 1656 to repay to Sir Charles Harbord, Robert Butler the younger, and John Hanson, the sum of £2,650, which represented the principal of £2,500 and £150 interest. This had been loaned to Whalley to enable him to pay the capital sum owing to Arthur Warren. The indenture stipulated that Whalley

1. V.C.H. Sussex, VII, 74, citing Fines, Sussex Record Society, XIX, 210, and B.M. Add. MS. 5684.

2. C.J., VII, 604. See also J. T. Rutt ed., Diary of Thomas Burton, III, 305-306; Members of Parliament, Vol. LXII, parts 1 and 11 of Accounts and Papers (1878), part 1, 509, 510; S.A.C., XXXIII, 92; Mercurius Politicus, No. 548 (30 Dec. 1658 - 6 Jan. 1658/9), 144; Worc. Coll., Clarke MSS. 3.11 (formerly 31), f. 12b. The latter source proves John still held the rank of Captain at this time.

3. Ch. 5, sec. b, p. 137.

should repay Harbord's loan by 20 November 1657, and if this were not effected, the bargain and sale of the mortgage of the manor was to take effect - Richard Newman, Harbord's son-in-law, assuming possession of the same.

It is apparent, however, from subsequent evidence that Whalley had prevailed upon Harbord for an extension of time, and that he succeeded in repaying the amount by means of the marriage settlement arranged with Sir Herbert Springett upon the marriage of John Whalley and Springett's daughter Elizabeth. The terms of the settlement are set forth in a lengthy quadripartite indenture dated 23 May 1658¹ - six months almost to the day after the loan to Harbord should have been paid. The document is an interesting example of the increasing care with which families - particularly from the mid seventeenth century onwards - sought to make elaborate provision for successive generations of their children by the creation of strictly settled estates.² It conforms closely with the pattern described by Holdsworth,³ whereby the bridegroom's father agreed to convey certain property to trustees to the use of the married couple and the survivor, and the heirs of their bodies, and in default of such issue, then to the bridegroom's father and his right heirs.

The parties to the agreement were Sir Charles Harbord, Robert Butler the younger of Gray's Inn, Middlesex, and John Hanson of London of the first part, Sir Herbert Springett and the trustees John Stapley Esq. and Edward Champion⁴ Esq. of the second, Edward, 'Lord'⁵ Whalley and Dame Katherine,

1. Given in full in P.R.O. KB.27/1847/Rot.399.

2. See above, p. 134.

3. A History of English Law, 2nd ed. (1937), VII, 377-378, Appendix III, 547-549, 'A Strict Settlement of the Seventeenth Century'. See also H. J. Habakkuk, 'English Landownership, 1680-1740', Ec.H.R., 1st Series, X (1940), 6-8; F. Pollock, The Land Laws, 2nd ed. (Lond., 1887), pp. 108-113; Stone, Crisis, pp. 632-649.

4. Champion was son of Sir William Champion of Combwell Kent, by Elizabeth, dau. and co-heir of Sir William Stone of London. He was brother to Sir Herbert Springett's wife, Dame Barbara. See e.g. Springett's will referred to p. 209 above. Stapley was created baronet on 28 July 1660. See sources cited p. 209 above.

5. Cromwell's 'Other House' to which Whalley was elevated was established in Dec. 1657.

his wife, of the third, and John Whalley and Elizabeth Springett of the fourth part. By the indenture, Sir Herbert Springett agreed to purchase the mortgage on Sibthorpe for the sum of £2,575,¹ and to place this in the hands of the trustees for the young couple. The amount was to be paid to Sir Charles Harbord, Butler and Hanson by 27 November 1658² - exactly a year after Whalley should have discharged his obligation to Harbord.

Upon receipt of the money, Harbord, Butler and Hanson with Whalley's agreement were to transfer all the indentures of assignment relating to the mortgage and the £200 rental, which had been conveyed by Arthur Warren to Harbord in the tripartite indenture of 21 November 1656.³ It is evident from the agreement that Whalley was to retain possession of Sibthorpe subject to the payment of the £200 rental to the trustees Stapley and Campion, for the use of John Whalley and his heirs. This document alone, however, does not provide a complete picture of the arrangements Whalley made, and further observations on these will be given below. Even so, the evidence is of such a limited nature that it cannot be accepted as conclusive.

By the marriage settlement of May 1658, if John Whalley died first, his wife Elizabeth was to enjoy the £200 per annum rental for her life. It was then to descend to the male heirs or in default of such to the female heirs, and on failure of any issue to John Whalley's executors, administrators or assigns. Stapley and Campion were from time to time to be allowed the expenses of their trust from 'the residue of the yearly rents issues and profits', and the remainder was then to go to Edward Whalley and after him to Katherine, his wife.

A significant feature of this indenture in view of the subsequent litigation over Sibthorpe is the limited interest of Edward Whalley himself -

1. i.e. £2,500 + £75 half year's interest. Presumably Whalley had paid the other £75 interest due on 27 May 1657. See above, p. 137.

2. Springett had paid the sum shortly after the marriage. P.R.O. SP.29/20/113.

3. See above, pp. 136-137.

a remote contingent remainder - at least according to the provisions made in this agreement. There was an alternative set of arrangements which could be adopted if desired, in default of male issue to John and Elizabeth. This provided for cash portions to be paid, either if two daughters attained the age of sixteen years, or if only one did so, but since such contingency did not arise, it is unnecessary to go into further detail.

VI

One or two brief but significant items of information regarding the marriage treaty are revealed in a petition submitted to Charles II in 1660 by Sir Herbert Springett.¹ The latter stated that in 1658 'for the better preserva[ti]on of his ffamily then under oppression for theire service to yo.^r Ma:^{tie},' he was 'induced' by several Royalists to treat with Edward Whalley for a marriage between John Whalley and Springett's daughter Elizabeth. Presumably, these Royalists were Sir Charles Harbord, Robert Butler and John Hanson.

It seems more than likely that Whalley had applied a certain amount of pressure, or perhaps persuasion is a more appropriate word, in two directions: first, on Harbord to induce Springett to agree, and then on Springett himself to indicate that it would be in the latter's best interests to do so. It certainly appears that Whalley had used his position and influence at this time for his own immediate ends. It seems to have been a convenient scheme to relieve the financial pressure that might have resulted in the loss of Sibthorpe - a possibility which Whalley wished to avoid at all costs.

Springett indicated that on the marriage taking effect, he accordingly paid the marriage portion of £2,500 for his daughter, after which Whalley settled upon John and Elizabeth and their issue certain property in Nottingham-

1. In the volume of Petitions, October, 1660; otherwise undated. P.R.O. SP.29/20/113; C.S.P.D. 1660/61, 346.

shire and 'Cambridgeshire'¹ of which Whalley held the reversionary rights. Referring to Whalley's attainder and the inevitable forfeiture of all his lands, Springett humbly prayed that the King would remit those lands which he claimed Whalley had granted to John and Elizabeth in respect of the £2,500 paid, and confirm the premises according to the uses mentioned in the settlement, 'for that the said marriage was at first had for the ends herein before men[tion]ed.' As added support to his request, he emphasised that far from being opposed to the Royal cause John Whalley 'hath done many signall Offices of friendship in his indeavours to preserve severall persons (who beeing actually ingaged in yo.^r Ma.^{ty} service) had perished under the late usurped authority, had they not bin by him, and his interest assisted.'²

Since no direct reply to the petition has been discovered the most likely explanation is that it was submitted during that period when some overall settlement of the land question was expected, but as it transpired was never effected in a positive form.³ The Act of Indemnity and the Act for Confirmation of Judicial Proceedings merely questioned sales of Crown

1. The quotation marks are mine. The settlement in P.R.O. KB.27/1847/ Rot.399, relates only to property in Notts. - namely Sibthorpe. Whalley had no other sizeable estate in this county. The settlement of lands in Cambridgeshire does not appear to have been enrolled. See below, p.217. I have found no record of such estate.

2. If John Whalley had been induced to temper his political and military activities with the prevailing Royalist wind - and for a possible indication of this see C.S.P.D. 1659/60, 573, entries under 14 and 16 April - it may have been due to Springett's influence. A change of attitude if such there were, is not, however, surprising at this juncture, and conforms with the swing towards Royalism of other and more influential supporters of the Protectorate. When asking Cromwell's pardon for his duel with Chesterfield, Whalley had earlier written that he had 'from his very Entrance into the world dedicated himselfe with a most particular zeale to your Highnesse service,' and had, 'ever since that time, put in execution such his resolution, by actuall exposing himself to it in all capacities that providence hath beene pleased to vouchsafe him the happy opportunity of ...' P.R.O. SP.18/181/102, and see above, p.207.

3. See J. Thirsk, 'The Restoration Land Settlement', J.M.H., XXVI (1954), 317-320, 328; Hardacre, Royalists, pp. 154, 156-157.

and Church property or confiscation and sale of delinquent land. As explained previously,¹ voluntary sales of property were not challenged, and all individual claims - Royalist or otherwise - were left to be decided by the ordinary process of law. Springett's petition presumably fell into this category.

That there was other property involved apart from Sibthorpe (which alone was mentioned in the marriage settlement) is apparent from part of the evidence submitted for the Crown by Sir Geoffrey Palmer, Attorney General to Charles II, and others.² The information was imparted in the Chancery action³ which the Marquis of Newcastle brought against John Whalley and the trustees, John Stapley and Edward Campion, and which will be discussed more fully below. Palmer and the others maintained that in negotiating the terms of the marriage settlement, Edward Whalley agreed to settle upon the couple 'certain property'⁴ other than Sibthorpe as a jointure for Springett's daughter. However, since there was some delay in finalising such conveyance, Whalley persuaded Sir Charles Harbord to assign over the mortgage on Sibthorpe to Springett, Stapley and Campion, in trust for John Whalley and his heirs - which terms were included in the detailed settlement described above. If, however, Edward Whalley was successful in his arrangements for conveying 'some other estate' then, according to Palmer, it was agreed that Springett, Stapley and Campion should hold the mortgage in trust for Edward Whalley and his heirs. Sir Charles Harbord, it is said, was party to these arrangements ... 'although no actual assignment was made [he] became interested

1. Above, pp. 197, 200 and n.

2. These were Sir Edward Turner, Attorney General to the Duke of York and John, Lord Berckley (Berkeley), Baron of Stratton, Sir Charles Berckley and Henry Brunckard Esq., trustees of the Duke of York. See above, p.196.

3. Palmer's evidence is not included among the other documents of the case in P.R.O. C5/529/5, but is given in full in Port. MSS. DD4P.22/326.

4. The quotation marks are mine.

in trust only for the said Edward Whalley and his heirs.'

Palmer indicated that these arrangements came into force when Edward Whalley succeeded in conveying 'some other estate' as the jointure for Elizabeth, and thus Springett and the others became trustees for Whalley and his son 'of and in £200 per annum out of Sibthorpe', and until forced to flee at the Restoration, Whalley had continued to receive the profits from the manor and had enjoyed all the benefits thereof 'as perfect owner without any intermeddling or molestation', by Springett, Stapley, Campion and John Whalley. In the statement Palmer also declared that the location of such estate was unknown to him and the plaintiffs, William, Marquis of Newcastle and his son Henry, Viscount Mansfield. It would appear to be the property in Cambridgeshire mentioned by Springett in his petition to Charles II, but what this comprised or when the conveyance took place has not been discovered.

VII

In the ensuing litigation of the 1660s between Newcastle and John Whalley's trustees concerning the ownership of Sibthorpe, the issue in dispute was whether the trustees held the mortgage of the manor in trust only for John and his heirs, or whether it was held in trust for Edward. There are a number of vital pieces of evidence lacking, and some information is too unreliable for it to be possible to decide this question with certainty and to explain satisfactorily the eventual outcome of the protracted dispute which confirmed Newcastle's ownership of the manor. It appears, for example, that the agreement to convey 'some other estate' to John Whalley and his wife was not enrolled in a court of record, if Sir Geoffrey Palmer's statement is to be believed. There seem~~x~~ to have been secret agreements between Whalley and Sir Charles Harbord of which we have insufficient detail and can only surmise. The evidence of the plaintiffs Newcastle and his son and of Palmer et al. for the Crown in the Chancery action of 1662 is coloured by Royalist prejudice against a regicide. The answer of the defendants

Stapley and Campion has nothing to say in Whalley's favour, and that of Sir Charles Harbord has not survived. Most important of all, Whalley's own account of his actions is significantly lacking.¹ In view of these factors therefore and certain others to be mentioned below, some details of necessity must be based on conjecture.

As was explained in the previous chapter,² when Whalley's lands had been forfeited to the Crown at the Restoration, Newcastle had gained possession of Sibthorpe. It was by virtue of the royal grant and not as former owner³ that Newcastle laid claim to the manor. Stapley and Campion, the trustees for John Whalley, claimed Sibthorpe under the terms of the marriage settlement whereby the bargain and sale of the mortgage would take effect in default of payment of the £200 per annum. Their claim was further strengthened by the agreement in the settlement, that the original indenture of assignment dated 19 May 1640,⁴ and made between Newcastle and Dame Dorothy Warren, John Moore, Robert Wollveridge and William Allestrey should be delivered up to them.

1. See P.R.O. C5/329/5 and Port. MSS. DD4P.319-326.

2. Ch. 7, sec. 111, pp.196-197.

3. It seems almost certain (though according to B.M. Eg. MSS. 2551 f. 77, he appears to have denied this), that Newcastle had relinquished this claim by voluntarily acquiescing in the sale of the reversionary rights of Sibthorpe in 1652. See above, pp.132-133,139-140 (for the sale by Newcastle's trustees to Whalley), and p. 200. J. Thirsk's comments on 'confirmatory releases' are of interest here. She states that where a purchaser of land from the Treason Trustees had subsequently also obtained a release from the former Royalist owner, this owner was (in the litigation after the Restoration), generally held to have consented to the sale and so could not recover the land through the courts. 'The sale of delinquents' estates during the Interregnum and the land settlement at the Restoration ...', thesis, p. 272.

4. See above, pp.131-132. Under this indenture, a 99 year lease of the premises was to take effect if Newcastle failed to pay £200 per an. on the mortgage of £2,500. This mortgage had been conveyed to Arthur Warren by indenture of 12 Feb. 1641/2.

VIII

Shortly after Edward Whalley's attainder, it is recorded that John Whalley 'by Bill without his writ'¹ and by judgment of the King's Bench had recovered his term of years² yet to come in the manor on the grounds of non-payment of the £200 rental by his father. He had entered upon the premises and enjoyed the same until dispossessed by tenants of the Marquis of Newcastle.

Acting therefore in their capacity as trustees for John Whalley and his heirs, Stapley and Campion sought to prove his right to possession³ of the manor by process of ejectment at common law.

On 21 October 1661, they had granted to John Whalley a five year lease of the premises to take effect from 30 September of that year. The property in dispute comprised '12 messuages, 10 cottages, 500 acres of lands, 300 acres of meadow and 600 acres of pasture.' One of the surviving documents among the Portland Manuscripts records that writs of ejectment were served against John Storey, George Miller (Milner?) and sixteen others.⁴ Copies of the actions against two such tenants - Richard Anderson and Thomas Flinders - also exist among these papers.⁵

1. For this procedure see e.g. A. K. R. Kiralfy ed., Potter's Historical Introduction to English Law and its Institutions, p. 340.

2. i.e. the remainder of the term of 99 years. Port. MSS. DD4P.22/335.

3. The process of ejectment was 'only a possessory action and not an action on the title'. The right of possession could consequently be raised again and again and thus Chancery might award an injunction to avoid a multiplicity of suits on this issue though not after one trial only. A. K. R. Kiralfy, op. cit., p. 629, and see below, pp. 222, 228.

4. Port. MSS. DD4P.22/339.

5. Ibid., 330, 333; 329, 338. Two of these are duplicates. The documents are almost identical in form and give details of plaintiff and defendant, premises concerned, a summary of the major facts in the case from the origination of the £2,500 mortgage on Sibthorpe, to the royal grant to Newcastle after the Restoration, and brief for the counsel. Statements in the brief indicate that Whalley's then bailiff George Milner could testify that Whalley received the whole of the rentals of Sibthorpe until his attainder and that John Whalley had said his father was to allow him £200 per an. but had not done so. Allen Wharton, a further witness could testify

Originally begun as an action for the protection of leasehold estates, the process of ejectment was later applied as a remedy for the recovery of freeholds also. The basis of proceedings lay in the validity of a lessor's title. In order to win an action, therefore, 'the lessee plaintiff had to prove: (i) his lease, (ii) entry under the lease, (iii) ouster (dispossession) by the defendant, and (iv) the superior title of his lessor to grant the lease.'¹

Before commencement of the action, entry upon the premises had first to be effected. It was then necessary to grant a lease to the dispossessed lessee specifically for purposes of the action and to make sure that the lessee was indeed dispossessed. Thus Stapley and Campion as true plaintiffs granted a lease to John Whalley as nominal plaintiff who, after entry upon the premises, was either ejected by the real defendant, or by one known as the casual ejector (ouster) - a friend of the real plaintiff.² There is an instance whereby one such casual ejector - Richard Kitchin - was used by John Whalley in another action³ brought against the same parties after the order of the House of Lords to stay proceedings against Newcastle, which will be referred to shortly. The procedure, involving certain fictitious ritual was as follows: when the nominal plaintiff had not been ejected immediately by the real defendant (in this case Richard Anderson), the casual ejector (Kitchin) informed the real defendant of the action and advised him

(continued) that Whalley made leases of the manor and 'gave part of it to the poor'. If the latter were true, and in view of Whalley's concern to preserve Sibthorpe, then this must have been done when he realised the Restoration was inevitable.

1. A. K. R. Kiralfy ed., Potter's Historical Introduction to English Law and its Institutions, p. 510.

2. Ibid. For detailed descriptions of the process of ejectment and the fictions employed, see W. S. Holdsworth, A History of English Law, 2nd ed. (1937), VII, 4-23; S. F. C. Milson, Historical Foundations of the Common Law (Lond., 1969), pp. 136-138; A. W. B. Simpson, An Introduction to the History of the Land Law, pp. 135-145; Jowitt and Walsh eds., The Dictionary of English Law, I, 697-698.

3. Port. MSS. DD4P.22/339.

by letter to apply to court for leave to appear and defend the action. This letter was signed with some such irony as 'your loving friend'. If the real defendant did not appear to defend his title, judgment would be given for the plaintiff.¹

An entry in the Lords Journals, dated 8 February 1661/2,² supplements the above details of the measures taken by Springett, Stapley, Campion and John Whalley in support of their claim to Sibthorpe. It is recorded that John Hutton, Solicitor to the Marquis of Newcastle, stood at the Bar of the House of Lords and declared that John Whalley had delivered two declarations of ejectment to all Newcastle's tenants on the manor and that Sir Henry [sic] Springett³ and two of Whalley's other trustees had brought four actions at law against four of these tenants. As a result of Hutton's testimony, the Lords issued an order on Newcastle's behalf. The Marquis 'being a Peer of this Realm, and a Member of Parliament shall enjoy the quiet and peaceable Possession of the said Lands and Premises, by himself and his Tenants during the Privilege of this Parliament; and that all Process and Proceedings in Law against either his Lordship or his Tenants ... shall be stayed, and no further Proceedings therein had as aforesaid.'⁴

Apparently, Newcastle used the obvious remedy that was open to him when he realised that the verdict in King's Bench might go against his tenant

1. See W. S. Holdsworth, op. cit., VII, 13. A. K. R. Kiralfy, op. cit., p. 511.

2. L.J., XI, 382. See also H.M.C. 7th Report, Appendix, 160 and Port. MSS. DDP.8/185.

3. Springett had died on 5 Jan. 1661/2 shortly before Hutton's declaration. See above, p. 209.

4. The 'Privilege' extended for the duration of a Parliamentary session and for 40 days before and after. See Sir Barnet Cocks ed., Erskine May, Treatise on the Law, Privileges, Proceedings and Usage of Parliament, 17th ed. (Lond., 1964), pp. 46, 74-75, section 'Freedom from being Impleaded'. The author cites references showing refusal of the judges to obey the Speaker's letter; cases whereby Members waived their privileges, and suits which were allowed to proceed upon petitions from the parties.

Anderson, in whose name the issue was heard. Stapley and Campion won their suit for a decision was later given in their favour after the action heard in Michaelmas term 1662.

It should be noted, however, that a court decision on an action of ejectment was not conclusive. The issue in dispute was not disseisin, but title to grant a lease, and this title for possession could be tried a number of times by either party without any really effective bar until the eighteenth century.¹

IX

If common law failed to provide the remedy, then recourse was frequently had to equity,² and Newcastle had begun his action in Chancery before the verdict for Stapley et al. was given in King's Bench. With regard to this latter action (heard in the names of Whalley v. Anderson) despite the complicated nature of the proceedings and the legal technicalities involved, the major issue is clear - namely whether or not Sibthorpe was in trust for Edward Whalley, and if it was, then it ought to be forfeit by reason of his attainder. The pleadings take into consideration the main indentures relating to the manor as outlined previously.³ It is recorded, for example, and this was not apparent in the indenture of 25 November 1656⁴ between Whalley,

1. See W. S. Holdsworth, op. cit., VII, 16-17.*

2. '... when either party sees he is like to have the worst, by common law, then they have liberty to remove unto the chancery, where a suit commonly depends as long as a buff coat will endure wearing; especially if the parties have, as it is said, good stomachs and strong purses: but, when their purses grow empty, their stomachs fail; then, when no more corn is like to be brought to the lawyer's mill, it is usual to ordain some men to hear and end the business; but, alas! then it is too late, for then, probably both parties, or at least one of them are ruined utterly in prosecuting the suit, want of his stock, and following of his calling.' W. Cole, 'A Rod for the Lawyers' (1659), Harl. Misc., IV (1809), 321-322, cited by J. Thirsk, thesis, 'The Sale of delinquents' estates ...', p. 281 n.

3. Ch. 5, sec. b, and the marriage settlement described in this chapter, pp. 212-214.

4. See above, pp. 137-138.

Richard Newman and Humphrey Butler, that if Whalley paid half a year's interest and principal by 20 November 1657, 'then the Assignee¹ shall be in trust for him'. The precise meaning of this is not clear, but it may indicate that Newman, to whom Sir Charles Harbord arranged to make over the mortgage if Whalley defaulted, agreed to hold it in trust for Whalley if the money was paid on time.² This seems to have been one of the verbal or 'secret' agreements between Whalley and Harbord of which we have insufficient detail, and which 'confederacies' were much emphasised by the plaintiffs in the Chancery action.³ As was noted above,⁴ however, Whalley did not pay by the specified date, and thus it was argued by plaintiff's counsel that this contingent trust did not come into operation. It will be remembered that Whalley had prevailed upon Harbord to extend the period of the loan, as is evident from the marriage settlement of May 1658.

This settlement must have been the most important piece of evidence in deciding this particular action - though the verdict in King's Bench was not decided on this alone, even though it proved beyond doubt that the mortgage was to be held in trust for John Whalley and his heirs.

Plaintiff's counsel cited the Act of Attainder whereby 'All lands, etc. of which Edward Whalley had any Estate, or any in Trust for him, shall be vested in the King.' There was, however, a saving clause to others that 'the King shall have the same Estate in Law as the Party had in Equity ...'⁵

1. Murray, New English Dictionary, has the following definitions of assignee which might be applicable in the above case: One to whom a right or property is legally transferred or made over. The assignee of the lease has the same interest as the lessee (his assignor).

2. See above, p. 137.

3. See particularly Sir Geoffrey Palmer's evidence for the Crown. Port. MSS. DD4P.22/326.

4. pp. 211-212.

5. Quoted from Sir T. Raymond, The Reports of divers Special Cases Adjudged in the Courts of Kings Bench, Common Pleas & Exchequer, in the Reign of King Charles II (Lond., 1696). This gives a summary of the action (pp. 120-123), Whalley v. Anderson in P.R.O. KB.27/1847/Rot.399.

and no more than this. If the trust therefore was for John Whalley and his heirs, and the remainder for Edward (as was clearly evident in the settlement) then by Whalley's treason, the Crown was not entitled to 'possession' or the legal estate, but merely to Edward Whalley's interest - the remote contingent remainder. Since there were a number of precedent estates, the contingency of all dispositions running their full course until exhaustion of the specified line of descent, was extremely remote¹ - so remote in fact, that plaintiff's counsel emphasised that Edward would never have had possession. Whalley was merely to receive the 'residue'. If the trust had been that he was to receive the yearly profits from the Trustees, then this interest would have been vested in the Crown.

Counsel for the defendant pleaded that if the case were considered without reference to the terms of the settlement, then the legal position would be as follows: Edward Whalley had purchased the reversion from Newcastle's trustees in 1652, and thus had a right of redemption. When Harbord as mortgagee and Whalley as reversioner joined in the assignment,² although the mortgage money was not paid on the specified day, it was argued that the trust for Edward Whalley still remained, and because of Whalley's treason, his interest should be forfeited to the Crown.

Justice Wyndham before the verdict was announced, pronounced his decision from the Bench. Whalley had agreed to a lease of the manor, conditional upon his failure to pay by a specified date, which condition he had not fulfilled. He had then made another lease by estoppel and procured another to pay the money.³ The lease by estoppel should then take place.

According to Justice Twisden, the question was whether the 'equity' of the trust was forfeit. This did not appear to be the case and so, after

1. For a general explanation of this point, see F. Pollock, The Land Laws, 2nd ed. (Lond., 1887), p. 109.

2. i.e. Under the indentures of 21 and 25 Nov. 1656. See above, pp. 136-137.

3. i.e. The marriage settlement whereby Sir Herbert Springett agreed to the payment of £2,500 + £150 interest as his daughter's portion.

adjournment, judgment was given for the plaintiff.¹

X

Some account must now be given of the Chancery action, though it would be tedious to repeat many of the details which have already been related in the transactions regarding Sibthorpe, and which are summarised again in these documents. Newcastle and his son and heir Henry, Viscount Mansfield lodged their Bill of Complaint on 12 November 1662.² In essence the major points put forward are the same in Newcastle's bill and in the statement of Sir Geoffrey Palmer and Sir Edward Turner for the Crown.³ It is emphasised that despite the royal grant of Sibthorpe to Newcastle and his heirs, the defendants Stapley and Campion conspired to cheat the plaintiffs of the manor.

Palmer's report maintains that when Edward Whalley foresaw the Restoration and feared the forfeiture of his estates, he acted in a fraudulent manner. Wishing to 'lay the said debt or sum of £2,500 on the said mortgage during his life, and after his decease on his Majestie (who had the reversion after the said mortgage due by forfeiture)', Whalley is said to have entered into confederacy with his son John, Springett, Stapley and Campion to keep on foot various 'secret and fraudulent estates' in Sibthorpe - particularly that assignment for securing the money borrowed by Newcastle in 1640 from Dame Dorothy Warren, 'which when the same was repaid ought to have been surrendered or given up or become void ...'

1. In effect for the lessor plaintiffs Stapley and Campion since John Whalley had gone overseas. See below, pp. 229-231. It is recorded that the jury gave a 'special verdict' in the case. These were given increasingly in actions of ejectment. By special verdict, the jury specifically stated the 'facts' and left the judge to interpret the verdict according to law. See A. K. R. Kiralfy ed., Potter's Historical Introduction to English Law ..., p. 340. S. F. C. Milsom, Historical Foundations of the Common Law, pp. 65-67.

2. P.R.O. C5/529/5; Port. MSS. DD4P.22/323.

3. Port. MSS. DD4P.22/326, undated.

As previously indicated,¹ Whalley's 'secret' negotiations with Harbord were designed to ensure that Sibthorpe remained in his possession. It is unrealistic to assume that these dealings were above reproach, particularly since he was so anxious to preserve a family manor so hardly gained. It would be wrong, however, and certainly not in keeping with his character, to attribute deeply calculated and base motives to Whalley without being able to substantiate these by actual evidence. The evidence we have is contained in the formal indentures which only partly reveal the intentions of the parties concerned.

In their defence,² Stapley and Campion emphasised that they were 'claiming nothing under Edward Whalley or in trust for him or his wife'. They maintained that their claim to Sibthorpe was the direct result of an agreement between Sir Herbert Springett and Sir Charles Harbord, Robert Butler and John Hanson, and that Whalley was in no way concerned in this.³

According to the defendants, Harbord, Butler and Hanson had acquired the indentures of mortgage by direct mesne assignment from Dame Dorothy Warren and her husband, Lionel [sic].⁴ Sir Herbert Springett had ultimately purchased this mortgage from Harbord 'for 5/- paid and £2,500 covenanted to be paid', as a jointure for his daughter. Such mortgage, they claimed, was by the terms of the indenture of 22 May 1658 to be held by them in trust

1. See above, p. 214.

2. P.R.O. C5/529/5; Port. MSS. DD4P.22/824, dated 26 Nov. 1662.

3. In the light of Springett's petition to Charles II in Oct. 1660 (above, pp. 214-216), whereby he noted Whalley's part in the marriage settlement, this argument appears to be a weak one, but Stapley and Campion appear to have been genuinely ignorant of the negotiations between Harbord, Whalley and Springett.

4. i.e. Nicholas Lanyan, Dame Dorothy's husband. See above, p.137. Stapley and Campion fail to mention Arthur Warren who had been the major party concerned in the sale of the mortgage, for this had been made over to him by indenture of 12 Feb. 1641/2. See above, pp. 132, 136-137. Warren's evidence in this Chancery action is the most direct and least prejudiced of the depositions. It is dated 6 Dec. 1662.

for John Whalley for life, then for the life of Elizabeth Whalley and after for their heirs.

The defendants claimed that Springett and Stapley himself had entered into a bond of £5,000 to repay the £2,500 and that the sum was accordingly paid to Harbord. In addition, they maintained that on payment it was covenanted that Harbord should deliver up the indentures of assignment¹ concerning the premises, which indentures, bond and counterbond for Stapley's indemnity were now in the defendants' hands.

Stapley and Campion affirmed their belief that Whalley had never borrowed money from Sir Charles Harbord to procure the indentures of assignment; that Whalley had ever therefore had the necessity to repay the loan,² or that there was ever any agreement that the indentures when conveyed to Springett and to them should be in trust for Edward Whalley and his wife.

They maintained that if it were true that Sibthorpe had been conveyed to Newcastle by royal grant after Whalley's attainder, then the plaintiffs should take the manor subject to the £2,500 encumbrance upon it when Whalley had purchased the reversionary rights, and which it was claimed, he had not discharged.

Stapley and Campion believed Whalley's part in the transaction had been a relatively passive one - that on learning of Sir Herbert Springett's desire to arrange a marriage settlement between John Whalley and Elizabeth, he had acquiesced in this, 'and finding that the sum so intended to be disposed of was £2,500,' he had endeavoured to persuade Harbord, Butler and Hanson to sell the mortgage for that purpose.

Finally, the defendants indicated that the £200 rental agreed to be paid in the marriage settlement had not been paid for the past three years.

1. See above, p. 213.

2. This belief of course, is disproved by the evidence of Whalley's purchase of the reversionary rights from Newcastle's trustees, and also by the indenture of 25 Nov. 1656. See above, p. 128 ff., pp. 135-138.

One of the documents¹ among the Portland Manuscripts indicates that the plaintiffs secured an injunction in Chancery though I have been unable to find any other record of this or any further decree or order which may have resulted.²

The Common Injunction³ in this instance may have been directed against the defendants and their counsel and designed to prevent the prosecution of successive actions of ejectment on the same issue - namely right to possession. This was one way Chancery sought to restrain 'an abuse of the procedure of the courts', but it was ineffective against a really vexatious plaintiff.⁴

Alternatively, and this would appear to be a more likely possibility, it could have been granted to Newcastle because John Whalley failed to appear to answer the charges, as will be indicated below. The Common Injunction, too, could be used to prevent the execution of judgment given in another court, though according to the circumstances of this dispute, it seems unlikely to have been awarded for this purpose.

One significant feature of the grant of an injunction should, however, be noted. The person who obtained it must not neglect his cause in Chancery but must effectively prosecute it. Failure to proceed within three terms of the award automatically resulted in the issue of a 'procedendo' which permitted continuation in another court.⁵

1. DD4P.22/335. See also below, pp. 229-230, 232.

2. Indices to Chancery Orders and Decrees between 1662 and 1667 have been searched but without success. P.R.O. MSS., Indices to 'B' Books 1599-1609.

3. Injunctions were of two kinds. The Common Injunction was usually employed to stay proceedings in another court - though as indicated in the text above, it had other purposes. The Special Injunction secured possession or restrained such acts as waste. The Injunction was not directed against the proceedings of other courts, but against the individuals themselves. See W. J. Jones, The Elizabethan Court of Chancery, pp. 183-186, 462-473.

4. W. S. Holdsworth, op. cit., VII, 16-17; A. K. R. Kiralfy ed., Potter's Historical Introduction to English Law ..., p. 512; S. F. C. Milsom, Historical Foundations of the Common Law, p. 137; and see above, p. 219 n.

5. See W. J. Jones, The Elizabethan Court of Chancery, pp. 185, 502.

Under normal procedure, when a favourable verdict on an action of ejectment had been given at common law, a writ would be directed to the sheriff of the county commanding him to put the lessee in possession of the land. In John Whalley's case, however, it is evident such order was not executed, for whilst the actions in King's Bench and Chancery were in process, he went overseas.

No further record of the court proceedings relating to Sibthorpe has been discovered between the hearing in King's Bench at Michaelmas 1662 and 1667, and during the interval, Newcastle's tenants apparently continued to enjoy possession of the lands¹ concerned.

XI

In 1662, writing to her husband William, in exile with Edward Whalley, Frances Goffe stated that 'My brother John is gon beyond sea but I know not whither. His father in law is dead ...'²

It may be that John Whalley had decided to seek solace abroad because he was saddened by the early death of his wife Elizabeth,³ and disheartened over the protracted disputes relating to Sibthorpe. It is possible, as was later charged,⁴ that he had taken such a course to avoid answering Newcastle's complaint in Chancery - a deliberate attempt to delay proceedings. If this were so, then it could have been the reason for Chancery's grant of an injunction to Newcastle. It was a way of preventing an absentee defendant benefiting by his contempt of court.⁵ An injunction could also be granted

1. See above, p. 219 where these are listed.

2. i.e. Sir Herbert Springett. For mention of this letter and other correspondence, see above, p. 77 n.

3. See above, p. 209.

4. Port. MSS. DD4P.22/335 and below, p. 232.

5. On contempt of court, Chancery's initial procedure was to issue a 'writ of attachment' ordering a person to put in appearance. If this failed it was followed by 'attachment with proclamations'. For subsequent failure to appear a 'commission of rebellion' would be issued. A defendant faced possible imprisonment for breach of any of these devices, until he had apologised and given security for his 'continued and permanent presence'. W. J. Jones, *The Elizabethan Court of Chancery*. nn. 229-233.

to the plaintiff for possession till the defendant had appeared, answered and satisfied his contempt.¹ The evidence discovered supports the fact that John Whalley did not appear to answer the complaint.

It seems probable that John settled in Ireland, perhaps because of his former service as a soldier in that country, and because his uncle Henry Whalley was living there.²

A further theory has been advanced that a son of Edward Whalley joined his father and William Goffe in exile in the New World.³ According to tradition, Goffe passed the final years of his life in Rhode Island, and it is said that he lived with Whalley's son who died aged over 100 years after a life of great austerity. A. C. Wood,⁴ asks whether this might have been John Whalley. There were, however, so many legends relating to the lives of the regicides in New England that this must be discounted as one of them. There is no direct evidence to justify it.

All the evidence discovered inclines to the fact that John Whalley did not return to England but died overseas⁵ before 11 June 1667. On this date, one Ralph Jones who had acted as counsel for the plaintiffs in the King's Bench action of 1662, was lawfully assigned to act as the legal guardian of Herbert Whalley, natural and legitimate son of John Whalley, widower,

1. W. West, Simboleography (1605), 2nd Part, f. 185.

2. See above, p. 202. The probability is strengthened by a Chancery action of 1685 involving Herbert Whalley, John's son, and one, Anthony Nixon of Dublin. The issue in dispute concerned a supposed debt of £54, said to be owing by John Whalley to Nixon's father, and contracted in 1656. Nixon claimed that John Whalley had owned some land in Clownestowne, West Meath from which the debt could be satisfied. Herbert Whalley denied such debt had been owed by his father - that it was a case of mistaken identity - there being 'several other persons in Ireland who were called Captain John Whalley' at that time, and 'that no real estate did descend to your Orator as hence at law to his said father.' Herbert Whalley's case is the more convincing. P.R.O. C9/451/150 dated 2 Dec. 1685; C9/386/56, superscribed 31 Dec. 1685 on reverse of MS.

3. T. Bailey, Annals of Nottinghamshire, 4 vols. (Lond., 1853), III, 896.

4. Nottinghamshire in the Civil War, p. 174 n.

5. This fact is specifically stated by Herbert Whalley, John's son. P.R.O. C9/451/150.

lately in foreign parts and now dead. Jones was authorised to administer the goods, rights and credits of John Whalley, to the use of Herbert, during the latter's minority.¹

XII

It was in his capacity as Herbert Whalley's guardian, that Ralph Jones re-asserted the claim to the term of years in Sibthorpe. Jones obtained a writ of 'scire facias'² on 12 June 1667, to be executed by the sheriff of Nottingham. Richard Anderson, the litigant and tenant of Newcastle against whom John Whalley as lessee plaintiff had brought the action in the King's Bench in 1662, and defendant in this issue, was directed to show cause why the plaintiff 'should not have execution of the possession of a terme of years yet to come' in Sibthorpe. Jones had indicated the earlier judgment for John Whalley and Anderson's failure to abide by the court decision. Jones had then declared that John Whalley had died in Nottingham on 1 October 1666 and that he (Jones) had been granted letters of administration by the Archbishop of Canterbury on 11 June 1667. What Jones' object was in giving the place of decease as Nottingham, I have been unable to determine. The authorisation of 11 June, supported by Herbert Whalley's declaration of his father's decease overseas refutes this statement. Possibly it could be a deliberate prefabrication on Jones' part to uphold the Whalley claim to the lease of Sibthorpe, but how remains a mystery. It might perhaps be an error in transcribing what is simply a partial summary of the action on the 'scire facias', and not the actual pleadings themselves, which unfortunately, have not been found amongst the King's Bench records.³

1. Administration P.R.O. Prob./6/42.

2. 'That you cause to know'. Port. MSS. DD4P.22/335. The writ was considered in law as an action because the defendant might plead to it, and it was 'issued from the court in which the record on which it was founded was supposed to remain.' Jowitt and Walsh eds., The Dictionary of English Law, II, 1592.

3. The failure to find such records is disappointing but not unusual. The comments of J. Thirsk are of interest in this respect. She states: 'Documents

After execution of the writ, the sheriff of Nottingham, George Gregory, returned to the King's Bench a 'scire feci'.¹

Anderson the defendant, asserting his claim to the premises pleaded that at the time Jones obtained his writ of 'scire facias' on 12 June 1667, John Whalley was alive '& yet is alive to witt at Nott aforesaid' - a statement which was further denied by Jones.

Brief details (but obviously not unprejudiced facts of the case) are recorded at the foot of this particular document. They refer to John Whalley's earlier recovery of the premises from Anderson by writ of ejectment, Newcastle's action in Chancery against Stapley et al., and the injunction granted. John Whalley is referred to as 'the pretended intestate', who 'to avoid answering [the charges]² left the kingdom and never came into England since that could be heard of but s[e]nt an Attachment'.³ The account claims that the rest of the trustees in a dilemma, pretend that John Whalley is dead and get administration committed to Jones. 'What colour they have save his being absente out of England to suppose him dead is not knowne.'

The question is whether Jones as Herbert Whalley's legal guardian did, in fact, secure possession of the term of years between the action on the

(continued) in cases of trespass in the Court of King's Bench (Plea Side) are disappointing for the searcher on delinquents' estates. Even those cases which are expressly stated to have been heard in this court have not been found.' Thesis, 'The sale of delinquents' estates ...', p. 267 n.

1. 'I have caused to be warned'.

2. See above, pp. 228, 229.

3. The meaning of this is obscure. As explained above (p. 229 n.), a 'writ of attachment' could be sent to a defendant to appear and make answer in court, but it could also be issued to punish disobedience to awards of a Court. Was it in fact an attachment which had been sent to Whalley before he went abroad, for failure to appear, or was it one which the plaintiffs Stapley and Campion had obtained on Whalley's behalf, commanding Anderson to abide by the judgment in King's Bench? For other cases in which 'writs of attachment' were employed, see Jowitt and Walsh eds., The Dictionary of English Law, I, 173.

'scire facias' in 1667 and the year 1670.¹ It seems possible, but if so, such possession was again challenged and the ultimate victory lay with the Duke of Newcastle.

The statement which next requires examination in this complicated issue is supplied by Thoroton,² the antiquary. He wrote that though Sibthorpe had passed to Newcastle at the Restoration, '... the son of John Whalley, whom the Major General his Father married to _____ the daughter of Sir Herbert Springate, is now in possession, by reason of a Mortgage the Duke made to Sir Arnold Waring long since, but still kept on foot.'

This statement must have some foundation but it tends to be misleading since Thoroton does not supply specific details. How then do we attempt to reconcile his remark with the evidence available? It is necessary first to try to relate it to as narrow a period as possible since the exact date of 'possession' is not given. Thoroton's 'Antiquities' were first published in 1677, approximately fifteen years after he had begun his monumental task. The earliest notes for the History are dated September 1662,³ and at some stages of his work assistants were employed to help him.⁴

In June 1667, as indicated above, Ralph Jones had obtained limited

1. The significance of this date is discussed below, p. 234.

2. Op. cit., p. 171. It will be remembered that Dame Dorothy Warren held the original mortgage from Newcastle, and that Arthur Warren her son later sold this to Sir Charles Harbord. See above, pp. 131, 136-137. Sir Arnold Warren (Waring) of Thorp Arnold, Leic. was Dame Dorothy's first husband. Noble, op. cit., II, 154 does not clarify the situation. He merely cites Thoroton and states mistakenly that Waring was 'probably a trustee for the Whalley family' and the manor 'through assignments and heirships became vested in this Herbert.' A. C. Wood, Nottinghamshire in the Civil War, p. 174 n. also cites Thoroton.

3. M. T. Hildyard, 'Dr. Robert Thoroton' (Trans. Thor. Soc., LXI, 1957), 14. The exact circumstances of Thoroton's undertaking the task are related in the dedication in his book to William Dugdale Esq., Norroy King of Arms, and in this article, pp. 13-14. See also ibid., XII (1908), 52-53; LXXIV (1970), 78 and A. C. Wood, op. cit., p. 217.

4. This is evidenced by the fact that many of the notes in the MS. are not in his handwriting. Trans. Thor. Soc., LXI, 14.

letters of administration as legal guardian of Herbert Whalley during the latter's minority.¹ It is possible, though evidence has not been found to verify this, that in this capacity, Jones himself, or others acting on his behalf had taken possession of Sibthorpe and claimed the term of years to which he maintained John Whalley had been entitled. The document² relating to the action on the writ of 'scire facias' tends to support the possibility for it was noted in the 'facts of the case' that despite the injunction granted to Newcastle, Sir John Stapley and Edward Campion continued to assert their claim.

If credence is to be given to Thoroton's statement therefore, it seems that it referred to some period between 1667 (when Jones had obtained letters of administration) and 1670. Had Thoroton intended his statement to refer to an earlier date than 1666, then surely he would have named John Whalley as claimant to the manor, since John was presumably still alive until October 1666. If such were the approximate period, then it is incorrect to state that John Whalley's son was in possession of Sibthorpe by reason of the mortgage. Herbert Whalley born c. 1659³ was still a minor at this time; thus if the manor was held at all, it must have been in his name and not by him personally.

The date 1670 is significant because on 29 October of that year, the Duke of Newcastle assigned Sibthorpe to Margaret, his wife, after his decease. There is a draft of this settlement among the Portland Manuscripts.⁴ It is an indenture between Newcastle of the one part and John, Lord Lucas,

1. i.e. 'durante minor^e aetate'. They were referred to as 'limited' letters since guardianship would cease at the age of 21 years.

2. Port. MSS. DD4P.22/335.

3. See P.R.O. C9/451/150. Even in 1677 (the date of publication of Thoroton's 'Antiquities'), Herbert Whalley would not have attained his majority.

4. DD4P.35/24. The precise date is not given in the draft but this is noted in D. Grant, Margaret the First, A Biography of Margaret Cavendish, Duchess of Newcastle, 1623-1673, p. 231.

1st Baron Lucas of Shenfield, Essex;¹ Robert Lucas Esq.,² son of Sir Thomas of St. John's, Colchester, deceased; William Walter Esq., son of Sir William Walter bart.³ of Sarsden, Oxon.; Sir Francis Topp bart.⁴ of Tormarton, Glos.; Robert Butler of Gray's Inn, Middlesex, Esq.,⁵ and Richard Mason⁶ of Newark, Notts., Gent. of the other part. The grant of Sibthorpe, together with the manor and park of Clipston was intended to augment the jointure of the Duchess. After her death,⁷ these were to revert to the right heirs of the Duke.

It can be seen therefore that Newcastle enjoyed complete ownership of Sibthorpe in 1670. Some fifteen months after the settlement of the manor on his wife, he made what appears to have been an astute move in attempting to prevent any future claim to Sibthorpe by the heirs of John Whalley.

On application to the Prerogative Court of York and by decree⁸ of that

1. (1606-1671). Brother of Margaret, Duchess of Newcastle. Eldest legitimate son of Sir Thomas Lucas of St. John's Colchester, by his wife Elizabeth, daughter of John Leighton of London. Title cr. 3 Jan. 1644/5. Died s.p.m. and succeeded by Charles Lucas, son and heir of Sir Thomas and illegitimate brother of John, 1st Baron.

2. 3rd Baron Lucas. Younger brother of Charles, 2nd Baron. Succeeded to title c. 28 Nov. 1688. Died 31 Jan. 1704/5 when baronetcy became extinct. G.E.C., Complete Peerage, VIII (1932), 244-247; Sir B. Burke, Dormant and Extinct Peerages (Lond., 1883), p. 335.

3. This William cr. bart. on 16 Aug. 1641, married Elizabeth, sister of John, 1st Baron Lucas. His son succeeded him 23 March 1675. G.E.C., Complete Baronetage, II, 1625-1649, 142.

4. 'Presumably son of John Topp of Salisbury and Stockton, Wilts.' (d. 13 Aug. 1632), by Mary daughter of John Hooper. Cr. bart. 25 July 1668. Married c. 1663 Elizabeth, said to be 'Kinswoman to the Duke of Newcastle'. See G.E.C., Complete Baronetage, IV (1904), 44.

5. Son of Robert Butler the elder of Southwell who had died c. 1657. For other references see e.g. pp. 136, 212, 242 n., 266.

6. For further mention see below, pp. 277, 280-282.

7. Margaret predeceased her husband. She died at Welbeck on 15 Dec. 1673 and was buried at Westminster Abbey on 7 Jan. 1673/4. Newcastle died on 25 Dec. 1676, aged 83, and was interred in the Abbey on 22 Jan. 1676/7. G.E.C., Complete Peerage, IX (1936), 525-526; Turberville, op. cit., I, 158.

8. There is no record of such decree in the Borthwick Institute, York. The only surviving probate documents in the Exchequer and Prerogative Courts

court, Robert Bayley of Welbeck, agent to the Duke of Newcastle, was granted authority to administer 'all and singular the goods, rights, assignments, belongings and chattels' which were within the Diocese and jurisdiction of York, and which were the property of John Whalley, gentleman, lately of Sibthorpe, who it is declared, died intestate. Bayley was acting on behalf of Newcastle who claimed to be a creditor¹ of John Whalley. The authorisation for such administration is dated 20 January 1671/2.²

The implication here seems to be that Newcastle as creditor was claiming the rentals of Sibthorpe which John Whalley had apparently enjoyed at that period between Edward Whalley's escape to America on 4 May 1660,³ and John's own departure abroad in 1662. Presumably, also, since the 'lease' in dispute was a form of personal property,⁴ the letters of administration entitled Newcastle to any outstanding years of the lease claimed by Ralph Jones for Whalley's heir.

(continued) are wills, inventories and administrations. No supporting documents were kept, thus in respect of what would appear to be a routine grant of administration to Robert Bayley, there would be no necessity to file further information.

1. When an intestate died overseas and had property in two provinces, the grant of letters of administration was usually authorised in the Prerogative Court of Canterbury. However,^a grants by either or both of the Prerogative Courts was possible, as is exemplified by the dual award to R. Jones and Newcastle. 'It was said by Hale, and by none denied, if a man die having goods in the several provinces of York and Canterbury, several administrations ought to be committed, and so it is in England and Ireland.' T. Wentworth, The Office and Duty of Executors ... (Lond., 1774 ed.), p. 154. For some of the laws governing grants of letters of administration, see also J. Godolphin, The Orphans Legacy: or a Testamentary Abridgement ... (Lond., 1677), pp. 70-72.

2. See Port. MSS. DD4P.22/328 and Administration, fol. 294, Retford, in Borthwick Institute of Historical Research, York.

3. Whalley and Goffe arrived in America on 27 July 1660. T. Hutchinson, The History of the Colony of Massachusetts' Bay, I, 213.

4. i.e. legally termed 'chattels real'.

Two further documents bear witness to the ultimate triumph of the Cavendish family in the dispute over Sibthorpe. One of these is dated 5 May 1679, where Sibthorpe is among several manors named in a final concord - Arthur, Earl of Essex and Orlande Gee, Esq., being plaintiffs and Henry, second Duke of Newcastle, deforciant.¹ The other is a mortgage of Sibthorpe by Henry and his wife Frances,² by Lease and Release for £5,250 to Sir Thomas Hervey of Bury St. Edmunds. It is dated 12/13 June 1685.³

1. Port. MSS. DDP.17/142.

2. Daughter of the Hon. William Pierrepont (2nd son of Robert, 1st Earl of Kingston), by Elizabeth, daughter of Sir Thomas Harris of Tong Castle, Salop. G.E.C., Complete Peerage, IX, 528.

3. Port. MSS. DDP.8/136.

Chapter 9

PENISTON WHALLEY: THE LAST DIRECT MALE HEIR

I. An outline of certain aspects of his career

I

Peniston Whalley, the son of Thomas who died in September 1628, and thus Edward Whalley's nephew, was the last male in direct line of the family which had first acquired Kirkton Hall, Screveton in the reign of Edward IV.¹

Peniston was born in 1624,² and as noted earlier in this study, his mother Mary (née Penyston) married Richard Draper of Flintham about the year 1632,³ some time after the death of her first husband.

An Inquisition Post Mortem⁴ taken on 30 October 1628, the month after Thomas Whalley's death, established that the latter had held certain property in Middlesex by knight service.⁵ This property was not extensive, consisting of only 'one garden with the appurtenances' situated near Moore Mead in the

1. See above, p. 1 and n.

2. The precise date cannot be confirmed from the Screveton parish registers which do not exist before 1640. Richard Draper indicated that Peniston came of age on 23 Nov. 1645 (P.R.O. C9/38/100). This establishes his date of birth as 1624. See also Venn, *op. cit.*, part 1, IV, 376; Noble, *op. cit.*, II, 141; J. T. Godfrey, *Notts. Churches*, p. 395 n; P. J. Cropper, *Bibliotheca Nottinghamiensis. The Sufferings of the Quakers in Nottinghamshire 1649-1689* (Nott. 1892), Introduction, pp. xvii n.-xviii n.

3. See above, pp. 16, 31, 49 and Appendix E.

4. Inquisitions Post Mortem. P.R.O. C142 Vol. 445/24; Wards 7 Vol. 77/135.

5. I have found no evidence to indicate that further property was held by such tenure though there may have been concealment. There is no feodary's survey in the bundle relating to Notts. P.R.O. Wards 5, Bundle 32. On the defects of the Inquisition Post Mortem as a guide to total land possessed and its true wealth, see e.g. J. E. Mousley, 'The Fortunes of some Gentry Families of Elizabethan Sussex,' *Ec.H.R.*, 2nd Series, XI (1959), 471-472. On concealments, see e.g. J. Hurstfield, 'Lord Burghley as Master of the Court of Wards, 1561-98', *T.R.H.S.*, 4th Series, XXXI (1949), 99-102.

parish of St. Leonard's, Shoreditch. It had formerly been held by one, John Sale, citizen and haberdasher of London. Peniston thus became a ward of the Crown in relation to this property.

Mary Whalley applied for and was granted the wardship as Peniston's next of kin.¹ The Indenture of Lease² issued by the Court of Wards on 20 January 1628/9 set a rent on the property of 6/8 per annum - 4/8 of this to be paid to the feodary of Middlesex and 2/- to the 'Auditor Clarke' for engrossing the accounts of the premises. The premium or fine³ to be paid by the lessee was 10/-. Richard Draper assumed legal guardianship of his stepson after his marriage to Mary Whalley.

It was indicated in Chapter 1⁴ that until some time after Draper became Peniston's guardian, John Whalley, Richard's brother and Peniston's great-uncle, had apparently been entrusted with the manor and lands in Kirkton Hall alias Screveton for his great-nephew's use.⁵

The Drapers and their charge had lived with John Whalley at Kirkton Hall until the latter's death in 1638, and continued to do so afterwards during Peniston's minority.

Peniston matriculated fellow-commoner from Trinity College, Cambridge,

1. By the early 17th century, the Court of Wards normally granted custody of a ward to the mother or near relative. From 1611 onwards the next of kin had a prior right to wardship if application was made within the first month. See J. Hurstfield, The Queen's Wards. Wardship and Marriage under Elizabeth I (Lond., 1958), p. 282; M. J. Hawkins ed., Sales of Wards in Somerset, 1603-1641 (Somerset Rec. Soc., LXVII, 1965), Introduction, pp. xxv-xxvi; H. E. Bell, An Introduction to the History and Records of the Court of Wards and Liveries (C.U.P., 1953), p. 117. For the proportion of wardships granted in previous reigns to mothers and kinsmen as opposed to strangers, see ibid., p. 116.

2. P.R.O. Wards 9 Vol. 126 part 13 f. 58, 3-10 Chas. 1.

3. To be distinguished from the fine payable for the grant of a wardship. See Hurstfield, op. cit., p. 85.

4. p. 31.

5. R. Draper said that John Whalley continued to take the profits of the feoffments made over to him by Richard Whalley for about 4 years after the latter's death. P.R.O. C9/38/100. R. Whalley died c. 1632 (above, p.45 n.).

in 1642, but there is no record of his having graduated.¹ As a minor during the first Civil War, he was fortunate enough to preserve his estates 'from confiscation by either party.'²

II

Richard Draper, Peniston's stepfather and guardian, was the son of Thomas Draper of Flintham, Notts., by Eleanor, daughter of Thomas Whalley³ of Kirkton Hall, Screveton. Eleanor was sister to Richard, Walter, John and Thomas Whalley⁴ who were thus Richard Draper's uncles. He was the chief beneficiary under the wills of both his uncles Thomas and John who died in 1637 and 1638 respectively. Thomas Whalley bequeathed Draper the sum of £460 'towards the payment of his Debts',⁵ and John left him £50, his own estates and those which, as Thomas Whalley's executor, he had been directed to leave to Draper after his (John's) own death.⁶

Despite these bequests, Draper's fortune was a modest one. He could be classified among the minor Nottinghamshire gentry and apparently remained in this category. There is no weight of evidence to indicate that he shamelessly exploited the property of his ward Peniston for his own ends,⁷ though as will be mentioned below, his stepson later asserted that he had gained great financial advantage from his guardianship.

1. Venn, op. cit., part 1, IV, 376. Draper stated that Peniston 'had good breeding at the university and was accounted to have a very good wit, judgment and understanding ...' P.R.O. C9/38/100.

2. Cropper, op. cit., Intro., p. xvii n.

3. Died 1582. Son of R. Whalley the elder. See Vis. of Notts., 1569 and 1614, op. cit., 117 and 1662-1664, op. cit., 19 and pedigree, Appendix A.

4. See above, pp. 28-29.

5. Will dated 30 April 1637. Transcript in Cambridge University Library, MS. Mm 1.37, pp. 192-193. See above, p. 31 and n.

6. P.R.O. C9/38/100.

7. For examples of cases where such occurred see J. T. Cliffe, The Yorkshire Gentry: From the Reformation to the Civil War, pp. 134-135.

As a Royalist,¹ Draper compounded for delinquency in September 1648.² It is recorded that his estate in possession was worth £95.13.-. per annum and that his fine at 1/6 was £284.³

When John Whalley died in 1638, he left Draper the rent charge of £40 per an. issuing out of the Marquis of Newcastle's lands in Car-Colston.⁴ This rent was the one which John Whalley had successfully retained against the demands of Sir Robert Winde and Richard Holman in their action of 1626-1627.⁵

John Whalley had devised this rent charge to Draper, primarily for the satisfaction of certain of Richard Whalley's debts amounting to £433.7.8.

On 4 October 1650, Draper petitioned Goldsmiths' Hall, declaring that the rent charge had lately been withheld from him by the present County Committee.⁶ Consequently, he was unable to pay the principal debt and the accumulated interest.

At his request, on 19 December 1650, the Central Authority directed that he should retain the rent charge until the sum of £280.0.11.⁷ which he had already received was made up to £400. After this, it was to be sequestered for Draper's delinquency, 'he having not compounded for the same'.

In a further petition of 12 November 1651, he requested 'enlargement

1. A. C. Wood, Nottinghamshire in the Civil War, Appendix 11, p. 218; C.C.C., I, 108.

2. It has not been discovered how long his estate had been under sequestration before this date. A list of Notts. delinquents (ibid., 107-108) dated 20 April 1648 is no adequate guide since it includes Royalists in arms from the early stages of the 1st Civil War.

3. C.J., VI, 31; Bodl. Rawl. MSS. A 33 f. 734.

4. See above, pp. 29-30 and n., 34.

5. See above, p. 30 and n.

6. He had been allowed this by the former County Committee since June 1647.

7. Wrongly stated as £280.11.-. in C.C.C., III, 1733.

of the order' until he had received the £400, the arrears due to him and the interest he had lost owing to non-payment of the rent charge for a considerable time.

By the Committee's answer of the same date, Draper was directed to account with the auditor on oath for the amounts received and paid out of the lands in question - an order which he had previously neglected to obey - after which his case would be considered.¹

That Draper was in financial difficulty before the Civil War is apparent and it would be unrealistic to assume that no financial benefit accrued to him from the management of his ward's property. However, since Peniston's inheritance was much depleted and encumbered by his grandfather Richard's debts, it would be wrong to attach too much importance to this.

Because of his guardian's Royalism, Peniston's sympathies also lay with the King's party. He does not, however, appear to have suffered financially for such inclinations. This may be accounted for by Peniston's youth and the fact that he^e was not deeply involved in the events of the first Civil War, even though he was later informed against as having been 'in the late King's Quarters and in the Garrison of Newarke in Armes against y^e Parliament in the yeare 1644'.² According to Richard Draper, Edward Whalley's great power and influence at the time saved Peniston's estate from sequestration.³

Other evidence,⁴ although of a limited nature, lends weight to this

1. P.R.O. SP.23/81/680, 682, 683, 685, 687; 10/318; 15/81; C.C.C., III, 1733. On 14 May 1653, Draper sold this rent charge along with a house in Newark for £530 to his future son-in-law, Robert Butler, barrister of Gray's Inn and son of Robert Butler the elder of Southwell, one of Newcastle's feoffees in trust. P.R.O. C54/3720/10.

2. P.R.O. SP.19/22/266; Cal. Comm. Advance Money, part III, 1642-1656, 1376, dated 27 Aug. 1651.

3. P.R.O. C9/38/100.

4. See e.g. pp.270-272 below, where Edward acted as a trustee for Peniston.

statement and it would be entirely in keeping with the desire of both Edward and Peniston to preserve and extend the family property interests. This is a striking example of Parliamentary and Royalist relatives - totally opposed in religion, politics and character - unified by this common factor.

III

It was during the abortive Royalist risings of 1655 that Peniston Whalley's disaffection to the government was most suspect. The Rufford Abbey plot was one of the series of outbreaks planned for this year, of which Penruddock's rising in the west country was the only one which assumed anything like dangerous proportions.

The Nottinghamshire rising like others in Shropshire, Cheshire, Lancashire, Northumberland and Yorkshire failed because of the preparedness of the government, the repeated Royalist delays, their faint-heartedness and inadequate organisation.

As A. C. Wood indicates,¹ the rising 'was the work of a handful of unimportant adventurers' - minor Royalist gentry for the most part - who at the crucial moment were not given sufficient support by the 'bigger men'. Lord Willoughby of Parham (who had promised to raise Lincolnshire) Richard, Lord Byron,² Sir Roger Cooper of Thurgarton and Sir George Savile³ of Rufford had all withdrawn discreetly as the date 8 March 1654/5, appointed for the rising, approached.

Peniston was known to have visited the house of John Cooper,⁴ the elder son of Sir ^{Roger} Robert, and one of those deeply committed: his servants too were

1. See his account in Nottinghamshire in the Civil War, pp. 166-169.

2. Former governor of Newark garrison, 1643-1644.

3. 1633-1695. The future first Marquis of Halifax.

4. For the Coopers see C.C.C., II, 1324-1325; M. Coate ed., The Letter Book of John Viscount Mordaunt, 1658-1660 (Camden Soc., 3rd Series, LXIX, 1945), 16 n.

known to be involved,¹ but he himself was fortunately able to prove that when the conspirators had mustered on 8 March, he had been visiting Henry Sacheverell at Barton.²

On Cromwell's orders, Major-General James Berry had been commanded to unearth all details of the plot and examine suspects.³ He it was who sent Whalley to London for examination before the Council.⁴ Whalley's complicity in the preparations for the actual rising is apparent from the evidence available,⁵ but since he was able to prove his whereabouts on 8 March, no further action was taken against him. Luck was certainly on his side, but his escape from punishment did nothing to enhance his reputation. An adequate assessment of Whalley's character cannot be given from the limited information of this one incident - though the impression gained is that he was a cowardly and shifty individual, too afraid to show his colours in their true light. He was as deeply involved in subversive activities as those others who suffered, but yet skilful enough to conceal his guilt from the government. His trepidation, uncertainty as to the outcome of events and suspicious nature are evident after he had appended his signature to Berry's examination; for he adds in a memorandum 'there was nothing interlined

1. See Bodl. Rawl. MSS. A24 ff. 202-203; Thurloe, op. cit., III, 228-229. Pagination in the MS. is faulty. The pages are numbered 1-224 and then recommence at 205. The above reference occurs in the 1st pagination.

2. 'the examination of m^r Penniston Whalley of Screton in County Nott' taken 14 march 1654'. [1/5]. Bodl. Rawl. MSS. A 24 f. 221 (2nd pagination); Thurloe, State Papers, op. cit., III, 241.

3. Abbott, op. cit., III, 650-651; Carlyle (ed. Lomas), op. cit., III, Supplement 100, 463-464, dated 12 Mar. 1654/5.

4. Bodl. Rawl. MSS. A 24 f. 220 (2nd pagination); Thurloe, op. cit., III, 240; Sir J. Berry and S. G. Lee, A Cromwellian Major-General ..., pp. 83-84.

5. Frances Wittoph, the gossiping maid servant of Mrs. John Cooper, examined before Captain Clement Nedham of Col. Francis Hacker's regiment, declared she believed Peniston Whalley had betrayed the rest. Bodl. Rawl. MSS. A24 f. 202 (1st pagination); Thurloe, op. cit., III, 228; Berry and Lee, op. cit., p. 80.

when this was subscribed.¹ This is not an over-harsh judgment of him, for he showed a bitter and unmerciful nature in his persecution of the Quakers after the Restoration. In view of his actions, therefore, it is difficult to remain unprejudiced when studying the legal disputes in which he figures as the aggrieved party. These will be described in the second part of this chapter.

It is possible that he emerged unscathed physically from the Rufford Abbey fiasco owing to the influence of his uncle Edward. His relationship with the Protector may also have stood him in good stead, but no evidence has been found to substantiate either of these conjectures. It is equally possible of course that Edward did not intervene because of his own scrupulous sense of justice and his concern that the plotters should pay for their misdeeds.²

IV

In 1656, along with Edward Neville, Edward Cludd and Edward Whalley himself, Peniston was elected M.P. for Nottinghamshire. A. C. Wood³ expresses the view that Peniston's election was something of a mystery, for 'he had been a royalist, and as such was incapacitated from sitting

1. Bodl. Rawl. MSS. A 24 f. 221 (2nd pagination); Thurloe, op. cit., III, 241; Berry and Lee, op. cit., p. 84 n.

2. See e.g. his examination of Colonel Anthony Gilby of Everton, 31 Jan. 1656. Bodl. Rawl. MSS. A 34 f. 975; Thurloe, op. cit., IV, 484. He regarded Gilby as 'a dangerous enemy' and also committed Major John Scott and Cecil Cooper to Nottingham gaol. On the request of the latter two plotters to go abroad in July 1656, Whalley advised the Council to permit this. Bodl. Rawl. MSS. A 34 f. 4; A 40 f. 117; Thurloe, op. cit., IV, 495-496; V, 187. The principal MS. source for the Rufford Abbey rising is Bodl. Rawl. A 24. For other accounts see e.g. Mercurius Politicus, Nos. 248, 249, dated 12 and 17 Mar. 1654/5; C. H. Firth, 'Cromwell and the Insurrection of 1655', E.H.R., IV (1889), 321-322; Firth, Clarke Papers, III (1899), 25-26; Berry and Lee, op. cit., pp. 79-87; D. Underdown, Royalist Conspiracy in England, 1649-1660, pp. 144-146.

3. Nottinghamshire in the Civil War, pp. 172-173.

by the Instrument of Government' and since 'that constitution also forbade royalists to vote', it is difficult to see how he secured his return. This, however, may be explained by the fact that though a Royalist sympathiser, Peniston had not been disenfranchised, because he had never been convicted of delinquency. However, when Parliament met on 17 September, Peniston was refused a 'ticket' of approval, and as one of the 93 members excluded, he signed the petition in protest.¹ According to Wood,² it is not known whether he later took an oath of fidelity to the Protector and sat in the Lower House in January 1657/8 by which time the constitution had been remodelled under the terms of the Humble Petition and Advice.³ It seems most probable that he did so for he was named a Commissioner for the Assessments for the County of Nottingham in 1657⁴ - which nomination Noble⁵ interprets as a sign that he had regained Cromwell's favour. Edward Whalley served in the same capacity for the borough. On 12 March 1659/60, Peniston was also named as Commissioner for the Militia,⁶ and at the Restoration became a Justice of the Peace.⁷

1. Nottinghamshire in the Civil War, p. 173, citing B.M. Thos. Tract E 889(8); Whitelock, Memorials, IV, 280; Pink MSS., 320. This latter authority errs in stating that Peniston died in October 1669. One list of excluded members is given in Bodl. Tanner MSS. LII, f. 152. For a list of all members of the 1656 Parl. including those excluded see The Parliamentary or Constitutional History of England ..., 2nd ed., XXI (1763), 3-23.

2. Op. cit., p. 173.

3. The sources Firth cites in his account of the excluded members do not help in this respect. See The Last Years of the Protectorate, 1656-1658, 2 vols. (Lond., 1909, reprint N. York, 1964), I, pp. 11-23, 143; II, 18-19.

4. Firth and Rait, Acts and Ordinances, II, 1075. 'An Act for an Assessment upon England at the Rate of Sixty Thousand Pounds by the Moneth, for three Moneths' (9 June 1657), 1058-1097.

5. Op. cit., II, 141.

6. Firth and Rait, op. cit., II, 1439. 'An Act for Settling the Militia within England and Wales', 1425-1455. This act was passed only a few days before the 'reinforced Rump' agreed on Monck's advice to dissolve itself and make way for a genuinely 'free' assembly. This was done on 17 Mar. 1659/60.

7. H. H. Copnall ed., Notes and Extracts from the Nottinghamshire County Records of the 17th Century (Nott., 1915), p. 10; J. T. Godfrey, Notts. Churches, p. 395 n. Cropper, op. cit., Intro., p. xvii n.

It is beyond the scope of this sketch to go into lengthy details about Peniston Whalley's treatment of the Quakers, yet no account would be complete without some mention of his attitude towards them. Both he and his friend and fellow justice Dr. Robert Thoroton¹ of Car-Colston were notoriously active in their persecution of this sect. Indeed, Whalley appears to have been over zealous in his desire to uphold the restored Anglican Church and particularly vindictive in his interpretation of the Conventicle Act of the Clarendon Code.

It was at the Restoration that he gave full vent to the Royalism that he had previously deemed prudent to keep in check. On 22 April 1661, he delivered a charge to the grand jury at the general quarter sessions in Nottingham, entitled 'The civil rights and conveniences of Episcopacy, with the inconveniences of Presbytery asserted',² which was subsequently printed. A later charge delivered on 21 July 1673 before the Nottinghamshire quarter sessions meeting at Newark, was also printed in 1674 under the title 'The Religion Established by Law, asserted to conduce most to the true Interest of Prince and Subject'.³

It is evident from the former pamphlet alone that he was a man of some learning for he delves into the realms of history in his attempts to prove the legality and the antiquity of the ecclesiastical institution. Conversely, he argues forcefully and cogently against Presbyterianism of the Scottish pattern.

1. Author of the Antiquities of Nottinghamshire. See above, p. 223.³ For his life see D.N.B., T. M. Blagg, 'Dr. Robert Thoroton' (Trans. Thor. Soc., XII, 1908), 50-55; M. T. Hildyard, 'Dr. Robert Thoroton', ibid., LXI (1957), 8-20; A. C. Wood, A History of Nottinghamshire, pp. 215-221.

2. See C.S.P.D. 1660/61, 571; Bodl. Pamphlets, 114, No. 9; R. S. Bosher, The Making of the Restoration Settlement: the Influence of the Laudians, 1649-1662 (Lond., 1951), pp. 202-203.

3. Bodl. Pamphlets, 4^ov. 38 Th., 133 No. 9.

It was a learning, however, which he seems to have enjoyed parading before his fellow magistrates and jurymen¹ - the reasoned arguments and sonorous phrases of his speeches designed to incite them against these 'most factious people' the Quakers.

'... if you would have your Children enjoy that you leave them,' he declared at the quarter sessions held at Nottingham in January 1669,² 'suppress these People, and let the full severity of the Law be exercised on them, and stricter than the Law, if it can be; for pitying them doth no Good, for they have had nine Years Clemency, and they are so spread, that if they spread so in as long Time more, we must beg.'³

If he dealt out justice according to the law, his pronouncements were generally lacking in mercy, and the only trace of any mildness shown in dealing with opponents was in 1663 when he tried to mitigate somewhat the severity with which Colonel John Hutchinson was being treated at Newark.⁴ He was particularly virulent in his dealings with William Claytor of Elston,⁵ John Seaton (Sayton) of Blythe⁶ and John James of Newark, Notts.

The contemporary pamphlet in which Claytor's case appears, adequately summarises the general feeling of Quakers and other sectarians against him. He is condemned for:

1. 'The pride of heart, in a title of self-honour.
2. The hardness of heart, in refusing to shew mercy.

1. See Cropper, op. cit., Intro., pp. xvii n.-xviii n.

2. Probably 1669/70, though this is not made clear.

3. J. Besse, 'A Collection of the Sufferings of the People called Quakers' (1753), printed in Cropper, op. cit., pp. 43-64. Whalley's speech occurs at pp. 47-49.

4. Cropper, op. cit., Intro., p. xviii n.

5. 'A Short Relation of some part of the Sad Sufferings and cruel havock and spoil, inflicted ... on the ... Quakers' (1670), printed in Cropper, op. cit., pp. 1-16. Claytor's case is described at pp. 12-16.

6. Ibid., p. 60.

3. The cruelty of heart, in refusing to do justly.¹

The case of John James an Independent Minister of Newark is the one most frequently cited to indicate Whalley's severity. James suffered long imprisonment and loss of goods ruthlessly seized upon Whalley's orders. So harshly did Whalley conduct his vindictive campaign against James that it is said the latter's children had fits and one died.²

On James's complaint of injustice to the Privy Council, Whalley was ordered to appear before that body to answer the charge of improperly imprisoning James and seizing his sheep and lambs in distress for preaching. The Council ordered his release on 27 November 1672,³ but three years later it is recorded that Whalley had driven James out of Nottinghamshire, 'seiz'd upon all his goods, corne and seed corne as they were sowing, broke open his house, tooke all within and without and left him noe necessaries.'⁴

Calamy's story that Whalley suffered remorse for his ill-treatment of James needs to be treated with caution. It is said that before his death, Whalley wrote to the Independent Minister, acknowledging his cruelty and oppression and owning that the hand of God was justly upon him.⁵ No further evidence has been found to substantiate this remark, and one may hazard (though perhaps wrongly) that Calamy used this example because it fitted in so well with the moral he would have liked to draw about persecutors.

1. Cropper, op. cit., p. 16.

2. E. Calamy, An Account of the Ministers, Lecturers, Masters and Fellows of Colleges and Schoolmasters who were ejected or Silenced after the Restoration in 1660 (Lond., 1713 ed.), pp.524-525.

3. P.R.O. PC. Register 2. 63, ff. 328, 345. See also, A. G. Matthews, Calamy Revised, p. 294.

4. Welbeck Abbey MSS. Letter of Ralph Strettell, a Non-conformist rector of St. John Zachary, London (until ejected 1662), to Sir Edward Harley dated 27 Mar. 1675. Cited by Matthews, op. cit., p. 294. For further complaints against the '... Irregular and unjust proceedings and actings of Robert Thoroton and Peniston Whalley Esqs.... in relation to the act of parliament ... against Conventicles', see Port. MSS. DD4P.67/8, though the document is damaged by damp.

5. See S. Palmer ed., E. Calamy, The Nonconformist's Memorial ..., 2nd ed., 3 vols. (1802-1803), III, 97-98.

II. Peniston Whalley's major property interests

I

In an earlier chapter¹ it was stated that as legal heir of his grandfather Richard, Peniston succeeded to the residue of the family property when he came of age in the year 1645. His inheritance was much reduced - a fraction of that which Richard Whalley had once owned,² and which he had left on his death encumbered by extents and mortgages.³

In addition to the manor of Kirkton Hall alias Screveton, Peniston acquired a moiety of the manor of Willoughby-by-Norwell,⁴ and also lands in Carl(e)ton-upon-Trent⁵ which he sold along with other property there to Thomas Summers (Somers) of Newark, in 1651 and 1652.⁶ As heir of the Leaks,⁷ he had also a 30/- rent from Elston.⁸ He held in addition four eightieths of the tithes of Screveton worth six pounds per annum in 1650,⁹ and certain other tithes of corn and hay in Screveton, Car-Colston, Elston and Aslacton.

1. Ch. 1, p. 35.

2. See above, p. 6 and Appendix H.

3. Ch. 1 passim.

4. See P.R.O. C9/38/100; Thoroton, op. cit., p. 352.

5. Ibid., p. 353.

6. See below, pp. 261-263. For leases of premises in Carl(e)ton which Whalley made on 29 Sept. 1647 see Notts. R.O., Tallents MSS. DDT.101/1,2.

7. See above, p. 1.

8. Part of an original 50/- rent in Sibthorpe and Elston which had been made over to Sir John de Leak and others by Sir John de Depeden in 1395. Thoroton, op. cit., p. 173.

9. Ibid., p. 127. Thoroton writing in 1677 noted that he himself held six, and the Rector of Screveton, eight eightieths. See also J. T. Godfrey Notts. Churches, p. 384, citing Parliamentary Survey (1650), XIII, p. 237.

II

Even if all the pieces of evidence had been available, it would have been a task of too great a magnitude to attempt to assess the debts Richard Whalley had contracted during his life time and those left by him at his death. The purpose of Chapter 1 of this study was to account for Richard Whalley's chief creditors and the principal extents upon his property. No exact figure therefore, can be given for the financial situation as it faced Richard Draper when he became Peniston's guardian, or the amount of debts Peniston himself inherited when he came of age. It is possible, however, from sources such as the Close Rolls, Feet of Fines and Chancery Proceedings to gain some idea of Peniston's difficulties over the years, but these cannot supply an overall picture. Some of the landed transactions are very complicated, and the Chancery Proceedings in particular, need to be used with caution, for the evidence, as well as being conflicting, is incomplete and the existing documents sometimes mutilated or illegible in parts.

Since items of information are so scattered among numerous documents, it is difficult to preserve an absolutely strict sense of chronology in dealing with Peniston's affairs. The reader will perhaps therefore, forgive the necessity of having to use a Chancery Action of 1667 as the starting point in the description of Peniston's property interests, since this gives details of the situation during his minority and after he came of age.

It seems a more logical arrangement to deal with the major items of information in this suit as a whole, at least between the years 1647 and 1654, than to have continually to return to it when describing the landed settlements, mortgages and sales which Peniston made from about 1651 onwards. It is proposed to deal with these later transactions within a chronological framework.

III

In the suit of 1667,¹ Peniston claimed that his grandfather had died seized in tail of property worth £600 per annum. He maintained that when Draper assumed the guardianship, the latter had taken possession of all 'deeds and evidences' concerning the estate and had appropriated the profits over a period of thirteen years² until Peniston came of age in 1645. These profits, Peniston stated, had amounted to approximately £8,000 which had not been correctly accounted for. Draper declared his ignorance of the true value of Richard Whalley's estate on decease but believed it to be small, 'the same being passed out of him by feoffment to the said John Whalley and others or some way seized upon by sequestrations out of this Court or held from him by mortgages or extents ...' He indicated that he had taken possession of certain documents concerning Peniston's estate which were in Kirkton Hall, but he denied embezzling any documents and declared that to his knowledge no deed of entail had ever existed. He maintained that the expenses of wardship had amounted to £7,600 and he was 'much out of purse' in attempting to free Peniston's estate from encumbrance. His sole object since Whalley's coming of age had been to regain from his stepson those debts which were justly his due.

Peniston's major charge against his stepfather was that Draper had abused his position as guardian and exploited his ward's estates - an allegation which Draper strongly denied.

It would be unwise from the conflicting evidence in this bill to apportion too much blame to either party, though it should be remembered that when his grandfather died, Peniston as a minor of no more than 7 or 8 years

1. P.R.O. C9/38/100, P. Whalley v. R. Draper, dated 26 June 1667. About half of Draper's answer to the complaint is faded and torn in parts and thus indecipherable.

2. i.e. Since c. 1632 when Draper married Thomas Whalley's widow, Mary. In view of John Whalley's trusteeship of Screveton, Draper could not have assumed full control of Peniston's estate in that year. See above, pp. 31, 37, 238 and n.

old could not have been aware of the true circumstances - the real extent of Richard Whalley's indebtedness - and thus to accuse Draper of gross misappropriation of the profits over a period of thirteen years seems unjust. One thing is certainly clear from the evidence in this action: namely the increasing bitterness which governed the relationships of Peniston and his stepfather. For twenty years, until he brought the Chancery action, his indebtedness to Draper was his chief concern: a stranglehold from which he was never able to break free.

IV

Peniston attained his majority on 23 November 1645. In 1647 there had been a reckoning in the presence of arbitrators to decide on the settlement in respect of Draper's guardianship. The evidence, however, is so complicated and monetary amounts conflict so much in both bill and answer that it is difficult to interpret the terms of this award with absolute accuracy.

According to Peniston it appears that he had entered into a judgment in £3,000 in King's Bench in Trinity Term 1647, for the payment of £1,400 owing to Draper. From Draper's answer, however, the sum appears to have been £1,100. It is difficult to decide which figure is correct. The judgment was security for payment of the debt. It had also been agreed in the award that Draper should hold and enjoy the profits of the moiety of the manor of Willoughby-by-Norwell¹ for a term of 13 years with remainder to his wife, Mary, for her life. The manor was to be held in the name of Edward Standish as trustee for Draper.²

1. Peniston claimed that the moiety of Willoughby was then valued at £240 per an. Draper disputed this, placing its value at no more than £120 per an.

2. Indenture of 18 April 1647 between P. Whalley of the 1st part, Anthony Marshall of Cambridge, clerk, of the 2nd part, James Chapman of Clifford's Inn, London gent., of the 3rd part and Edward Standish of the 4th part. See P.R.O. CP.25(2) 472, Easter 23 Chas.1 (1647); C54/3705/1.

By Writ of Elegit¹ in execution of the judgment, an extent had been placed upon the manor of Screveton, but according to Draper, he had allowed Peniston to continue in possession 'upon his earnest request and promises to be punctual in payment of the money.'

Draper claimed that when the 1647 award had been made, Whalley had declared Draper to be 'the best father in law [stepfather] in the world for that he had taken some thousands of pounds less of him than his due or than what he might have justly expected.'

V

Peniston apparently fell into arrears with the payments due to his stepfather for the action indicates that he and Draper came to a further reckoning in January 1649/50. Peniston alleged that when Draper discovered from the deeds and evidences in his possession that Richard Whalley's third wife Jane Colesby² 'had some title to the manor³ of Willoughby and land there as her dower,' Draper prevailed upon him to alter the arrangements which had been agreed to in the award of 1647. Draper, however, denied that he was induced to part with his interest in Willoughby on that account, but claimed that he did so merely to convenience his stepson whose finances at that time were much straitened. He agreed to surrender his interest so that Whalley might sell the moiety of the manor to William Willoughby esq.,⁴

1. In the case of a judgment on bond, it was possible to secure extents upon a debtor's lands, but this required the judgment of a court of law. The Writ of Elegit issued thence entitled the creditor only to half the estate (excluding copyhold land). See Stone, Crisis, p. 518; J. T. Cliffe, The Yorkshire Gentry: From the Reformation to the Civil War, p. 147, and above, p. 14 and n.

2. i.e. Jane (née Styrrup) whom Richard Whalley had married on 29 Oct. 1626. In 1654 when she claimed her dower she was the widow of Edward Colesby gent. See above, pp. 35 n., 40 n., 45 n. and below pp. 256-258.

3. i.e. the 'moiety', for Richard Whalley had never possessed the whole manor.

4. For Sir William Willoughby bart. as he later became, see G.E.C. Complete Baronetage, III, 1649-1664, 104; J. and J. B. Burke, Extinct and Dormant Baronetcies, p. 57; Vis. of Notts., 1662-1664, op. cit., 2.

of South Muskham, Notts.

If credence can be given to Draper's statement, it is strange that Whalley did not make his arrangements to sell his moiety until September 1653. I have found no evidence to explain the reason for the delay.

The indenture of feoffment¹ dated 28 September records that Whalley received the sum of £4,530 from Willoughby - an amount which Draper claimed was £1,000 more than the manor was worth.

According to Draper's statement, it was covenanted in the second reckoning of 5 January 1649/50, that he should surrender his interest in the moiety of Willoughby and the amount² previously agreed upon, and that the judgment in £3,000 entered into in Trinity Term 1647, would be defeasanced if Peniston paid £1,660 by 25 March 1650, and an annuity of £200 issuing out of Screveton.

Once again the evidence is at variance for Draper claimed that the annuity was to be paid to him for 10½ years from Michaelmas 1649, and afterwards 'for his this defendant's life',³ whilst Peniston maintained that the annuity was to be paid for 13 years or thereabouts. Apparently some such arrangement continued until a third reckoning between them took place in 1654. Before describing the terms of this, however, two further items need to be mentioned. One relates to an indenture in Chancery concerning the moiety of Willoughby, and the other to Jane Colesby's dower.

1. Notts. R.O. Vere-Laurie MSS. DDVC.24/1. The foot of the fine indicates that Peniston parted with the Manor and its appurtenances and 1 messuage, 140 acres of land, 40 acres of meadow, 120 acres of pasture and 50 acres of furze and heath with the appurtenances in Willoughby and Carl(e)ton. The proclamations for the fine were as follows: 1st, 13 Feb. 1653/4; 2nd, 1 May 1654; 3rd, 7 June 1654; 4th, 15 Nov. 1654. P.R.O. CP. 25(2)525, Hilary 1653 [/4]; Notts. R.O. Vere-Laurie MSS. DDVC.24/2,3.

2. Here stated to be £1,100.

3. I cannot explain Draper's meaning here. Surely a life interest meant exactly that. The 10½ years is thus ambiguous.

VI

The indenture¹ in Chancery is dated 1 November 1652 and is a 'conditional' bargain and sale² of the moiety of the manor of Willoughby. The parties involved are Peniston, Richard Draper and John Hanson³ and John Rolleston⁴ of London, gentlemen. The document records that for the sum of £1,500 (part of the debts he owed to Draper) Peniston had agreed to convey the moiety of the manor to Hanson and Rolleston in trust for Whalley Draper, Richard Draper's daughter and Peniston's half sister, provided she marry according to the wishes of her father. If, however, Whalley Draper were to marry 'without such his assent or liking,' then Willoughby was to be held in trust for Richard Draper himself.

Peniston was to discharge the sum of £1,545⁵ before or upon 1 October 1653, and in default of such payment, he was to arrange 'within the space of ten years' for the manor to be conveyed to the trustees.

It is apparent, however, from details in the Chancery action of 1667, that the above transaction did not take effect for Whalley later discharged the £1,500 debt to Draper and as already indicated above,⁶ he had sold the moiety of the manor to William Willoughby esq. in September 1653.

VII

The issue of Jane Colesby's dower is also very complicated and it is impossible to determine what really transpired in view of the contradictory

1. P.R.O. C54/3705/1.

2. i.e. a type of mortgage to take effect if Whalley defaulted in payment.

3. Involved in the transaction relating to Sibthorpe, and in the Whalley-Springett marriage settlement. See above, pp. 136-137, 212-213.

4. One of Newcastle's feoffees in trust. See above, p. 128.

5. The £45 would appear to represent 6 months interest at 6%, but why for only 6 months is not evident.

6. pp. 254-255.

statements of Peniston, Draper and Jane Colesby herself. It is apparent from other evidence that Jane had prosecuted her alleged claim to dower at least as early as 1652.¹ Her persistence presumably obliged Peniston to appeal to equity in 1654.

In his answer to Peniston's bill of complaint of June 1667, Draper stated that he did not believe Jane Colesby had gained her dower as Peniston maintained she had. Draper referred to an earlier agreement which he said was made between Edward Colesby,² Jane's husband, and John Whalley, Richard's brother, when it was agreed that all rights to dower should be relinquished in return for £40 per annum during Peniston Whalley's minority. Draper maintained that Peniston knew of this relinquishment and had the bond and release which he should have used to bar any future claims.

Draper gives a possible clue as to how the issue was settled for he states that after Jane Colesby brought her writ of dower, Peniston agreed to compound the same for £60 per annum when he 'might have saved himself harmless'.

In the Chancery action which Peniston brought against Jane Colesby on 5 May 1654,³ she denied that she had been a party to any arrangement made between her father William Styrop and John Whalley whereby she would have £40 per annum during Peniston's minority and surrender her claim to dower. After her marriage to Edward Colesby, Jane stated that her husband made an agreement on 28 February 1635 with Richard Draper and his wife. It was covenanted that she and her husband were to enjoy the profits of 'several closes and enclosed grounds' and also an annuity of 20s. out of 'Deadman's Close' in Willoughby for 10 $\frac{3}{4}$ years.⁴

1. See below, p. 262.

2. The agreement appears to have been made not between Edward Colesby and John Whalley, but between William Styrop (Jane's father), and John Whalley. See P.R.O. C6/123/172. P. Whalley v. J. Colesby.

3. Ibid.

4. This may have approximated to the sum of £40 per an., noted in the statements of both Peniston and Draper. The date also is significant for the leases were to terminate when Peniston attained his majority.

Jane maintained that the agreement also stipulated that during the period neither Edward Colesby nor she herself if Colesby were to die, would prosecute any writ of dower in respect of any lands which were Richard Whalley's inheritance. Finally, she asserted that though she was made a party to the arrangements, she did not conceive herself bound by it since it was made during the 'coverture' between herself and Edward Colesby and no 'fine' was had upon it. She declared that this was the sole agreement to her knowledge, regarding her title to dower, and since she had never agreed to relinquish her claim she was justified in bringing her writ.

Whatever may have been the real truth from this conflicting evidence, if one may hazard a guess, Draper's statement regarding the £60 yearly rent or composition fee which he claimed Peniston had to pay, may be nearest the mark. If so, then this was one more encumbrance on Peniston's depleted estates.¹

VIII

In 1654, according to Draper's statement, he and Peniston came to a third reckoning regarding money owing to Draper. At that time it was stated that the £1,600 and interest, which had been agreed upon in the reckoning of January 1649/50,² was still outstanding and the annuity of £200 from Screveton was greatly in arrears.

However, after this reckoning, Draper stated that Whalley paid him the gross sums of £1,500,³ £697 'over money more', £1,660, and other amounts due

1. Jane Colesby's answer to P. Whalley's complaint was taken by 'dedimus potestatem' at Newark, Notts., 5 June 1654. No Chancery order or decree has been found relating to the action in the P.R.O. Indices checked between 1654 and 1665. See MSS. Indices 'B' Books, 1583-1607.

2. See above, p. 255.

3. Presumably this is the sum referred to in the conditional bargain and sale of the moiety of Willoughby. See above, p. 256.

which are not specified. It was also arranged that in future, Whalley should bear the taxes on the annuity and Draper should receive the clear sum of £200 per annum.

It is impossible to reconcile the amounts Draper stated he had received with those Peniston claimed he had paid to his stepfather. He mentions three sums of £1,500, £800 and £300 - a total of £2,600. Draper's figures, however, exceed £3,857. It may be that Peniston's debts were so extensive at that time that he was uncertain of the exact amount paid to his creditors. He maintained, however, that Draper had taken much more than was his due.

It should be emphasised that the major points in dispute in the Chancery action of 1667 covered a period of twenty years. During this time memory as to exact happenings would perhaps have become obscured, vital pieces of evidence misplaced or lost and most important of all, relationships embittered, leading to unfair or untrue accusations. How much the more difficult it is then, to attempt to construct an accurate account 300 years after the event. It is dangerous to draw conclusions which cannot be verified by other evidence.

It will be necessary at a later stage in this chapter to return to the 1667 action and the decision taken upon it. At this point, no further use can be made of Draper's answer, for after the details of the 1654 reckoning, the document is too badly mutilated to follow clearly. It is apparent, however, from the facts already given that Peniston's financial position at that time was serious. How much his depressed circumstances were exacerbated by Draper is impossible to state, though the real cause of his misfortune originated with his grandfather's recklessness in the 1590s.

IX

To sum up the information in the preceding pages, this has largely been based on the Chancery suit of 1667, supplemented where possible by supporting evidence. In the overall survey of the situation between 1647 and 1654

which this document reveals, the following chief points have been noted:

Peniston's indebtedness to Draper during his minority; a reckoning of 1647 in the presence of arbitrators and an award made to Draper; an agreement to alter the terms of this award in January 1649/50, in order perhaps to allow Peniston to sell the moiety of Willoughby; the sale of the latter manor in September 1653 to William Willoughby esq.; Jane Colesby's claim to dower resulting apparently in a further demand on his estates; Peniston's failure to keep up his payments to Draper and a third reckoning between them in 1654 after which Peniston discharged certain sums outstanding. Finally, an agreement by Peniston to continue to pay Draper the £200 annuity from Screveton free from taxes.

It is proposed now to describe Peniston's major landed transactions from approximately 1651 to the results of the litigation in 1667. These include mortgages and sales of outlying property, chiefly in Carl(e)ton-upon-Trent; the purchase from the trustees of the Marquis of Newcastle of lands which had formerly been in the family possession; the arrangements to settle property upon his wife and children as a result of the financial benefits which accrued to him on marriage; increasing indebtedness and the need to mortgage certain parts of the main Screveton estates in the 1660s.

Two major transactions remain to be dealt with after this - namely the sale of further property in Screveton in 1670 and the final disposal of the remainder of the manor in 1685.

X

Peniston Whalley's indebtedness to Richard Draper and other creditors was presumably one of the deciding factors which obliged him to sell some of the outlying properties in Carl(e)ton-upon-Trent in 1651 and 1652. It will be remembered that at that time, Whalley was bound by the reckoning of January 1649/50 to pay Draper £1,660¹ - which payment (according to Draper)

1. See above, p. 255.

he did not discharge until 1654. Perhaps the claims of other creditors were more pressing - perhaps at this time Whalley was negotiating with the Drury House Trustees to purchase the Marquis of Newcastle's life interest in Willoughby's Manor and Bulby's Manor in Car-Colston. This transaction to regain former family property was completed on 10 March 1652/3 with the purchase of the reversionary rights from Newcastle's feoffees in trust, and will be described shortly.

An indenture of 20 September 1651¹ records that Peniston and his sister Elizabeth sold to Thomas Summers (Somers), fellmonger of Newark, a messuage, newly built cottage and lands appertaining in Carl(e)ton-upon-Trent for the sum of £370. This property had previously been leased to one, William Townesend for 21 years - 17 of which were yet to come. It was further covenanted in an agreement of 29 September² between Whalley and Summers that Townesend should be granted a new lease on the same terms and for the same period as the former one.

An interesting feature of the above transaction is that it consisted of part of the property which Edward Whalley had previously sold to Robert Busbridge on 21 March 1636/7.³ At that time, for the sum of £600, Edward had disposed of a messuage and certain lands in Carl(e)ton and also premises in Screveton which he had purchased from his brother Henry in May 1629.⁴ Robert Busbridge retained these lands until November 1647 when he conveyed them to John Temple, son of James, the former Parliamentary and regicide.⁵

1. P.R.O. C54/3603/26; Notts. R.O. Tallents MSS. DDT 45/21, 22. See also DDT.3/9 of the same date: Peniston's bond in £700 for performance of the covenants of the deed.

2. Ibid., DDT.101/4. The new lease was dated 23 Nov. 1651. DDT.101/5.

3. See above, pp. 98-99.

4. Above, p. 92.

5. P.R.O. C54/3389/32. James was half brother to Mary (née Penyston) whom Richard Draper had married about 1632. For observations on the Temples, see above, p. 93 ff. and Appendices E, F.

On 12 May 1651, Elizabeth, Peniston's sister had bought these lands from John Temple for £620.¹ It is apparent, therefore, that in the sale of 20 September 1651 for the sum of £370, Elizabeth Whalley had agreed to help her brother Peniston in his financial difficulties.

A further sale of Peniston's lands occurred in Trinity Term 1652² whereby he levied a fine to Thomas Summers and to John Bullock gent.³ of 10 messuages, 6 cottages, 16 gardens, 360 acres of land, 80 acres of meadow and 245 acres of pasture in Screveton, Carl(e)ton and Orston. Also included were the four eightieths of the tithes which Peniston possessed in Screveton. The sum involved was £560.

With regard to this latter transaction, it is of interest to note that Whalley entered into a bond in £800 to indemnify Thomas Summers from any claim to dower of the premises by Jane Colesby.⁴

In the earlier covenant⁵ of 16 June 1652 to levy a fine and suffer a recovery of the above premises, there are details of two mortgages. The first of these is dated 23 June 1651 and concerns property in Screveton and Orston which Peniston had conveyed to John Temple for £300 for a term of 500 years. It is apparent that this property comprised the other part of those lands which Temple, just over a month earlier, had sold in their entirety to Elizabeth Whalley and which Elizabeth now allowed her brother to mortgage. By the second mortgage dated 6 November 1651, for the sum of £1,400, Peniston had conveyed to Richard Draper and to James Temple of

1. P.R.O. C54/3597/17; Notts. R. O. Tallents MSS., DDT.3/102. The numerous transactions in the paragraph above are also noted in ibid., DDT.3/8.

2. P.R.O. CP.25(2)585, Trinity 1652. 1st proclamation 7 July 1652.

3. In later transactions stated to be Peniston's servant. See below, pp. 265, 270.

4. Notts. R.O. Tallents MSS. DDT.3/10 dated 16 June 1652. Carl(e)ton and Willoughby-by-Norwell (from which moiety Jane made claim to dower) were in close proximity.

5. Ibid., DDT.45/24.

Michell Grove, Sussex, certain lands and tenements in Screveton, and 2 messuages and 2 cottages with their appurtenances in Carl(e)ton-upon-Trent, for a similar term of years.

There were clauses to safeguard the interests of the mortgagees in this covenant to levy the fine to Summers and Bullock.

In a further transaction of 20 June 1652,¹ and apparently as an added security to Thomas Summers, it is recorded that Peniston transferred the mortgage in £1,400 to him. Draper and James Temple had agreed to this assignment and William Ayloffe and his wife Elizabeth² had also given their consent.

By the two sales to Summers, therefore, and the two mortgages to Richard Draper and James Temple and to John Temple, Peniston had realised a total sum of £2,630. Presumably this eased the situation temporarily, enabling him perhaps to discharge some of the debts due to the more pressing of his creditors and to buy Newcastle's life interest in the two Car-Colston manors.

XI

In the year 1647 or thereabouts, Peniston had married Margaret Ireland, daughter of George Irland or Ireland, the eldest son and heir of Thomas Ireland of Beausey near Warrington, Lancashire. Margaret had been married previously to one, Alexander Standish of the same county but was widowed shortly afterwards.³

By his wife, Peniston had four children. Two of these, Mary and Peniston, died in infancy and their deaths are recorded on the inscription of the tomb

1. Notts. R.O. Tallents MSS. DDT.45/23.

2. Peniston's sister had recently married Ayloffe. It had been arranged that the mortgage in £1,400 of 6 Nov. 1651, should be held in trust for Ayloffe and his wife, presumably because of Elizabeth's loans to her brother. Ibid. For mention of the Ayloffes see above, p.16 and pedigree, Appendix E.

3. See P.R.O. C9/412/141 dated 27 May 1658. This is an action brought by Peniston and Margaret Whalley against Richard Standish, brother and heir of Alexander, concerning Margaret's claim to dower.

of their mother (who died 10 September 1675) in Screveton church.¹ The other two were daughters - Elizabeth born c. 1655² and Margaret, born c. 1656.³ On 15 August 1674 Margaret became the wife of Thomas Hall, who had been instituted rector of Screveton on 7 December 1671.⁴

Margaret, Peniston's wife, was descended from an ancient and wealthy family originally settled at Hut⁵ in Lancashire. Peniston's marriage was therefore, an advantageous and timely one⁶ - a means whereby he might augment his depleted fortunes, discharge some of his debts and attempt to purchase certain property which had originally been in the family possession. It is apparent from two indentures⁷ of settlement to be described below that the alliance with Margaret helped him to negotiate the purchase of Willoughby's Manor and Bulby's Manor in Car-Colston which had formerly belonged to his grandfather and which had passed to Newcastle in the latter's agreement with Sir Robert Winde and Richard Holman in February 1628/9.⁸

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1. J. T. Godfrey, Notts. Churches, pp. 394-395 quotes the inscription in full.
 2. Notts. Visitation, 1662-1664, op. cit., 64.
 3. She died 10 Dec. 1680 and is buried in Screveton Church near her mother. See J. T. Godfrey, op. cit., p. 396.
 4. For their issue, see ibid., p. 53 n.
 5. Inscription on the tombstone of Thomas Ireland in Screveton church. See Thoroton, op. cit., p. 132; J. T. Godfrey, op. cit., p. 397.
 6. The following advice given in 1652 by Sir Walter Pye to his grandson, Walter Calverley of Calverley, Yorks. who succeeded to an estate worth £505 per an. seems appropriate. 'Looke uppon your renew as it is clogged with your Mothers Joynture which is a full halfe of whatsoever your Estate can be and seriously consider if by thrift you may pay it out of your rents, if not there are but two wayes, A Good Wyfe or the Sale of lands and the sooner you put either in practise the more will it be for your advantage: you shall have in both my best helpe.' See J. T. Cliffe, The Yorkshire Gentry: From the Reformation to the Civil War, p. 125.
 7. P.R.O. C54/3820/32, 33. See below, pp. 268-269.
 8. See above, pp. 31-37.

XII

This Car-Colston purchase was one of the most important of Peniston's landed transactions, but one of doubtful wisdom for it increased Peniston's financial insecurity, already strikingly apparent when he came of age in 1645. It would have been wiser policy to attempt to clear off the debts accumulated as a result of his grandfather's actions (a task in which he might eventually have succeeded) rather than to take on further heavy commitments at that time.

The transaction is an interesting one since it resembles that whereby Edward Whalley had acquired Sibthorpe¹ - for Peniston too purchased Newcastle's life interest in the manor from the Treason Trustees² - and then negotiated for the reversionary rights with Newcastle's feoffees in trust, namely, Sir Charles Cavendish, Robert Butler the elder of Southwell, James Whitehead and John Rolleston of Welbeck. Thomas Small of London gent. and John Bullock gent., Peniston's servant, were the third party involved, acting as trustees on Peniston's behalf.

The indenture³ dated 10 March 1652/3 records that Peniston had paid the sum of £2,000 and covenanted to pay a further sum of £2,084 by 20 November 1653.

Apparently, Newcastle's feoffees had agreed on 1 March 1652/3 to allow Whalley to lease the premises - except for Upper Westinges, Nether Westinges and Thackmore - in order to secure the remainder due. The lease, of necessity a beneficial one, was to John Hanson and John Hutton,⁴ gentlemen,

1. See above, Ch. 5, Sec. b, pp. 127-138.

2. As was the case with Edward's purchase, the amount paid for the life interest is not stated. The records of the Drury House Trustees have not survived.

3. P.R.O. C54/3720/34.

4. Hanson was referred to above, p. 256 and n. John Hutton was the one who later acted as solicitor to Newcastle in the action against Stapley and Campion over Sibthorpe. See above, p. 221. Hutton purchased some of Newcastle's estates in Stafford and Northumberland. C.C.C., III, 1736-1737. See also ibid., III, 2047 and IV, 2418 for purchase of other confiscated property in Northumberland.

for 1,000 years, and presumably the intention was that Peniston should redeem this when he was able to do so. Excepted from the above 'bargain and sale' were the Rectory or Parsonage Improprate of Car-Colston, and the tithes within Car-Colston.¹

Peniston also agreed in the transaction to assume a rent charge of £60 per annum which had been granted for the life of Robert Butler the elder of Southwell² by Newcastle and Sir Charles Cavendish, and which Butler had assigned to his sons Humphrey and Samuel.³

On 14 April 1653, shortly after purchasing the above manors, Whalley conveyed lands in the western part of the lordship which belonged to Willoughby's Manor to Francis Hacker of Stathorne or Stathern, Leicestershire, for the sum of £1,200. These enclosed lands were Upper Westinges, Nether Westinges and Thackmore, which as noted above were specifically excepted from the transaction of 10 March. Whalley covenanted that the lands were free from all encumbrances, except for a 99 year lease made on 13 April 1653, and with Hacker's consent, to Robert Butler the younger,⁴ gent., for securing £500 unto Whalley.

Presumably, Whalley had come to some prior arrangement with Hacker to negotiate the complete purchase with Newcastle's trustees and then to mortgage the specified lands to Hacker, which were conveniently near the

1. An abstract of Newcastle's estates at Michaelmas and Martinmas 1660 notes that a great part of his interest in Car-Colston had been sold to Peniston Whalley. See Derbys. Arch. and Nat. Hist. Soc. Journal, XIII (1891), 169. But Whalley did not regain the manor of the rectory of Car-Colston and the above rights which had belonged to his grandfather. These were retained by Newcastle. See T. C. Blagg, 'Car-Colston' (Trans. Thor. Soc., LXXIV, 1970), 70 and above, p. 32.

2. See also C.C.C., III, 1733.

3. The lease to obtain the above annuity is not mentioned in the indenture whereby Whalley settled the lands in Car-Colston upon his daughters. Thus he appears to have redeemed this by 1654. See below, pp. 270-273.

4. Robert Butler the younger had been involved in the transaction relating to Sibthorpe and in the Whalley-Springett marriage settlement. See above, pp. 136-137, 212 ff. He became R. Draper's son-in-law. See also pp. 235, 242 n.

latter's own estates at East Bridgford.¹ It seems most probable that Peniston had to make the purchase of the Car-Colston manors at that particular time or risk losing them altogether to another purchaser. It involved him in heavy borrowing and a number of complicated arrangements whose terms are not apparent in the indentures, and which we can only surmise. In view of this, and the fact that he later arranged to provide portions for his daughters out of the manors, the indenture of 14 April 1653 appears to have been a 'mortgage' rather than a genuine sale.

Some time between 1654 and 1660, however, Hacker had either foreclosed on the mortgage, or what is perhaps a more feasible explanation, Whalley had sold to him the premises outright for an extra sum. Such practice was becoming rarer by the mid seventeenth century in view of the development of the equity of redemption, but it was still met with.²

It is clear from these indentures that Francis Hacker did not purchase directly from Newcastle's trustees as Thoroton³ implies in his account of the manors, but that the lands at Upper and Nether Westinges and Thackmore were acquired indirectly through negotiations with Whalley.

Hacker was still in possession of the lands shortly before the Restoration, when they were then forfeited with the rest of his property to the Crown,⁴ granted by Charles II in trust to the Duke of York, and then conveyed to the Marquis of Newcastle as was Edward Whalley's manor of Sibthorpe.⁵

1. For the Hacker family and estates, see C. Brown, The Lives of Nottinghamshire Worthies and of Celebrated and Remarkable Men of the County from the Norman Conquest to A.D. 1882 (Lond., 1882), pp. 195-204; H. L. Hubbard, 'Colonel Francis Hacker, Parliamentarian and Regicide' (Trans. Thor. Soc. XLV, 1941), 5-17.

2. See Stone, Crisis, pp. 524, 526. The principles of 'equity of redemption' were well established by mid 17th century. Ibid., p. 527. See also M. Finch, The Wealth of Five Northamptonshire Families, 1540-1640 (Northants. Rec. Soc., XIX, 1956), pp. 168-169.

3. Op. cit., p. 123.

4. See Port. MSS. DD4P.22/318.

5. See above, pp. 196-197.

As regards Bulby's Manor - the lands in the eastern part of the lordship, 'which lie behind his [Peniston's] house' - Newcastle apparently regained his life interest in the manor, but the reversionary rights were enjoyed by Peniston's heirs.¹ After Peniston's daughter Margaret married the Rev. Thomas Hall in 1674, the property passed to the Hall family later of Westborough, Lincolnshire, in whose hands some part of it remained until 1904.²

XIII

It is necessary now to examine the transactions whereby Peniston sought to settle his principal estates in Screveton and Car-Colston on his family. Two indentures enrolled in Chancery³ are the sole sources of information I have found which provide some detail of the financial benefit which accrued to Peniston as a result of his marriage. They record in the preamble that Peniston had formerly raised above £2,000⁴ by sale of some of his wife's lands, and that Margaret Whalley had on certain conditions agreed that Peniston should dispose of the rest of her inheritance 'for raising of more moneys to pay and discharge the proper debts of the said Peniston Whalley.'⁵ It was thus arranged that for the sum of £4,200, Peniston and his wife should sell Margaret's interest in the manor of Southworth, Lancashire, and certain other lands in that county.⁶

1. See Thoroton, op. cit., p. 123; Noble, op. cit., II, 143.

2. T. C. Blagg, 'Car-Colston' (Trans. Thor. Soc., LXXIV, 1970), 66.

3. P.R.O. C54 /3820/32,33, both dated 8 Aug. 1654 and enrolled in Chancery 25 Oct. 1654.

4. This would appear to be the amount paid to Newcastle's trustees in the indenture of 10 March 1652/3 to purchase Willoughby's Manor and Bulby's Manor.

5. In 1654, Peniston repaid certain debts owing to Draper. See above, pp. 258-259.

6. Both indentures of settlement state that the purchasers were to be Richard Gerrard and William Whitfield, but the actual transaction dated 5 Sept. 1654 between P. Whalley, Robert Butler the elder and his son, Robert,

As conditions of his wife's assent to such transactions and the benefit he would secure, Peniston was to make adequate provision for Margaret and their children.

In one of these indentures,¹ the parties involved besides Peniston were Robert Butler the elder of Southwell, Gregory Broome of Car-Colston and Humphrey Butler, son of Robert Butler.

Whalley covenanted to levy a fine to Robert Butler and Broome of the manor of Kirkton Hall alias Screveton whereby he was to make over the reversion and remainder of the manor and retain merely a life interest. This fine was levied in Michaelmas Term 1654² and recorded that Butler and Broome had paid £1,200 to Peniston.

Under the terms of the settlement, the manor was to be held to the use of Peniston for his life, and 'after that estate ended' to the use of Humphrey Butler for the term of Peniston's natural life.³ It was then to

(continued) states that Roger Bradshaigh of Haigh and James Sorocold of Ashton, Lancs. were the parties involved. This indenture was also enrolled on 25 Oct. 1654 (P.R.O. C54/3793/19). Presumably these two were acting on behalf of Gerrard and Whitfield. It seems highly improbable that the original arrangement to sell to the first parties named could have fallen through. Mention is made in C54/3793/19 of an earlier indenture dated 2 Sept. 1654.

1. P.R.O. C54/3820/33.

2. P.R.O. CP.25(2)586. 1st proclamation, 20 Nov. 1654.

3. The meaning of this may best be expressed by quoting Holdsworth's definition of such type of settlement. 'The plan,... was to limit, after the estate to the tenant for life, an estate to trustees and their heirs during the life of the tenant for life, in case his estate determined by forfeiture or otherwise in his lifetime, in trust for him and to preserve the contingent remainders.'

'The remainder to the trustees "depends entirely upon a contingent determination of the preceding estate itself"...' A History of English Law, 2nd ed. (1937), VII, 111-113. See also Jowitt and Walsh eds., The Dictionary of English Law, II, 1514. Holdsworth (*op. cit.*, VII, 112) states that this legal device was probably perfected during the Commonwealth by Sir Orlando Bridgman and Sir Geoffrey Palmer, perhaps because of the need to provide 'some protection against forfeitures for treason and delinquency'. Peniston's Royalist sympathies, his participation in events preceding the Rufford Abbey rising, and his narrow escape from the consequences of its failure, may have been reasons why he utilised this device.

go to Margaret Whalley as her jointure with the remainder in tail upon such son or sons as Peniston should have by her. The Butlers and Broome were thus acting as trustees to preserve contingent remainders.

Peniston was to be allowed to make leases of the premises and have liberty to limit so much of the premises as would yield £210 per annum as jointure to any woman 'which shall be his wife at the time of his decease'. He also covenanted with Robert Butler and Broome that he would discharge the property of all statutes, charges and encumbrances by 1 January 1654/5 made for or on behalf of William Aylofffe¹ esq. and John Temple² gent. It was further agreed that Richard Draper's interest in Screveton - the £200 annuity³ - should not be affected by the above transaction.

Elaborate as these provisions were Margaret Whalley did not live to enjoy her jointure. Even long before her death in 1675, Peniston had been obliged to mortgage and sell a considerable amount of property in Screveton owing to his financial difficulties.⁴ Nor as it transpired were any further sons born of the marriage after the death in infancy of Peniston junior,⁵ thus the provisions Peniston sought to make for his daughters are of more interest, particularly since these involve Edward Whalley himself.

This indenture of 8 August 1654⁶ is a tripartite agreement between Peniston of the first part, his servant John Bullock gent., and Thomas Small of London, gent.⁷ of the second part, and Edward Whalley, Francis

1. Peniston's brother-in-law.

2. For the mortgage held by John Temple and that in trust for William and Elizabeth Aylofffe see above, pp. 262-263 and n.

3. See above, pp. 255, 258-259.

4. See below, pp. 277, 281-282.

5. See above, pp. 263-264.

6. P.R.O. C54/3820/32.

7. These were the former trustees involved with Peniston in the purchase of the reversionary rights of Willoughby's Manor and Bulby's Manor from Newcastle's feoffees (Above, pp. 265-266). Under this new indenture they transferred their rights of trusteeship to E. Whalley, F. Leeke and J. Cooper.

Leeke¹ of Newark and John Cooper of Thurgarton, Nottinghamshire, of the third part. The latter three were to act as trustees and to stand seized of the premises for the raising of portions for any daughters Peniston should have. Such portions were to issue out of Willoughby's Manor and Bulby's Manor in Car-Colston.

Specific sums were to be raised according to the number of daughters born; thus one daughter was to receive £3,000, two daughters £1,500 each and three daughters or more - £4,000 to be equally divided among them. Such sums were to be paid on their severally attaining the ages of eighteen years if Peniston Whalley were deceased. If, however, he was still alive when all his daughters reached eighteen, then they were to receive only half the amount due. The other half was to be paid after his death and as soon as possible after the trustees had sold the premises. It was also covenanted that after the death of Peniston or his wife, the trustees should ensure that each daughter received a yearly payment of £20 up to the age of fourteen years and fifty pounds thereafter till the age of eighteen years when the moiety became due.

Peniston was to ensure that he discharged such sums as became due and payable during his lifetime and if he failed to do so, then the trustees were to be allowed to sell so much of the premises as should fulfil the above conditions.

The indenture specified that Peniston was 'to let and dispose of the premises and to receive the rents and profits thereof to his own proper use' till such time as he failed to make over the specified sums to his daughters. It was also agreed that if any money remained after sale of the premises and payment of the specified sums to the daughters, then the same should be used for such younger children as Peniston and his wife Margaret might have. In the event of no younger children, the residue was

1. Spelt thus in the indenture, but frequently written Leak(e).

to go to such person or persons as Peniston directed under his last will and in default of such will then to such younger children as Peniston might have by any other wife, and failing such issue then to his right heirs.

The other major provision in this rather complicated settlement related to the terms applicable if Peniston died in his wife's lifetime without issue. In such contingency, the trustees were to stand seized of the premises for the use of Margaret during her life time and after her decease then to the use of Peniston's right heirs. If Peniston were to die before his wife with no other issue but one son, then the trustees were to stand seized of the premises for Peniston's right heirs.¹

It appears at first glance that the conveyance to Francis Hacker of certain lands in Willoughby's Manor² may have been made by the trustees of the Car-Colston settlement because Peniston defaulted on payments of amounts due to his daughters during his lifetime, but this could not be so. As previously indicated,³ Peniston had two daughters, Elizabeth born c. 1655 and Margaret born c. 1656. Under the terms of the above settlement, Peniston would be committed to pay a moiety of the sums due, namely, £750 to each daughter on her attaining the age of eighteen. The first amount would not be due until 1673. One must conclude therefore, that Hacker's retention of the premises arose primarily from Peniston's indebtedness to him, and was in no way concerned with the action of the trustees Edward Whalley, Francis Leeke and John Cooper.

This particular indenture has been quoted at some length because it provides a further example of the careful arrangements made by settlors to dispose of their property in anticipation of a number of possible contingencies.

1. Such son would presumably be Peniston's 'right heir' who would also be provided for under the terms of the indenture arranging Margaret Whalley's jointure and then the settlement of Screveton in tail male. See above, pp. 269-270.

2. Above, pp. 266-267.

3. Above, p. 264.

As we have seen, Edward Whalley had made equally careful provision to try to ensure that Sibthorpe remained in his family.¹ Both relatives were concerned with property which had been part of the original family patrimony - the preservation of which meant so much to them, and yet the plans of neither was effected as they were intended to be under the terms of the indentures. Bulby's Manor in Car-Colston later came to Peniston's younger daughter Margaret, but who could have foretold in the mid 1650s the lengthy and bitter ^{litigation} legislation which would eventually decide the fate of Sibthorpe?²

On the common ground of family property interests where they could sink other differences both Peniston and Edward showed a tenacity of purpose. And yet, Peniston's task was the harder for he had less capital resources than Edward himself to embark on transactions of doubtful wisdom such as that with Newcastle's trustees in March 1652/3.

It is unfortunate that so little evidence³ has been found to establish the degree of relationship which existed between Edward and Peniston during the 1650s other than their co-operation in this particular sphere, but it is conceivable that this common interest made for cordiality in other respects. Presumably they could preserve a degree of amity and yet be opposed over national issues, as was the case in numerous other families with divided loyalties in the Civil War.

It is interesting to note that Edward agreed to be a trustee with two Royalists, Francis Leeke and John Cooper, on behalf of his Royalist nephew. Cooper was the more prominent of the two and played a leading rôle in the abortive Rufford Abbey rising,⁴ only seven months after he became party

1. Above Ch. 5, sec. b passim and Ch. 8, details of the Whalley-Springett marriage settlement, p. 212 ff.

2. Ch. 8, p. 217 ff.

3. See above, p. 242 and the remarks on p. 245 which latter, however, were purely conjectural.

4. See above, pp. 243-245.

to the indenture. Surely Edward must have known the potential danger of such men and yet he agreed to work with them. Presumably he could keep his domestic and political interests quite separate from each other, for he certainly made no attempt to intervene on behalf of either John¹ or his brother Cecil Cooper² after the failure of the Rufford Abbey plot.

XIV

Noble³ indicates that at the Restoration Peniston Whalley's estate 'was estimated at 1200 l. per annum, which was but inconsiderable to what his ancestors had enjoyed,...' He gives no source for this statement, however, and no further evidence has been found to verify or disprove it. The value, nevertheless, proved insufficient to discharge the encumbrances upon it despite Whalley's attempts at improvement by enclosure and new leasing policies.

Thoroton⁴ states that Peniston enclosed the part of Screveton on the Fosse-way side - continuing a policy begun by his grandfather Richard many years previously. Unfortunately, the initial scheme proved costly and involved Peniston in more debts before he was able to reap the longer term benefits.

Peniston himself indicated that enclosure had increased the yearly value of Screveton from £420 to £580 - an improvement of £160 per annum, but this had involved him in very great charges of at least £500 and had

1. John Cooper was imprisoned but escaped and fled abroad. His wife later petitioned Richard Cromwell in Nov. 1658 begging that her husband might return and 'live quietly'. C.S.P.D., 1658/59, 178. It is not known if the petition was granted but Cooper was living at Thurgarton, Notts. again in 1662. A. C. Wood, Nottinghamshire in the Civil War, p. 169 citing Dugdale's Visitation, 1662.

2. See above, p. 245 n.

3. Op. cit., II, 142.

4. Op. cit., p. 129 and see also above, pp. 9-12.

aggravated his already extensive debts.

It was earlier noted in this chapter¹ that Peniston had arranged to settle Screveton upon Margaret his wife as her jointure and retain merely a life interest in the premises. Humphrey Butler, as a trustee to preserve contingent remainders, also held an estate during Peniston's natural life should the latter's interest be determined by unforeseen circumstances. Peniston had levied a fine with Robert Butler the elder and Gregory Broome to effect the settlement and thus his powers of disposal of the property were limited.²

Because of such limitation on 13 July 1660, Peniston brought an action in Chancery³ against Humphrey Butler in an attempt to modify the settlement due to his financial problems. He emphasised first that he was 'plunged into very great debts' due to the enclosure; that he was daily threatened with suits and executions by his creditors and yet he was 'utterly unable to discharge or pay [them] by reason that he cannot sell any part of the said Manor and lands or take up any money thereupon ...' because of his life tenancy. He indicated that since he had been married thirteen years and had no male issue, the likelihood of any sons in the future was very remote and therefore he would not be damaging their interests if he disposed of any property. He also declared that his daughters were provided for under another indenture.

Whalley complained that he had attempted to persuade Butler either to join with him in the mortgage or sale of some of the lands or to disclaim his interest in Screveton, but so far Butler had not been prevailed upon to do so. The lands Whalley wished to dispose of are specified as the Line

1. pp. 269-270.

2. On such limitation, see the clear and concise explanation in J. R. Western, Monarchy and Revolution: the English State in the 1680s (Lond., 1972), p. 113. Also useful is H. J. Habakkuk, 'English Landownership, 1680-1740', Ec.H.R., X (1940), pp. 6-7.

3. P.R.O. C9/412/280.

Lands, Parsons Crofts, Crosse Close, Upper Cow Close, Shackerdale Close, Railes Close, Townside Close, Butleys and Eastingleys Close. A number of farms, messuages and cottages were also involved and certain tithes of corn and hay.

Whalley indicated that the total yearly value of this property did not exceed £160 per annum - his estimation of the improvement effected by enclosure - thus the original manorial value of £420 per annum when the settlement was made would still be preserved and no harm would be done to anyone's interest. He stated that his wife Margaret was in full approval, but that he had no power to force Butler to agree other than by appealing to equity.

Butler's answer¹ to Whalley's complaint is a sensible one and free from any recrimination. He indicated that his estate in Screveton for the preservation of contingent remainders was a position of trust that could not lightly be broken. He was well aware of Whalley's many debts and charges incurred in enclosure and was willing to do everything he could to help Whalley by sale or mortgage of the property, or by any other means, if he could do so without breaking the law. The fact that he had been unsure of his legal position had been the chief reason for his reluctance.

Butler declared that he did not know the yearly value of Screveton at the time of the settlement of 1654, nor its improved value after enclosure. If, however, he could be satisfied by the Court that the original value of the manor would not be lessened by disposal of the lands and that it was legally safe for him to proceed, he was willing to do so.

Some time after this Chancery action, the break up of the family's principal estates in Screveton began - an indication that the dispute had gone in Whalley's favour and Butler had acceded to his request.²

1. P.R.O. C9/234/173 dated 13 July 1660.

2. No Chancery order or decree has been found in P.R.O. Indices between 1660 and 1663. See MSS. Indices 'B' Books, 1595-1599, 1602. The action may thus have been settled amicably without further proceedings.

Neither mortgage nor sale of outlying lands in Carl(e)ton¹ and Willoughby-by-Norwell² had proved sufficient to prevent this break up, though the final sale of Kirkton Hall alias Screveton did not come about until 1685.

In February 1662/3 and again in November 1664, Peniston mortgaged lands in Screveton to Robert Thoroton the younger of Car-Colston, doctor of physic and the future historian,³ John Story the elder of Kneeton (Kneveton) on-the-Hill, and Richard Mason of Newark. The first transaction⁴ involved 3 messuages, 8 cottages, 160 acres of land, 20 acres of meadow, 120 acres of pasture and 30/- per annum in rents. In the second⁵ which involved a fourth party, Thomas Hodgson of Gerard's Inn, Holborn, a further 15 acres of meadow and 160 acres of pasture were mortgaged.

XV

Before describing Peniston's first major sales of land in Screveton, it is necessary to return to the Chancery action of 1667, the majority of which as it related to the position between the years 1647 to 1654 has been described fully above.⁶

Peniston brought this action against Richard Draper because he claimed that the latter had revived the original judgment in £3,000 acknowledged in Trinity term 1647,⁷ and had proceeded at common law against him. Draper had obtained a Writ of Elegit to extend Whalley's lands and had caused

1. Above, pp. 260-263.

2. Above, pp. 254-255.

3. For Thoroton see the references given above, p. 247 n.

4. P.R.O. CP.25(2)705, Hilary 14 and 15 Chas.11 (1662/3).

5. P.R.O. CP.25(2)705, Mich. 16 Chas.11 (1664).

6. pp. 252-259.

7. Above, pp. 253, 255.

a declaration of ejectment¹ to be delivered unto Whalley in the name of Hugh Walters lessee plaintiff and John Rogers casual ejector.

Draper claimed that he was entitled to proceed at common law since the £1,660 owing to him under the agreement of January 1649/50 had not been paid on the specified date,² and arrears were still outstanding on the annuity.

Peniston sought by his bill to stay proceedings at common law and asked for an injunction to effect this. According to a Chancery order of 23 October 1667,³ the injunction had been granted because Draper had not at first appeared to defend the charges and was thus in contempt of court.

A further order of 31 October⁴ indicated that Draper had submitted his answer and cleared his contempt. He had pleaded 'an award and release in bar of the account demanded by the plaintiff's bill'.⁵ Draper's counsel, Mr. Peck, asked that the injunction be dissolved and this was ordered to be done unless the plaintiff's clerk should show cause to the contrary by the following Thursday.

On 11 November, Whalley's counsel, Mr. Skipwith,⁶ moved that the injunction be continued because of the 'antiquity of the judgment in question.' Draper's counsel, however, indicated to the court that the judgment was to be defeasanced 'for payment of £200 per annum clear of all taxes.'⁷ It was

1. For this process see above, pp. 220-221.

2. i.e. 25 Mar. 1650. See above, p. 255.

3. P.R.O. C33/230/f.2.

4. Ibid., f. 14.

5. i.e. the original award of 1647 after Draper had accounted for his guardianship in the presence of arbitrators.

6. Almost certainly Thomas Skipwith of Metheringham, Lincs. Admitted to Gray's Inn, 30 April 1638; Barrister and in 1670 Reader of that Society; M.P. for Grantham, 1659 and 1660; Knighted, 29 May 1673; Sergeant at Law, 21 Apr. 1675; Cr. bart. 27 July 1678. See G.E.C., Complete Baronetage, IV, 1665-1707, 107-108; Lincolnshire Pedigrees, III (Harl. Soc., LII, 1904), 893 and below, p. 282.

7. Peck does not stipulate the duration of the annuity which would verify either Draper's or Whalley's statement noted above, p. 255. The £200

stated that the annuity had been paid until about two years ago but £257 arrears were now outstanding.

After 'long debate', Whalley was ordered to pay the arrears by the last day of the term. In the meantime, the injunction restraining Draper from proceeding further at common law was to remain in force, but if Whalley defaulted in payment it was to be dissolved.¹

It would appear that Peniston complied with this order, for no other evidence has been found to indicate that Draper took further legal action.

XVI

To take stock now of the position between 1651 and 1667, the details in the preceding pages may be summarised as follows:

First occurred the sale of Peniston's outlying property, chiefly in Carl(e)ton-upon-Trent, along with two mortgages of lands and tenements there and in Screveton, from which he realised the sum of £2,630. This presumably relieved the position temporarily. The acquisition of the Car-Colston manors from Newcastle's trustees followed in March 1652/3, involving a further capital outlay of £4,084 in addition to an unspecified sum which Whalley had earlier paid to the Drury House Trustees to obtain Newcastle's life interest in the manors. Such purchase had been greatly aided by the partial sale of some of his wife's property for £2,000, and the agreement to dispose of the remainder (the manor of Southworth, Lancashire) for £4,200.² This later transaction, however, was not effected until September 1654,³

(continued) 'clear' annuity was later agreed upon after the 3rd reckoning between Draper and Whalley in 1654. See above, pp. 258-259.

1. P.R.O. C33/230/f. 150.

2. See above, p. 268.

3. p. 268 n.

and in the interim Peniston had apparently been obliged to mortgage part of the premises to Francis Hacker for £1,200 in April 1653,¹ and to dispose of the moiety of the manor of Willoughby for £4,530 to William Willoughby esq. in September 1653 - which latter transaction was recorded in the Court of Common Pleas in Hilary Term, 1653/4.²

The issue of Jane Colesby's dower had come to a head in May 1654, involving Peniston in legal costs and, according to Draper's statement,³ imposing a further charge of £60 per annum on Peniston's estates.

In 1654 also, Peniston had paid capital sums to Draper and was still burdened with the £200 annuity.

Because of his wife's financial aid, he had agreed in that year to settle his principal manors in Screveton (discharged from encumbrances), and in Car-Colston upon her and the children to be born of the marriage.

Enclosure in the 1650s had failed to bring in immediate rewards and plunged Peniston even more deeply into debt. Since he retained merely a life interest in Screveton, the desire to mortgage property there occasioned a further Chancery action and additional expense.

Finally, having again fallen into arrears with Draper's payments, Peniston found himself threatened with an action of ejectment, and to stay the execution of Draper's Writ of Elegit, he again had to appeal to equity. The payment of £257 and further costs was the result.

XVII

It now remains to describe two important transactions and certain key events within the last twenty years of Peniston's life which set the seal on his eclipse.

1. pp. 266-267.

2. p. 255 n.

3. p. 257.

The first sales of Whalley's main estates in Screveton occurred in 1670. A pair of tripartite indentures¹ dated 28 May reveal the seriousness of Whalley's position at that time.

The parties in these transactions were Peniston and his wife, the four mortgagees named in the transaction of 1664,² and Robert Thoroton³ the elder and John Story the younger who were the purchasers of the property which Peniston was obliged to sell.

The indentures record that the four mortgagees, Dr. Robert Thoroton, John Story the elder, Richard Mason and Thomas Hodgson, who stood seized of the property noted below, had agreed at Peniston's request to sell the same to Thoroton the elder and Story the younger so that the latter two 'may be the better enabled by sale or mortgage of all and every or any of the messuages, cottages, lands, tenements and hereditaments ...' mentioned in the indentures, to discharge Peniston's debts to certain creditors who were named in a schedule annexed.

What is particularly significant about the transaction is the fact that the parties named appear to have been concerned to try and alleviate Whalley's financial distress. It seems probable that in the case of the Thorotons who were Whalley's near neighbours, this was due to close bonds of friendship, whilst the others were merely intent on being satisfied their debts.

The sum involved was £2,000 and the property comprised 3 messuages, 8 cottages, 300 acres of land, 20 acres of meadow, 100 acres of pasture, common of pasture, 30/- rent per annum and a certain portion of tithes of corn, straw and hay in Screveton, Car-Colston, Elston and Aslacton.⁴

1. P.R.O. C54/4296/30, 31, enrolled in Chancery 11 Nov. 1670.

2. See above, p. 277.

3. Father of Dr. Robert Thoroton. The elder Thoroton died in 1673, only five years before his son. John Story the younger was the husband of Barbara Boun, Dr. Thoroton's sister-in-law. Thoroton calls Story 'my Brother-in-law'. See op. cit., pp. 129, 154, 335.

4. The 'uses' of these lands do not correspond exactly with the 'uses' noted in the mortgages of 1662/3 and 1664, but this is not unusual over a six year period. In the earlier transactions (p. 277), 475 acres are involved compared with 420 acres above.

The schedule¹ quoted below gives the name of some of Peniston's creditors, but obviously not all of them. As one of the indentures² indicates, the sale of the above lands, rent and tithes was intended to satisfy 'part' and not the whole of Whalley's debts.

... to John Ireland of East Bridgeford, Notts., yeoman, upon bond £100. Item to Thomas Hodgson in the same Indenture named upon Judgm.^t £350. Item to Thomas Skipwith³ of Grantham in Lincoln esq., £80. Item to John Story the elder in the same Indenture named for money by him secured to Richard Draper of London⁴ esqr., £500. Item to Richard Mason in the same indenture named for money by him paid to the said Richard Draper and owing to himself by bond and otherwise, £250. Item to John Hammond of Edingley in the County of Notts., yeoman, upon bond, £160.

Since these debts alone amount to £1,440, Peniston's financial position in 1670 must have been precarious.

XVIII

Calamy⁵ indicates that Peniston's estate was worth £1,500 per annum, though at what stage of his career is not recorded. J. T. Godfrey⁶ implies that the value was such when Peniston unsuccessfully contested an election at Newark, which if correct would be in the year 1677. What is surprising is that even though his finances were acutely straitened, he was prepared to risk the heavy expenses of a Parliamentary campaign. Since there seems to have been no distinct political objective, it is most probable

1. Annexed to P.R.O. C54/4296/31.

2. P.R.O. C54/4296/30.

3. Presumably the one who acted as Whalley's counsel in the 1667 Chancery action brought against R. Draper. See above, p. 278.

4. Perhaps Draper of Flintham, Notts. was living in London at that time. Branches of the original Flintham family had settled in London and Camberwell. See Vis. of Notts., 1569 and 1614, *op. cit.*, 136-137; *Collectanea Topographica et Genealogica*, III (1836), 150-151. Thoroton's pedigree, *op. cit.*, 133, states that Draper was aged 73 in 1672. There is no indication that he lived in London then.

5. *An Account of the Ministers ... ejected or Silenced ...*, 1713 ed., p. 525.

6. *Notts. Churches*, p. 395 n.

that Whalley's motive was to seek Parliamentary privilege as a protection from his creditors. His obstinate candidature in the Newark election of 1677 offers no other explanation.

It is unnecessary to describe the Newark dispute in detail, for it was a complicated issue which began in 1673 and was not resolved until 1678.¹ Briefly the facts were as follows:

Newark was enfranchised by royal charter on 20 March 1672/3² with power to send two burgesses to Parliament. The freemen and freeholders who were unwilling to have Sir Paul Neile of Codnor Castle, Derbyshire as their candidate, chose Peniston Whalley³ and Henry Savile esq.⁴ as their burgesses. The Mayor and Aldermen of the borough, however, claimed that the right of election was vested in them, chose Savile and Neile and refused the 'town' poll for Whalley 'though demanded'.⁵ Savile and Neile were accordingly returned, but since Parliament had been sitting and the writ had not been issued by the Commons, they were not allowed to take their seats.⁶

The townsmen⁷ claimed their right to vote under the charter and petitioned the Commons for a new election. Savile and Neile also presented a petition on 31 January 1673/4 claiming their seats as duly elected burgesses.

1. The most recent article is C. A. Edie, 'Charles II, the Commons and the Newark Charter Dispute: The Crown's Last Attempt to Enfranchise a Borough', *Journal of British Studies*, X (1970), 49-68. The author is concerned with the political implications of the charter - a royal design to strengthen Charles II's interests in the Commons. See also W. D. Cooper ed., *Savile Correspondence (Camden Society, Old Series, LXXI, 1858)*, 44 n. 46 n.

2. C. A. Edie, *op. cit.*, citing P.R.O. SP.44/34/f. 221. The date is wrongly given in *Savile Correspondence, op. cit.*, 44 n. as 4 April 1667.

3. C. A. Edie, *op. cit.*, 63 n. gives Peniston only a brief mention as an unsuccessful candidate in this election held 7 Aug. 1673.

4. Brother to George Savile, 4th bart. of Rufford, Notts., Viscount (1668) and later 1st Marquis of Halifax. Henry Savile was 'a courtier, wit, poet and skillful diplomat'. *Ibid.*, 61.

5. See *C.S.P.D.*, 1677/78, 41.

6. For disputes over this writ and doubts about the charter's validity, see *ibid.*, 41-43 and C. A. Edie, *op. cit.*, particularly 55-60.

7. i.e. Gentlemen, freemen, freeholders and copyholders.

The dispute dragged on, apparently interminably until March 1676/77.¹ On 21 of that month, a resolution that Savile and Neile were duly elected was negatived by a majority of one (102-103), and a new writ ordering a new election was issued to the Corporation on 7 April 1677. Henry Savile and Sir Robert Markham stood on the same interest and Peniston stood with Sir Richard Rothwell bart.² The upshot was that Peniston and Markham were defeated and the other two returned on 19 April 1677.

Peniston challenged the result, but it was a gambler's throw. Henry Savile's remark in a letter to his brother George, Viscount Halifax seems an apt but brutal comment on Whalley's obstinate candidature. 'Pray remember to give Pen. Whaley advice not to play the fool', he wrote, 'for what he intends will prove so'.³ That he was still worried by Whalley's persistence, however, is evident in further correspondence on 24 May 1678.

'I am so delighted with my new seat in parl^{mt}, ' Savile proclaimed, 'that if Mr. Whaley should in the least disturb me I should scream as if I lost a limb, but betwext the hopes he will either not stirr or not succeed I do yet sleep pretty quietly.'⁴

Peniston did stir but he did not succeed for on 31 January 1677/78, he petitioned the Commons against Savile's return. This was referred to a Committee of Privileges but on the report of Sir Thomas Meeres from the Committee on 12 February, it was ruled out of order as not being received in time.⁵

1. The stages can be followed in C.J., IX, 301, 334, 388-389, 403, 415; C. A. Edie, op. cit., 53-66, and are summarised in Savile Correspondence op. cit., 46 n.

2. Ibid., 45 n. This indicates that the numbers polled do not appear on the records of the corporation.

3. Ibid., 52. Letter dated 10 May 1677.

4. Ibid., 55.

5. Ibid., 52 n.; C.J., IX, 429, 437.

It seems reasonable to conjecture that the expenses of treating and petitioning in this contested election contributed in no small degree to Whalley's financial difficulties. Two of Henry Savile's letters are sufficient indication to show how costly a campaign could be. He refers to his bid for the candidature as having broken his back, and states that his heart too will break if he returns unsuccessful to London, 'after pains and trouble taken that I would not undergoe again to be an emperor instead of a burgess.' Again he indicates that he has been 'sick to agonyes with four day's swallowing more good ale and ill sack than one would have thought a country town could have held;...' ¹

It is unfortunate that none of Whalley's correspondence appears to have survived to indicate how he fared in this costly business. It was presumably his last desperate chance - he lost it and it hastened his ruin. ²

XIX

In 1685, Peniston was finally forced to sell the manor of Kirkton Hall alias Screveton which had been the seat of the family since the latter part of the fifteenth century. That he was not without hope of regaining possession of the property at some future date, however, is apparent from the terms of the indenture recording the transaction which is dated 4 December 1685. ³

The agreement was between Peniston and Thomas Thoroton, who was a citizen and salter of London, and younger brother to Dr. Robert Thoroton the historian. For the sum of £6,016, Thoroton was to receive the manors of Kirkton Hall and Screveton, ⁴ the manor house and various other messuages,

1. Savile Correspondence, op. cit., 45-46. See also ibid., 44 n.-45 n. for further details of election expenses, and C. A. Edie, op. cit., 62-63.

2. I am grateful to Mr. J. P. Ferris who is currently working on the History of Parliament, for bringing to my notice that a surprisingly large number of members of the Cavalier Parliament sought Parliamentary privilege as a refuge from their creditors.

3. P.R.O. C54/4642/15. Enrolled in Chancery 16 Dec. 1685.

4. Referred to throughout this thesis under the single name of Kirkton Hall alias Screveton. See above, p. 20 n.

farms, cottages and lands appertaining. Whalley declared that the premises were freely and clearly discharged of all other encumbrances except certain ones which Thoroton was to assume as a condition of the sale.

These included 'the chief rent' of 40/- per annum henceforth payable to Robert, Earl of Kingston;¹ a fee-farm rent of £20 per annum 'payable to the patentees and other persons deriving under the gowne;' a yearly rent charge of £4 payable to John Story² of Kneeton (Kneveton) or to others in trust for him, and a debt of £200 besides damages and costs which Whalley had acknowledged long before to John Temple³ in the Court of Common Pleas.

The chief encumbrances, however, related to a mortgage on the premises for the payment of £2,200 and originally held by Sir Thomas Browne bart.⁴ deceased, late of Walcott, Northants., but now assigned to his daughter Elizabeth or in trust for her; and another one for securing the payment of £1,100 plus interest to William Sandys esq., and Anne, his wife, Richard Mason gent.,⁵ John Story the younger and Robert Morris, alderman of Newark, or to the trustees of some of these.

There was also a statute merchant of £2,500 originally acknowledged by Whalley before the Mayor of Nottingham in 1652⁶ which should have been payable in the following March to Daniel Hilton, chapman, of Pennington,

1. c. 1660-1682. Robert Pierrepont, 3rd earl, succ. 1680. See G.E.C., Complete Peerage, VII (1929), 305-306.

2. The younger, see above, p. 281 n.

3. This is perhaps the major part of the original mortgage in £300 held by John Temple and dated 23 June 1651 (above, p. 262). If so, then Peniston had not fully discharged the mortgage as he had covenanted to do in the settlement of Screveton upon his wife (above, p. 270).

4. Succ. to baronetcy 1624; d. 1635. See G.E.C., Complete Baronetage, I, 1611-1625 (1900), 174. This mortgage of such long standing would appear to have been made by Richard Draper, when Peniston's guardian.

5. Noted above as one of Whalley's creditors, pp. 277, 280-282.

6. The precise date is not stated.

Lancs., acting as trustee for Richard Bradshaw also of Pennington. The indenture notes that Bradshaw had transferred his interest to Philip Sherard,¹ and Thomas Thoroton apparently having satisfied Sherard, now held the statute.

Excepted also from the transaction was the grant of the next advowson of Screveton made by Peniston to his daughter Elizabeth.

The principal condition of the indenture was that Thomas Thoroton should discharge all the above named debts which Whalley had contracted. It was stipulated that the principal and interest due upon the mortgages should be paid before 24 June 1686, or otherwise, as soon as the mortgagees would accept the same. They were then to convey all their estates and interests in the premises to Thoroton, 'his heirs and assigns or such other as he or they shall nominate.'

To satisfy every encumbrance afore-mentioned, a requisite sum was to be deducted from the purchase money. It was also covenanted that Peniston and his heirs should receive a yearly rent charge of £100 from the manors, lands and premises conveyed to Thoroton - such annuity to be 'freed and discharged of and from the said conveyances, mortgages and encumbrances aforesaid.' The rent charge was to be payable to Whalley and his heirs 'at the four most usual feasts or dayes in the year' for the life of Christian Thorndike² widow of Borstall [Birstall], Yorkshire. £700 was to be retained by Thoroton

1. Sherard married Dr. Robert Thoroton's daughter Ann. He was grandson of William Sherard, Baron Leitrim in the Peerage of Ireland. See e.g., J. T. Godfrey, Notts. Churches, p. 70; (Trans. Thor. Soc. LXI, 1957), 17; LXXIV (1970), 68.

2. Previously married under the name Waterhouse. She married Thomas Thorndike gent. of Leeds in 1661. J. W. Clay ed., Paver's Marriage Licences II (Yorks. Arch. Soc. Rec. Series. XLIII, 1911), 14; Letters of admin. were granted to Thorndike's widow on 6 Feb. 1683/4 (incorrectly stated as 6 Oct. 1683 in Y.A.S. LXXXIX, 1934, 133). Borthwick Inst. of Hist. Research f. 35, Pontefract. Thorndike was probably a descendant of the Thorndikes of Great Carlton, Little Carlton and Greenfield, Lincs. See Lincolnshire Pedigrees, III (Harl. Soc., LII, 1904), 965-968. Probably Peniston was indebted to him or his widow.

from the purchase money in order to pay the annuity.

The final condition in the transaction stipulated that the residue of the purchase money remaining after satisfaction of the above debts should be repaid to Whalley or his executors and assigns.

The Thoroton family retained possession of the manor of Kirkton Hall alias Screveton and Peniston presumably lived for some time longer in Screveton, though it is not known when he left the parish. It is recorded that he served as a magistrate until 1687.¹

XX

A number of sources used in this chapter - all of which are defective on the date of Peniston's death² - indicate that Peniston died ^{in prison} in London for debt. All appear to be based on Calamy's statement,³ though the latter gives no reference to verify his assertion. In view of Peniston's debts and the enforced mortgages and sales of property in attempts to meet the demands of his creditors, it is possible, indeed probable, that he served a term of imprisonment for debt. It is not known, however, which of Peniston's creditors was responsible for his incarceration,⁴ or whether, in fact, he himself sought refuge in prison to evade the claims of such creditors - a practice

1. H. H. Copnall ed., Nottinghamshire County Records ..., p. 10; Miscellaneous Books (Crown Office), P.R.O. Cl93/12 piece 5, f. 110b, 'Liber Pacis', Reign of James II. The latter does not indicate when Whalley was removed from the commission.

2. e.g. Noble, op. cit., II, 142 where his decease is given as 1672. The error appears to have originated from a pedigree of the family which shows him aged 48 in 1672. See J. Nichols, Leicestershire, II, 736; Cropper, op. cit., xvii n.-xviii n. places his death 'about 1680'. J. T. Godfrey, Notts. Churches p. 395 n. relies on Cropper in this respect.

3. See An Account of the Ministers ... ejected or Silenced ..., 1713 ed., p. 525.

4. To secure a debtor's arrest, a creditor had to apply to court for a writ of arrest. By the writ of 'capias ad respondendum', the sheriff was commanded to secure the body of the debtor and hold it to ensure the latter's appearance in court. The writ 'capias ad satisfaciendum' required the sheriff to retain the debtor in prison until complete satisfaction of his creditor's claims. See Jowitt and Walsh eds., The Dictionary of English Law,

that was becoming more common with the destruction of some of the major London sanctuaries.¹ If one were to hazard a guess, this latter possibility seems the more likely.

Since the conditions of prison life depended on the means of the inmates, it is probable that Peniston's imprisonment was not severe despite the depletion of his estates. Unless the prisoner were completely destitute, prison could be tolerable and in some cases extremely comfortable if the requisite fees could be paid.²

The particular prison in which Peniston was confined (if in fact this did occur) has not been established, but since he refers to himself in his will dated 4 February 1690/1³ as living in the parish of St. Andrew Holborne, the Fleet Prison may have been the one.⁴ His name does not, however, appear in a volume of commitments for that prison covering the reigns of James II and William and Mary,⁵ though many of the records of commitment for London and Middlesex have not survived. On the other hand, if Whalley had managed to gain sanctuary in prison to escape his creditors, the absence of record of commitment would not be unusual and in such case no warrant of arrest

(continued) I, 308; W. S. Holdsworth, A History of English Law, 6th ed. (1938), VIII, 231.

1. See J. R. Hertzler, 'The Abuse and Outlawing of Sanctuary for Debt in Seventeenth Century England', The Historical Journal, XIV (1971), 467-477, particularly 475-476.

2. For conditions in debtors' prisons, see Holdsworth, op. cit., VIII, 233 and n., 233-245 (legal measures for and against certain types of debtors); D. Veall, The Popular Movement for Law Reform, 1640-1660, pp. 13-17; H.M.C. 8th Report (1881), Appendix, 152-153; G. Davies, The Early Stuarts, 1603-1660, 2nd ed., pp. 302-303.

3. P.R.O. Prob.11/416/168.

4. For the relative comfort of the Fleet compared with some debtors' prisons see D. Ogg, England in the Reign of Charles II, 2nd ed. (1956, O.U.P. reprint, 1967), pp. 119-120. J. R. Hertzler, op. cit., 476 n. citing John Macky, A Journey Through England (2 vols., Lond., 1724), II, 2, 3.

5. P.R.O. Prisons 1. Vol. 1A. It is possible that the prison was the King's Bench, though limitations of time have precluded an extensive search among these MSS. P.R.O. (Ashridge), KB.10, 4-7, covering the period Hilary 1686-Hilary 1695 consist of large sacks of Latin documents.

could have been served upon him.¹

Peniston's will shows that he had remarried for he appointed his wife Johanna as his sole executrix, and she was the only beneficiary under the terms of the will. To her, Peniston devised 'All my Estate, equity of Redemption and interest whatsoever in or to All that Close called Rayles Close² in the parish or precincts of Screaveton ...' He also bequeathed to her all his plate, jewels, gold and silver rings 'and sums of money whatsoever due and owing to me or any person or persons in trust for me from any persons whatsoever upon bills, bonds or otherwise howsoever.'

How meagre was Whalley's estate is evident from the will, but it is also apparent that he was not entirely destitute. What is most to be regretted is the contrast between his reduced circumstances in 1690 and the wealth that his grandfather Richard Whalley had inherited in the 1580s.

Did Peniston in fact, die in prison? It is difficult to say. An entry in the register of St. Andrew Holborn indicates that he was buried on 29 August 1693³ 'from Mr. Hilliards in Scroopes Court.'⁴ This may have been his lodging at the time of his death, or his body could have been removed from the Fleet or another prison, preparatory to burial. In view

1. See Hertzler, op. cit., 475-476 and n. Mr. Hobson, a witness before the Parliamentary Committee of 1696 enquiring into the abuses of prisons, stated 'That it is the constant Practice to take yearly 2 or 300 ~~Prisons~~^{Pris}ons, as he believes into the Protection of the Fleet, though they were never arrested or committed:' C.J., XI, 643.

2. One of the closes Whalley had wished to dispose of in the Chancery suit against Humphrey Butler in 1660. See above, pp. 275-276.

3. Burials, 1556-1855, 21 vols., VI, 1688-1698. Guildhall MS. 6673/6.

4. This occupied part of the site of Scroope's Inn - an inn of the Sergeants at Law until these removed in 1494 whence it was restored to the 5th Lord Scrope. Strype indicates that the Inn was converted into tenements. Recently rebuilt with very good houses and enlarged. Scroope's Court was on the north side of Holborn directly opposite St. Andrew's Church. See H. A. Harben, A Dictionary of London (Lond., 1918), p. 521, citing Strype ed. 1720, I, iii, 283; N. and Q., 11th Series, IV (1911), 73.

of the absence of further confirmatory evidence to establish the facts beyond doubt, we are obliged to rely on Calamy's statement - uncertain as this may be.

CONCLUSION

I

Within his life time, the elder Richard Whalley had established the family fortune, lost much of it owing to his support of Protector Somerset and regained it largely through his own persistence and the bounty of Queen Elizabeth.

Royal favour and court office had undoubtedly been major factors in his rise, but to these he had brought ambition, enterprise and business ability, energy, intelligence and a determination to overcome adversities. There were more unpleasant sides to his character for he was greedy and an intriguer, but these traits tended to advance rather than retard his career.

He possessed important qualities which his grandson lacked.

II

Richard Whalley the younger was one of Trevor-Roper's 'mere' gentry with no rewarding court or local office, legal or commercial revenue to augment his landed income. What Professor Stone has labelled 'conspicuous expenditure',¹ was responsible for Whalley's decline. He was unable to curb an extravagant style of living while it was yet possible and thus accumulated a burden of debts which seriously depleted his estates. His own grandson, Peniston, reaped the consequences of his folly.

Whalley ran up a series of debts when credit facilities were still of a limited nature. Bonds, statutes and recognizances during the late Elizabethan period were normally valid for only short term periods of six months to a year at the most. Consequently, there was little 'breathing space' for a borrower to devise effective measures to reduce indebtedness and to recover 'comparative' solvency. Although loans might be renewed for

1. See Crisis, Ch. X, pp. 547-586.

longer periods - provided the interest continued to be paid - each renewal required fresh and perhaps tedious negotiations and further costs.¹ The mortgage too was still a short-term instrument of credit with the ever present threat of foreclosure. It was a method of borrowing which a landowner avoided if he could, but to which he was obliged to resort when other means failed.

Richard Whalley used all the methods at his disposal but when these proved insufficient, he had to sell land. It was a path which his grandson Peniston was also forced to follow, though the consequences were longer delayed.

In view of the absence of long-term credit facilities, a landowner of necessity had to try to build up substantial cash reserves for this was the only satisfactory way he could cater for daughters' marriage portions, jointures and settlements on younger sons - all of which could make serious inroads into the family finances.² Saving was, however, alien to Richard Whalley and thus he was unable to provide effectively for any of his family. All suffered the consequences of his original recklessness.

One final factor should be mentioned as regards Richard himself. His personal reputation inevitably suffered when he failed to meet his commitments on time, and this resulted in an unwillingness to grant further credit. In such circumstances, land sales was the only answer.

III

Of all the members of the Whalley family, Edward was the outstanding example of personal success. Similar factors were responsible for his rise to fame as those which had achieved prominence for his great-grandfather -

1. See Crisis, p. 518; G. R. Batho, 'Noblemen, Gentlemen, and Yeomen', in J. Thirsk, ed., The Agrarian History of England and Wales, IV, 1500-1640, pp. 299-300.

2. See e.g. M. Finch, Five Northamptonshire Families, 1540-1640, p. 168.

namely great strength of character, outstanding ability in his particular field and the rewards which resulted from profitable state employment.

No conclusive summary such as this can do justice to Edward's rôle in the events of the Civil Wars and Interregnum. He played a much more vital part in national affairs than is realised - not only as a military commander, but also as a competent and skilful administrator and an able politician. Much of his work in this sphere was done from behind the scenes but was none-the-less important. Cromwell had great confidence in him and benefited from his advice. He rose to prominence in the wake of his more famous cousin. Whalley's true worth as a leader in those stirring times yet remains to be written.

This study has attempted to show how Edward utilised the wealth he had acquired by high military rank and political office to increase his landed possessions, and particularly to attempt to repair the family fortunes in so far as he personally was able to do this. Sibthorpe was his most remarkable gain, but the Restoration cut short his career and thus prevented his achieving further success in this respect.

It has also been shown how Edward had co-operated with his nephew Peniston where family property interests were concerned, and this I suspect, was to a greater extent than the existing evidence reveals.

IV

Peniston Whalley had to shoulder the burden of his grandfather's debts when he succeeded to his greatly reduced inheritance in 1646. Richard Draper as legal guardian had undertaken the responsibility for many years - his stepson was ultimately obliged to assume it.

Noble¹ indicates that before the Restoration Peniston lived 'in a very elegant manner, keeping his coach;...' This may be so, but there is no

1. Op. cit., II, pp. 141-142.

weight of evidence to show that he lived extravagantly over a lengthy period, for the extent of his debts would hardly allow him to do so.

Peniston too, never escaped from the ranks of the 'mere' gentry and thus had to rely on land as his sole source of income. The maximum yield from this source could only be achieved by the drastic reorganisation of estate management - the adoption of the progressive methods of farming associated with enclosure. This as we have seen, required considerable capital outlay. Peniston found to his cost that the rewards were not immediately apparent.

What seems particularly remarkable, though is not really so unusual in that it conforms to a fairly general pattern,¹ is the long term nature of the decline of the Whalley family fortunes. A process which began in the 1590s was not finally effected until almost one hundred years later. The most feasible explanation for this appears to be the improved credit facilities which enabled landowners to borrow for longer periods.

The equitable jurisdiction of Chancery which from about 1625 onwards established the mortgage as a long-term security, removed the threat of immediate forfeiture if borrowers defaulted.

Peniston used the same instruments of credit as had been available to his grandfather - namely bonds, statutes and mortgages, but he had longer periods to attempt to devise means to reduce his debts without having to make major land sales. He succeeded for many years but finally succumbed under the burden.

1. Families clung tenaciously to their property, and sold only as a last resort. H. J. Habakkuk observes that although 'Landed Families might rise very rapidly;... when they decayed, they usually took a long time about it'. As a result of debts contracted as Royalists in the 1640s, some families were selling out in the 1740s. See 'The English Land Market in the Eighteenth Century', in J. S. Bromley and E. H. Kossmann eds., Britain and the Netherlands, 2 vols. (Lond., 1960, 1964), I, pp. 158-159. The author expresses almost identical observations in 'Landowners and the Civil War', Ec.H.R., 2nd Series, XVIII (1965), 146, 149.

His eventual failure may be partly due to the fact that easier credit facilities resulted in more frequent and heavier borrowing and thus greater encumbrances on his estates.¹ Provided Peniston could have met the interest due on his loans from year to year, he might perhaps have surmounted his difficulties. It is apparent, however, that he was unable to do this, and that at some stage the interest charges came to absorb the greater part or even the whole of his annual revenue. The result was the sale of Screveton in 1685 in a desperate attempt to meet his commitments. Even this proved inadequate.

Professor Stone² indicates a reasonable guide to the limit of debt an estate could endure. He states that the annual burden of interest payable should not exceed one third of the net annual income, or to express this in another form - when the rate of interest stood at 8% of ~~£~~[£] below, the debts should not exceed three or at the most four times the annual revenue of the estate. Peniston thus finally faced ruin because his reduced estate could no longer bear the encumbrances.

We are again obliged to assume that defects of personality led to his eventual failure, for in the long run character was the most important factor which determined the rise or decline of any family.³ To say this, however, is not to minimise other adverse elements which may have exacerbated Peniston's condition - a prolonged spell of bad luck, for example, a period of depressed agriculture, falling prices, unprofitable leases, the

1. See ^{e.g.} M. Finch, Five Northamptonshire Families ..., p. 169.

2. Crisis, p. 540.

3. H. J. Habakkuk's comments on character are illuminating. See his preface to M. Finch, Five Northamptonshire Families ..., and the latter's own conclusion to her study, pp. 165-170. The Tresham family provides a good example of the decline of a family, consummated by the 'folly and recklessness' of two of its members - the brothers, Francis and Lewis. See ibid., pp. 66-94. L. Stone has an invaluable chapter on 'Credit'. See Crisis, pp. 505-546.

increasing burden of taxation¹ on landed society, the lack of male heirs, but above all the serious handicap of his grandfather's debts.

He might yet have surmounted these difficulties and others had he possessed a greater measure of those qualities which elevated the elder Richard Whalley and brought honour, wealth and fame to his uncle Edward. His inability to do so obliged him to spend the latter years of his life in extremely reduced circumstances. His death in 1693 saw the extinction of the major branch of a once prosperous and renowned family.

1. After the Restoration, many an owner of an encumbered estate faced also 'with a variety of demands old and new' such as the hearth tax, subsidies, tenths, poll taxes and royal aids, was forced to sell land. See e.g. G. E. Mingay, English Landed Society in the Eighteenth Century, p. 40.

APPENDIX A.

SECTION OF THE PEDIGREE OF THE WHALLEY FAMILY OF SCREVEYTON, NOTTS.

Richard Whalley of Darleston, Staffs. = Elizabeth, dau. and heir to Thomas Leake of Kirteton, Notts.

Elizabeth, dau. of John Struelley of Woodborough, Notts.

Thomas Whalley of Kirteton Hall, Screveton = dau. of Simons, 2nd wife

RICHARD WHALLEY
(THE ELDER) of Darleston, = Ursula Thwaites 2nd wife
Staffs. and Kirteton Hall,
Screveton. d. Nov. 1583
aged 94. Will, Borthwick
Institute, York.

Laura, dau. of =
Thos. Brookman, 1st
wife.

4 other children
who died without
issue.

Thomas Whalley of
Screveton. Predeceased
his father 1582.

Elizabeth, eldest dau.
of Henry Hatfield of
Willoughby, Notts. b. 1529.
son.

William = Barbara, 2nd
Whalley dau. and
co-heir of Henry children
Hatfield of
Willoughby

Barbara Cope
3rd wife who
later married
Edward Bunnell.

William 3
Markham. sons.
3 other
daughters

① Richard
d. young
Anne dau. of
George Horsey of
Diggeswell, Herts.
1st wife
= RICHARD WHALLEY
(THE YOUNGER). of
Kirteton Hall,
Screveton. b. c. 1561
- 63? d. Oct.
1632.

Frances, dau. of
Sir Henry Cromwell
of Hinchinbrook
Hunts. 2nd wife
= Jane Styrop
dau. of Wm. Styrop
of Cambridge. 3rd wife

③ Walter, D.D.
Rector of
Onton
Waterville,
Hunts. d. 1617

④ Elizabeth, dau.
of Wm. Howell
in
Cants.

⑤ Robert d.
1591
aged 28

⑥ John of
Willoughby
and Flintham
Notts. d.
1638, a
bachelor

Basic Sources. Vis. of Notts., 1569
and 1614; 1662 and 1664; J.
Nichols, Leicestershire, II part
11, 736; B.M. Add MSS.
23690 f. 59; Harl. MSS.
1110 f. 98b.
Other Sources Cited in Text.

Walter. John Elizabeth

Thomas
Draper of
Flintham,
Notts.

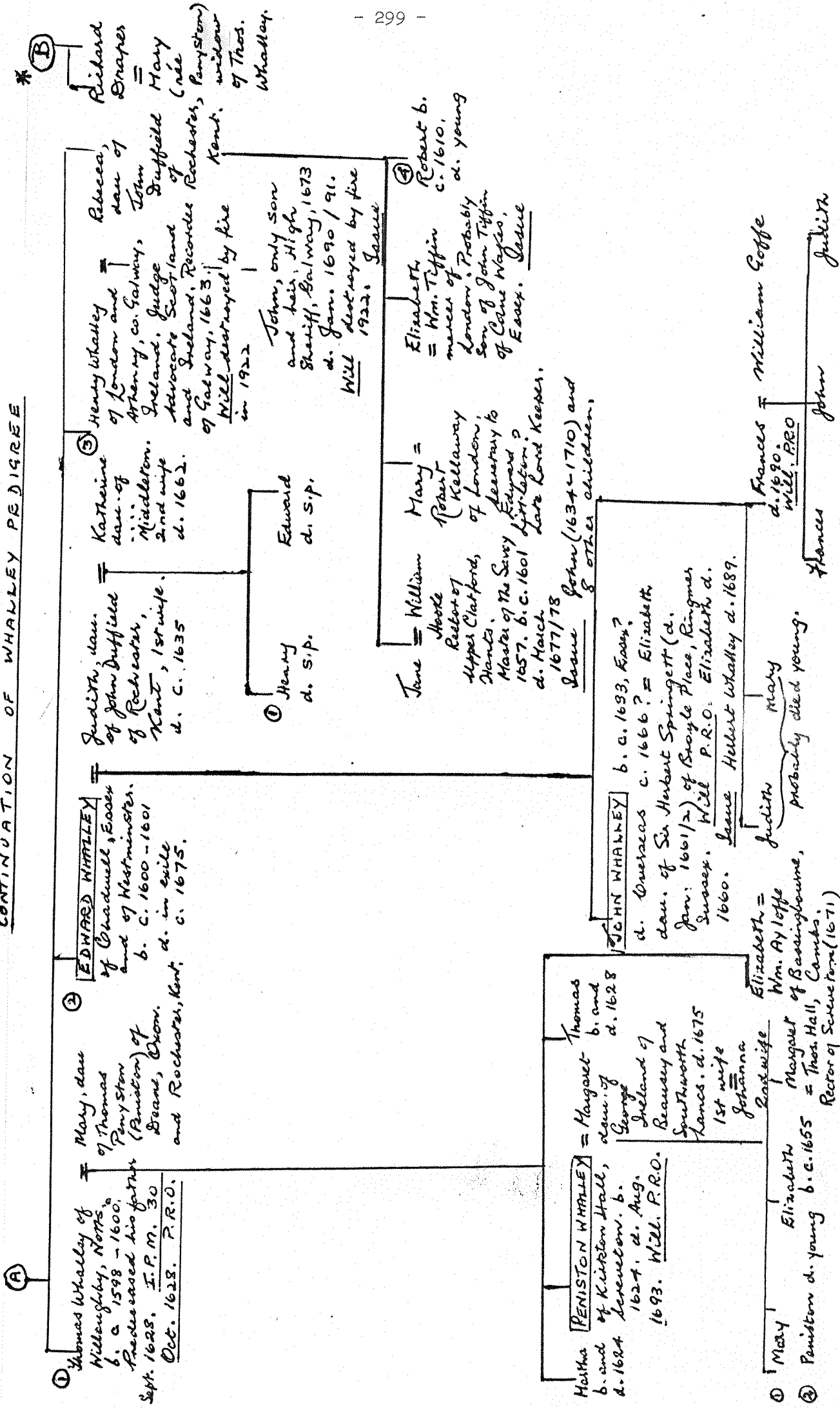
② Eleanor
Arnold = Margaret
Rensby

③ Thomas, Vice-
Master of Trinity,
Cambridge. Rector
of Orwell, Cambs.
d. 1637, a bachelor
Will. Cambridge
University Library

(A)

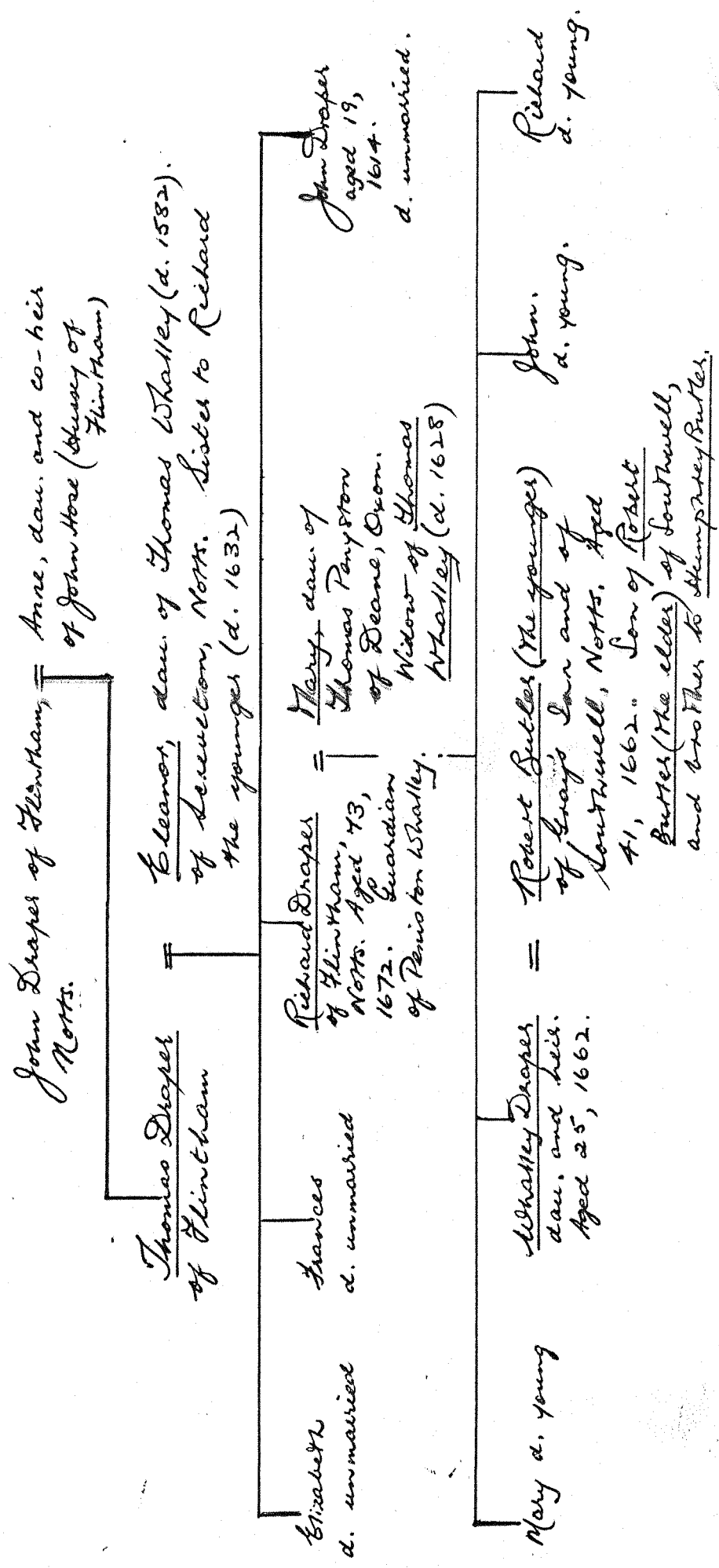
(B)

CONTINUATION OF WHALLEY PEDIGREE



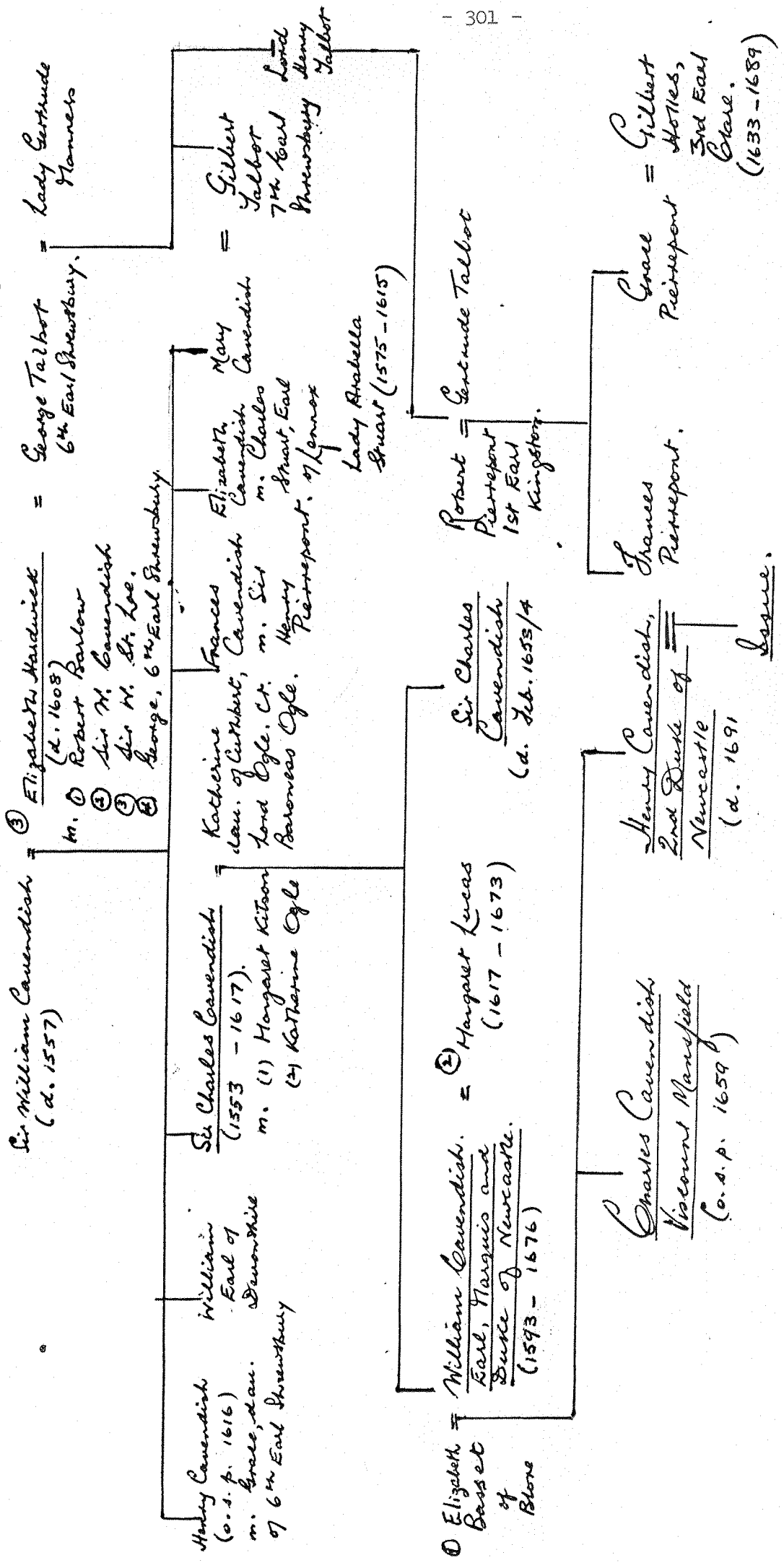
APPENDIX B.

SECTION OF THE PEDIGREE OF THE DRAPER FAMILY OF FLINTHAM, NOTTS., SHOWING THEIR CONNECTION WITH THE WHALLEYS OF SCREVEYTON. Based on Vis. of NOTTS. 1662-1664, (Thor. Soc. Rec. Series, XIII, 1949), 19; Thoroton, Antiquities of NOTTS., (1677), 133.



APPENDIX C.

SECTION OF THE CAVENDISH-TALBOT PEDIGREE. Based on Turberville, A History of Helbeck Abbey, ..., I.
End Plate.



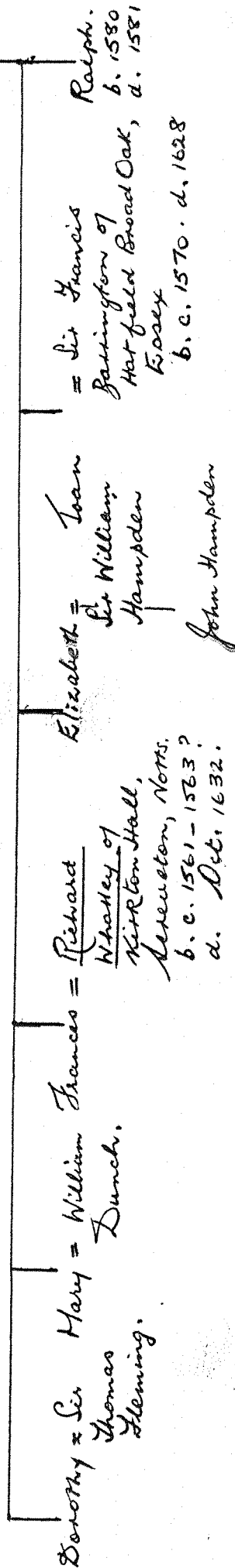
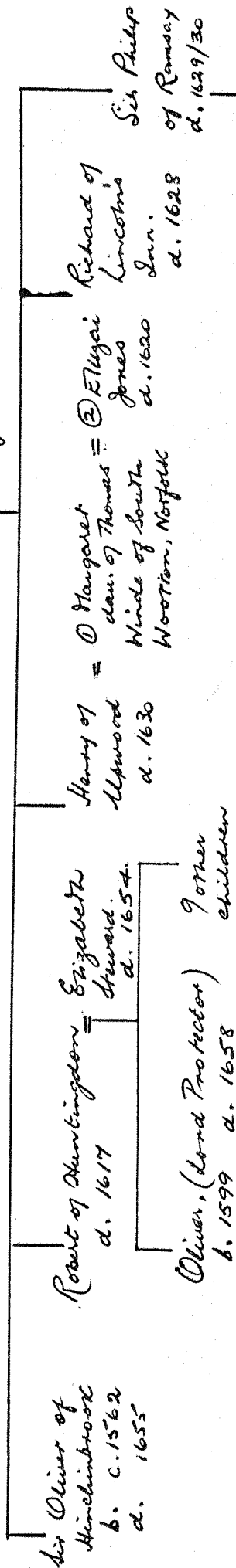
APPENDIX D.

SECTION OF THE CROMWELL PEDIGREE. CHILDREN OF SIR HENRY WILLIAMS ALIAS CROMWELL OF
Based on V.C.H. Hunts, II, 67-68

HINCINBROOK, HUNTS.

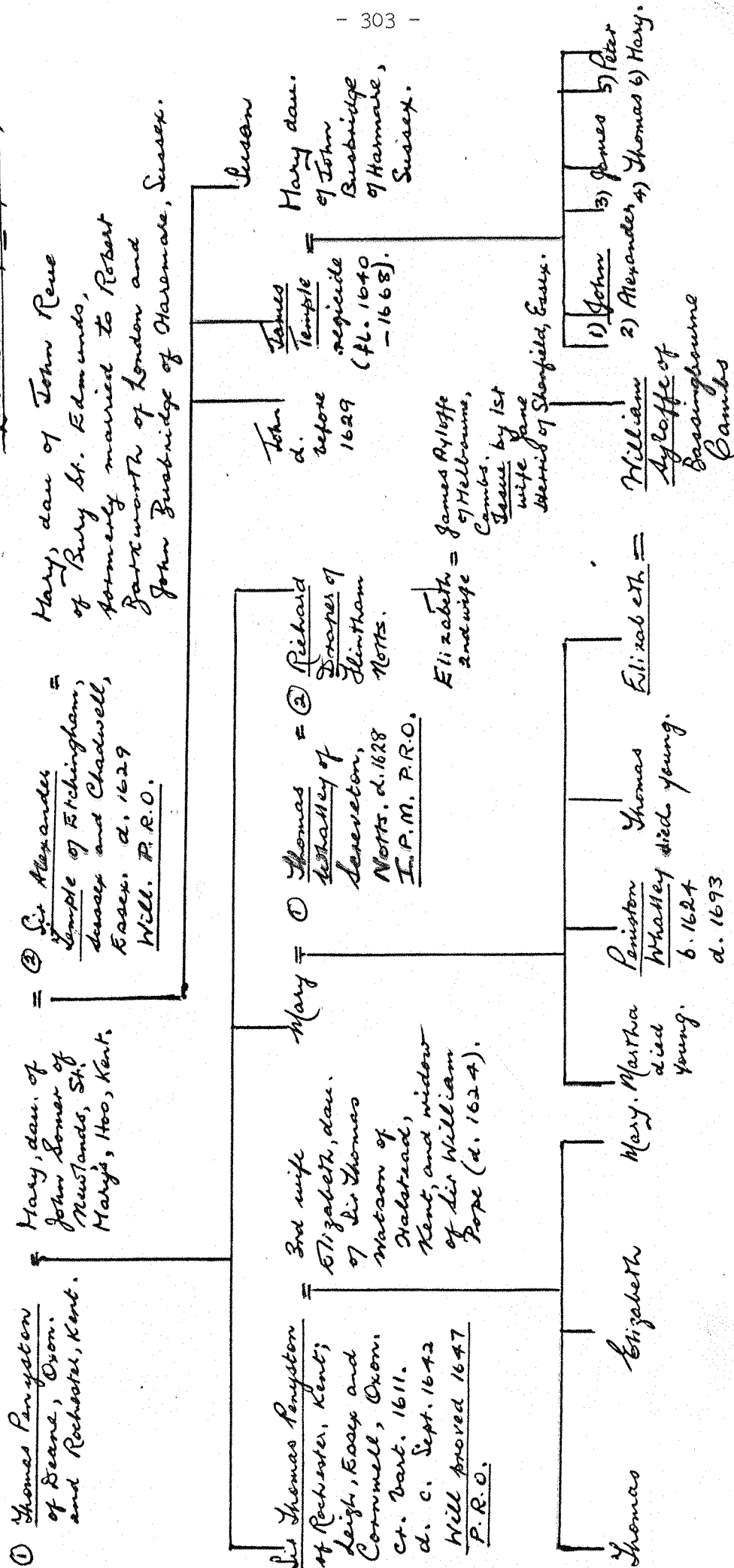
① Susan Weeks = Sir Henry Williams alias
Cromwell of Hinchinbrook.
b. 1537 d. 1603/4

② Joan, dau. of Sir
Ralph Warren, twice
Lord Mayor of London.
Joan d. 1584.



APPENDIX E.

SECTION OF THE PEDIGREES OF THE PENYSTON AND TEMPLE FAMILIES, SHOWING THEIR CONNECTION WITH THE WHARLEYS OF SCREVEYTON. Based on sources cited in text, pp. 16 to 49, and J. Nichols, Leicestershire, IV. part II, 960.



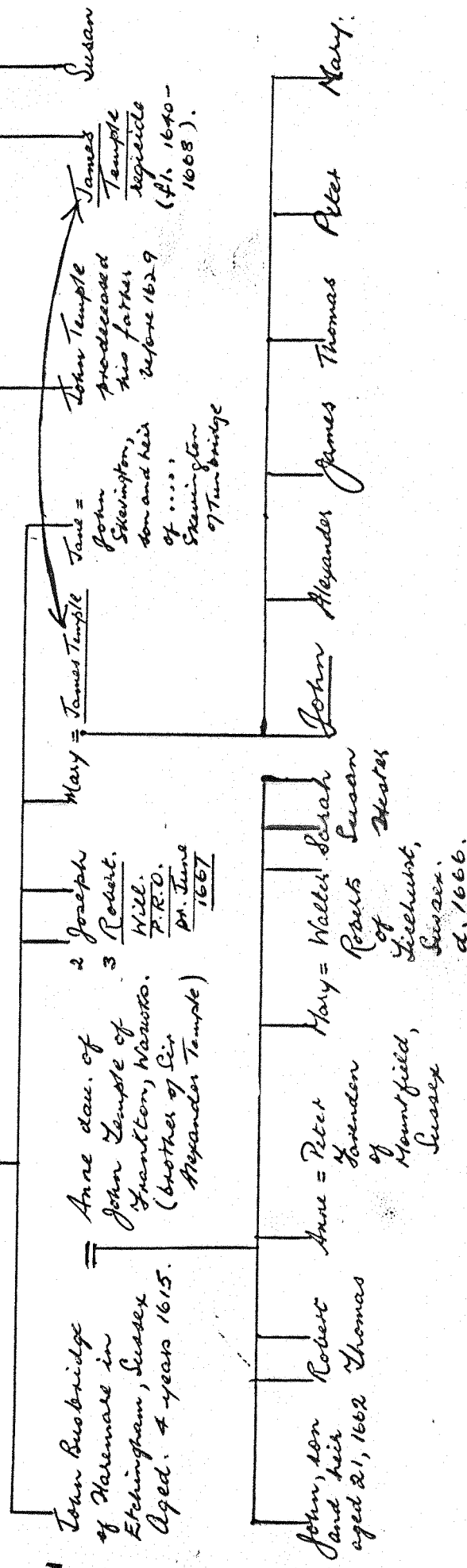
APPENDIX F.

SECTION OF PEDIGREE SHOWING THE CONNECTION BETWEEN THE TEMPLE AND BUSBRIDGE FAMILIES. Based on J. Nichols, Leicestershire, IV, Part II, 960; Vis. of Sussex 1530 and 1633/4, (Hart. Soc., LIII, 1905), 149; Vis. 1662, (Hart. Soc. LXXXIX, 1937), 19.

① John Busbridge
of Hareware in parish
of Etchingam, Sussex.
d. Dec. 1614.
I.P.M. 15 April 1615
P.R.O.

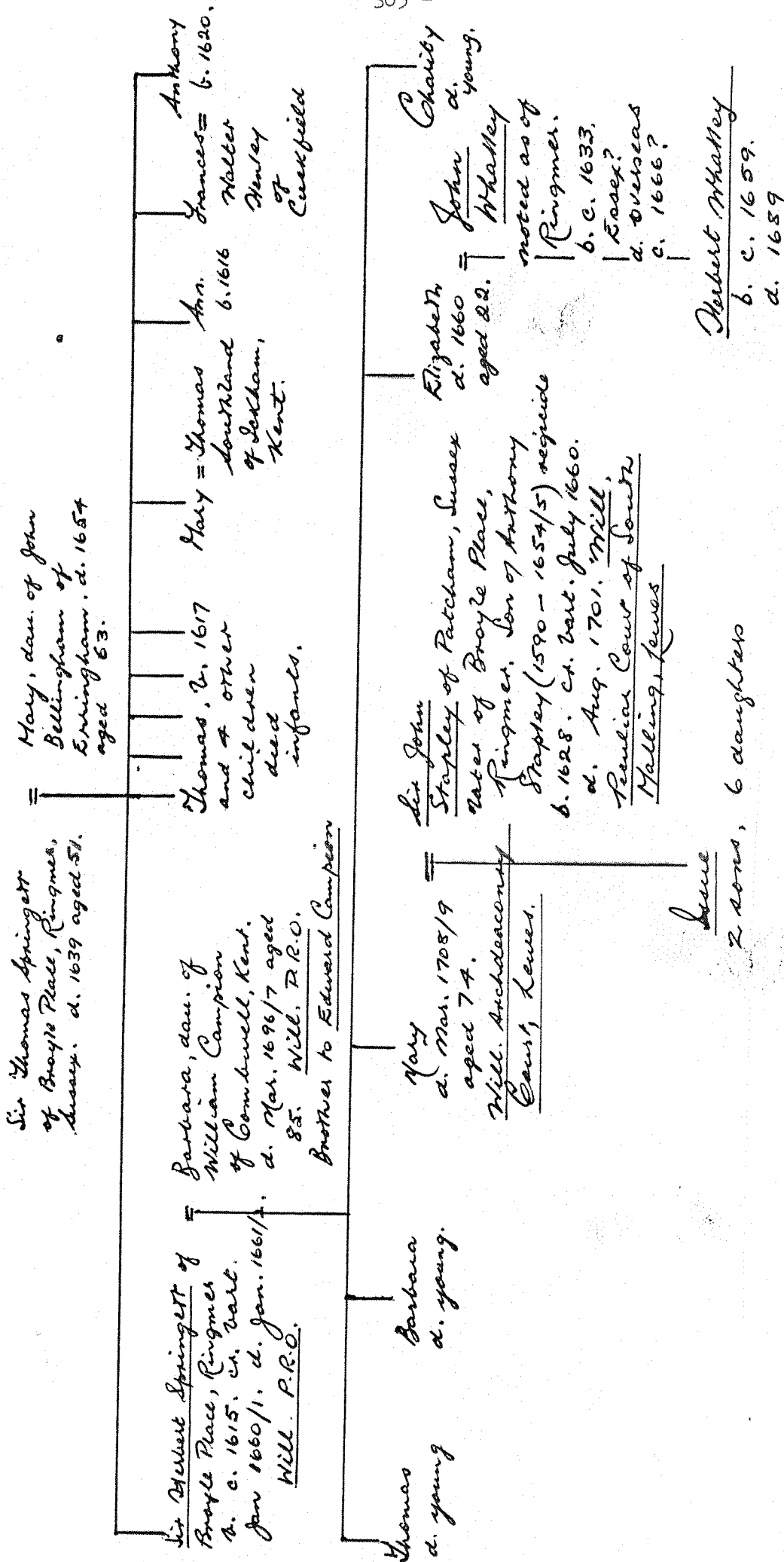
Mary, dau. and co-heir
of John Reve of Bury
St. Edmunds, Suffolk.
Formerly married to
Robert Barkworth of London

② Sir Alexander Temple
of Etchingam, Sussex
and Chadwell, Essex.
d. 1629. Will. P.R.O.



APPENDIX G.

SECTION OF THE PEDIGREE OF THE SPRINGETT FAMILY OF BROYLE PLACE, RINGMER, SUSSEX, SHOWING THEIR CONNECTION WITH THE STAPLEYS AND WHALLEYS. Based on sources noted in Text, pp. 209 no.



Appendix H

SUMMARY OF PORTLAND MS. DDP.26/4 WHEREBY SIR ROBERT WINDE
AND RICHARD HOLMAN RELINQUISHED THEIR INTEREST IN RICHARD
WHALLEY'S LANDS, TO WILLIAM, EARL OF NEWCASTLE

See Ch. 1, pp. 31-33

Covenant to Convey: (i) Sir Robert Winde of St. Martin's Lane, St. Martins in the Fields, (ii) Richard Holman of Sutton Place, Surrey, (iii) William Earl of Newcastle: for £3,500 to Sir R. W. by the Earl:-
all interest of Sir R. W. and R. H. in the manor of Kirkton alias Screveton (otherwise the manor of Kirkton Hall near Screveton). 9 messuages, 5 cottages, 1 windmill, 1 dovehouse, 500 acres of land, 100 ac. meadow, 200 ac. pasture, 500 ac. furze and heath, rent of $3/1\frac{1}{2}$ and $1\frac{1}{2}$ capons in Kirkton, Screveton, Car-Colston and Elston. 100 ac. land, 60 ac. meadow and 100 ac. pasture in Car-Colston. Willoughby's Manor with 1 messuage, 100 ac. land, 40 ac. meadow and 60 ac. pasture in Car-Colston. Bulby's Manor in Car-Colston with 5 messuages, 4 cottages, 3 tofts, 1 dovehouse, 6 gardens, 6 orchards, 200 ac. land, 40 ac. meadow, 100 ac. pasture and 30/- rent in Car-Colston, Screveton, Kirkton, East Bridgford and Kneveton (Kneeton). Rectory, church, advowson and tithes of Car-Colston. Manor of the Rectory of Car-Colston with 5 messuages, 100 ac. land, 40 ac. meadow and 60 ac. pasture; rent of $4/9\frac{1}{2}$ and $1\frac{1}{2}$ hens in Car-Colston. Portion of tithes in Screveton, lately belonging to Worksop Priory. 60 ac. wood called Norwood alias Warwood in Clumber. Dissolved college and chantry of Sibthorpe with the site thereof and all appurtenances in Sibthorpe, Hawksworth, Flintham, Kneeton, Sierston and Elston. Manor of Sibthorpe with 8 messuages, 8 cottages, 6 tofts, 1 mill, 2 dovehouses, 16 gardens, 8 orchards, 300 ac. land, 200 ac. meadow, 600 ac. pasture, 2 ac. wood, 240 ac. heath and furze and 20/- rent in Sibthorpe, Flintham, Hawksworth, Sierston, Kneeton, Thorpe, Elston, East Stoke and Shelton. Rent of $6/8$ out of rectory of Hawksworth. Advowson of Hawksworth. Flintham Grange. 2 messuages, 1 dovehouse, 100 ac. land, 20 ac. meadow, 60 ac. pasture, 7 ac. wood and common of pasture

for 300 sheep in Flintham. 7 messuages, 4 cottages, 300 ac. land, 50 ac. meadow, 40 ac. pasture and 18d. rent in Hawksworth, Flawborough, Thurraton, Scarrington, Aslacton and Orston. Moiety of 1 messuage, 40 ac. land, 10 ac. meadow and 30 ac. pasture in Hawksworth. Moiety of the manor of Willoughby-by-Norwell. 1 windmill, 200 ac. land, 60 ac. meadow, 200 ac. pasture and 20 ac. wood in Willoughby and Norwell. 4 messuages, 5 cottages, 200 ac. land, 40 ac. meadow and 100 ac. pasture in Carl(e)ton-upon-Trent. 1 messuage, 20 ac. land, 10 ac. meadow and 20 ac. pasture in Norwell. 9 messuages, 17½ yard lands and 1 cottage in Claxton alias Long Claxton, Leics. Tenants specified - The premises having been extended in satisfaction of recited Statutes Staple of Richard Whalley esq. (2,000 marks to Sir Robert Wroth, 14 Nov. 1597; £400 to Sir William Ayloffe, 7 July 1599; £600 to Lawrence Slade and Henry Dunne, 7 Dec. 1599; and £2,000 to Thomas Winde, esq., deceased, father of Sir Robert Winde, 23 Aug. 1600). Subject to recited leases. £1,000 of the purchase money having been paid, provisions are made for payment of the residue. Witnesses, and endorsement of bonds entered into by the Earl and his brother Sir Charles Cavendish for payment of the residue of purchase money. Seals.

Dated 20 Feb. 1628/9.

Appendix I

LETTER FROM SIR GERVASE CLIFTON¹ TO RICHARD WHALLEY
CONCERNING THE DEMANDS OF TWO OF WHALLEY'S CREDITORS
(not mentioned in text of Ch. 1)

Source: Nottingham University Library
Clifton MSS. Cl. C.488

S.^r,

I have receaved from my Lord Keeper,² an order made by his Lo[rdshilp]; upon a decree in a suite, wherin one Cressy Tonge and Susann his wife are pln;^{ts} against yo^u, by w^{ch} order I p[er]ceave that his Lo[rdshilp]; hath pleased to make me a sole Sequestrator of the p[ro]fitts of yo^r lands for levyinge of the som[m]les therin men[tiloned to the Comp:^{lts} use, w^{ch} albeit it be a service unexpected or willinglie admitted of me espetially concerninge a gent. my neigboure and of yo^r rancke yet the power of the com[m]ander and distressed estate of the comp:^{lts} beinge as they are, I could noe waies avoide the same wth out iust taxa[tilon, yet that I may shew the respect befittinge yo^u, I doe heare intreat that some tymes before the first of Septembe^r; next, yo^u will of yo^r selfe make such a iust conscionable and effectuall end wth the comp:^{lts} as their cause requires and decree importeth and therby p[re]vent all occa[silons of excep[tilon against me for th[e] execu[tilon of that w^{ch} otherwise I stand thus obliged to p[er]forme w^{ch} I may not faile to see executed shortly after upon their demands.
ffrom my house in Drury lane the 15th of Julie 1622.

1. Sir Gervase Clifton (1587-1666) of a prominent Notts. family was known as Sir Gervase 'the Gentle': a name borne first by his grandfather. Clifton served in 9 parliaments between 1614 and 1666, and as sheriff, J.P. and Deputy Lieutenant of the county. A Royalist and one of the wealthiest men in Notts., his composition fee was first fixed at 2/3, £12,120, but later reduced to 1/3, £7,625. (C.C.C., II, 1318). He became linked by some of his seven marriages with 'the most powerful families in the kingdom.' Sir Thomas Wentworth was his brother-in-law. See e.g., A. C. Wood, 'Notes on the Clifton Family' (Trans. Thor. Soc., XXXVII, 1933), 36-40; Correspondence in H.M.C. Various Collections, VII; G.E.C., Complete Baronetage, I, 1611-1625 (1900), 19; Thoroton, op. cit., passim.

2. John Williams. Bishop of Lincoln, 1621-1641; Archbishop of York, 1641-1650.

Appendix J

DEBENTURES PRESENTED BY E. WHALLEY'S OFFICERS IN THE ORIGINAL CONTRACT OF 8 JULY 1650
FOR REGIMENTAL PURCHASE OF CROWN LANDS, AND BEFORE EXCHANGES TOOK PLACE

Source: B.M. Harl. MS. 427 passim.

See Ch. 6, sec. (b)

Officer	ARREARS	W. Walton,				Part of Manor of Hemel Hempste(a)d, Herts. Middlesex.
		Earl of Manchester's Regiment	New Model Army	Terrington, Norfolk.	Part of Walsoken, Emneth and Tilney, Norfolk. Essex. Notts.	
Major Robert Swallow	£566. 6. 8.	£1,233.12. 5 ¹ / ₄ .	£1,233.12. 6 ¹ / ₂ .	£566. 6. 8.		
Captain John Grove	£566. 7. 4. ¹	£925.10. 8.		£566. 7. 4.	£925.10. 8.	
Captain William Evanson	£224.14. 9 ¹ / ₄ . ²	£904.10. 8.				£904.10. 8.
Captain John Savage		£203.12.10 ¹ / ₂ .				£203.12.10 ¹ / ₂ .
Captain Edmund Chillenden	£133.13.10. ³	£326. 5. 3. ⁴			£133.13.10.	
Captain ⁵ Henry Cannon	£270. 6. 5.	£898.10. 8.				£326. 5. 3.
Capt. Lieut. Daniel Dale	£19. 8. 6.	£325. 6. 7 ¹ / ₄ . ⁶	£332. 6. 7 ¹ / ₄ . ⁶			£19. 8. 6.
Lieut. Joseph Sabbarton	£92.10. -. ⁶	£266. 1. 1.	£266. 1. 1.	£94.10. -. ⁶	£109.14. 8.	
Lieut. Thomas Chamberlen	£188. 1.11 ¹ / ₂ .	£332. 5. 3 ¹ / ₄ .		£81. 8.10. ⁷	£332. 5. 3 ¹ / ₄ .	
Captain ⁸ John Pitchford.	£44. 9. 7. ⁹	£822.11. 1 ¹ / ₂ .			£822.11. 1 ¹ / ₂ .	

Notes to Appendix J

1. In 3 bills of £407. 2. 0., £90. 5. 4., £69. 0. 0.
2. Harl. MS. 427 does not indicate further purchases of Evanson to account for this sum. At a later date he combined with Col. James Berry of Lincoln to purchase from Godfrey Ellis of Gloucester, part of the Crown Manor of Ribsford, Worcs. Berry and Lee, A Cromwellian Major General, p. 96, citing Close Roll 3843 dated 19 Sept. 1655.
3. In 2 bills of £43. 2. 6., £90.11. 4 $\frac{1}{2}$.
4. In 2 bills of £163. 2. 8., £163. 2. 7 $\frac{3}{4}$.
5. Chillenden replaced Cannon as Captain, who sometime between May 1649 and June 1650 had retired from the army. Firth and Davies, Regimental History, I, 224.
6. Note the slight difference in amounts.
7. In 2 bills of £68. 1. 4., £13. 7. 6. No further purchases are mentioned in Harl. MS. 427 to account for the balance of £106.13.1 $\frac{1}{2}$.
8. Pitchford had been Lieut. to Captain Christopher Bethell, Commander of the 12th troop in Cromwell's original regiment of Ironsides. When Major Bethell was killed at Bristol in 1645, Pitchford was given the command of his troop. Swallow succeeded Bethell as Major of the Regiment. Savage replaced Pitchford as Captain when the latter left the army about 1647. Firth and Davies, op. cit., I, pp. 12, 214.
9. In 3 bills of £8.11. 7., £19. 14. 0., £16. 4. 0. Pitchford's name is noted among the purchasers of Terrington, but the amount is not given in Harl. MS. 427. Perhaps it should relate to these bills.

Appendix K

THE LETTER OF ATTORNEY AUTHORISING CAPTAIN JOHN GROVE
AND OTHER OFFICER TRUSTEES TO PURCHASE CROWN LAND ON
BEHALF OF THE 732 TROOPERS OF EDWARD WHALLEY'S REGIMENT

Source: B.M. Harl. MS. 427 f. 47.
See Ch. 6, sec. (b).

To all Christian people: to whom theise p^rsents shall come Wee Major
Robert Swallowe, and Cap:^{tn} William: Evanson of Collon:^{lls} Edward Whalleys
Regim:^t of Horse, together with the rest of the officers and souldiers of
the said Regim:^t under the Command of his Excellency Thomas Lorde Fairefax
and such others who have hereunto sett ou:^r hands and seales send Greeting: /

Wheras the Com[m]ons of England in Parliament assembled are iustly
indebted (amongst others of the Parliam:^{ts} Army) unto us the said officers
and souldiers for our late service in the warr Respectively in severall
som[m]les of money according to ou:^r severall Debento:^{rs}, signed by a Com[m]littee
or Com[m]iss:^{rs} for that purpose by Parliam:^t appointed as by the severall
Debento:^{rs} thereof so signed (as afforesaid) more at large appeareth; And
wheras alsoe the Parliam:^t of England (as well for our as the rest of the
Armies better sattisfaction) have by theire Act of the 17th of July 1649
Instituted an Act of the Com[m]ons in Parliam.^t Assembled, for the sale of
the Hono:^{rs} Manno.^{rs} and Landes heretofore belongeinge to the late King
Charles the Queene and Prince of Wales Conveyed unto and settled uppon severall
Trustees nominated in the said Act All the Honno:^{rs} Manno:^{rs} Messuages Lands
Tenem:^{ts} and hereditaments with their appurtennences which were lately
belongeinge to the said late kinge Queene and Prince to make sale of the same,
and with the moneyes Raysed uppon such sale to sattisfie the Army their
arreares, As by the said Act may appeare, And wheras alsoe the Parliament hath
Enacted, that it shall and may be lawfull to and for us (amongst others the
said Regim^t officers and souldiers) to purchase the said Lands with the Arreares
of our pay, and thereof to have the pre emption immediately after the p^rsent

tenn^{ts}, as by the said Act more particularly appeareth, which we the afforesaid officers and souldiers are willing to accept of towards our sattisfaction:/

Nowe know yee that wee the said Regim:^t Officers and Souldiers doe hereby nominate constitute and appointe ou^r well beloved freind Cap:^{tn} John Grove our treu and lawfull Attorney for us and every of us and in our names and steade, and for our severall distinct uses and benifitts according to the p[ro]p[or]tion of ou^r severall Debento:^{rs} to Contractt & bargain with the Contractors in the said Act of Parliam:^t nominated for that purpose or anie five or more of them for soe much and such a p[ro]p[or]tion of the Hon[n]ors: Manno:^{rs} of the said late kinge Queene and Prince or any of them, and at and after such rates, as in the Judgm:t of our said Attorney shall bee held reasonable and indifferrant, which said Contract soe to bee by him made as aforesaid, for us or any of us, Wee: doe hereby declare promise and agree, shall bee to all intents and purposes as Effectuall in the law to binde us and every one of us thereunto as if wee and every of us for whome such Contract shall be made had been or should bee parsonally present and had or should have contracted in ou^r owne proper persons for the same respectively Rattifieing also and confirmeing all whatsoever ou^r said Attorney shall doe or p[er]forme in or concerneinge the p[re]mises, by vertue of theise p[re]sents Provided allwaies nevertheless, and it is our express minde, and wee doe declare for us and every of us, and doe hereby notifie the same to our said Attorney That hee our said Attorney shall herein and in execution of the power and authority by us to him given¹ hereby from tyme to tyme, and at all times hereafter, further observe and p[er]forme, such orders and directions and instruc[tions in and about the managery of said Contracts Truste and imployment above mentioned, as he shall from tyme to time receive from his Excell[en]cy the Lord Generalls Councell of Officers, at the headq[ua]rters and not otherwise, And further alsoe we doe by these

1. Written erroneously in the MS. as 'to us by him given'.

presents earnestly desier and likewise doe give full power and Authorrity unto our said Attorney, to take the respective Conveyances which are to bee made upon the Contracte or Contracts afforesaid, by the Trustees in the said Act mentioned in the name and unto Cap:^{tn} William Evanson, Capt John Savage Cap:ⁿ Edmund Chillenden Cap:^{tn} Leut: Daniell Dale, Joseph Sabbarton Leut: Thomas Chamberlen Leu:^t and Capt John Grove afforesaid ou^r trusty and well beloved ffreinds and to their heires and assignes for Ever, And wee doe hereby desier the said trustees in the said Act mentioned to make and pass the said respective Conveyances unto the said William Evanson John Savage Edmund Chillenden Daniell Dale Joseph Sabbarton Thomas Chamberlen and John Grove, and their heires for ever accordingly, In trust nevertheless to bee by them the said William Evanson John Savage Edmund Chillenden Daniell Dale Joseph Sabbarton Thomas Chamberlen and John Grove Employed and disposed for or towards our respective sattisfaction, accordinge to our respective sheares and propor[tions] to us dew uppon our severall debento:^{rs}, signed as afforesaid and delivered to our said Attorney./

In wittness whereof wee the Said Regiment Officers and souldiers have hereunto sett our hands and seales this ffourth day of ffebruary In the yeare of our Lord God 1649 [/50].

Appendix L

STATEMENT OF ACCOUNT OF COLONEL EDWARD WHALLEY
UNDER THE COMMAND OF LIEUT-GEN. CROMWELL AND IN THE ARMY OF THE
EARL OF MANCHESTER, 18 FEB. 1642/3-2 APRIL 1645

Source: SP. 28, Vol. 267 ff. 92, 101-102
See Ch. 5, sec. (a)

F. 92

'This is to certify that Colonell Edward Whalley, was in Actuell service for the Parliam.^t in my Regim^t, as Capt. of a Troope of horse, himself and six horses from the 18th of ffebruary 1642 [/3], to the 15th of May 1643, And was in like actuall service as major to my said Regim^t, himself and six horses from the fifteenth of May 1643, to the seaventh day of October following, And was in like actuall service as Leif^t Collonell to my Regim^t, in the Army of the Right Hono:^{ble} the Earle of Manchester, himself and six horses, from the 7th day of october 1643 to the 2^d of April 1645/ Given under my hand this 24th January 1646 [/7].

[Signed] Oliver Cromwell.

[Because of the numerous contractions in the following folios, spelling has been modernised and punctuation modified where necessary.]

F. 101

£ s. d.

He demandeth as Capt. of a Troop of horse under the command of the said Lieut.-Gen. Cromwell for himself and 6 horses from 8th day of February 1642 [1/3] till the 15th of May 1643, being 86 days at 39/- per diem.

167. 4. 0.¹

He demandeth as major of horse to the said same Reg. for himself and 6 horses from the 15th May 1643 till the 7th of October 1643, being 145 days at 51/- per diem.

369.15. 0.

He demandeth as Lieut.-Col. of horse to the said Reg. [of] Lieut.-Gen. Cromwell in the Army of the Right Honourable the Earl of Manchester, for himself and 6 horses from the 7th of October 1643 till the 2nd of April 1645, being 542 days at 54/- per diem.

1,463. 8. 0.

2,000. 7. 0.

= Entered.

Rest due to him

£1,315.17.10.

1. The amount should be £167.14.0.

F. 102

He is debtor to his account for money received
by him as appeareth.

	£	s.	d.
Received in March 1642 and in April, May, June, July and August following, 12 weeks pay as Capt. of horse at 39/- per diem.	163.16.	0.	
Received in September, October and November 1643 for 7 weeks pay as major at 51/- per diem.	124.19.	0.	
Received in January, February and March 1643 [/4] for 12 weeks pay as Lieut.-Col. and Established pay at £12.1.6. per week.	144.18.	0.	
Received for March and April 1644 for 6 weeks Established pay at £12.1.6. per week as Lieut.-Col.	72.	9.	0.
Received in May 1644 as Lieut.-Col. for 4 weeks pay, Established pay as Lieut.-Col. at £12.1.6. per week.	48.	6.	0.
Received in June 1644 as Lieut.-Col. for 2 weeks Established pay at £12.1.6. per week.	24.	3.	0.
Received per account for August 1643	4.11.	6.	
Received per account for November 1643	2.11.	10.	
Received per account for April 1644	98.15.	0.	
	684.	9.	2. ¹
To balance	1,315.17.	10.	
	2,000.	7.	0.

Jurat 28 January 1646 [/7]

Coram nobis.

Job. Throckmorton.

Abra. Holditch.

[signed]

Edward Whalley, Col.

APPENDIX M.

Nottinghamshire in the 17th century, showing the
Whalley family's main property interests there.

(Reproduced from Thoroton, Antiquities, p. 1).



BIBLIOGRAPHY

Primary Sources

A. Manuscript

London

British Museum

ADDITIONAL MSS. in particular

- 21327 A Calendar of the Surveys of the Estates of Charles I.
23690 Pedigree of the Whalley family, largely descendants of Henry
 Whalley, Edward Whalley's brother.
30208 General Index of Crown Lands.

ADDITIONAL CHARTERS

- 53667 Will of Henry Cromwell of Upwood, d. 1630.

EGERTON MS.

- 2551 Nicholas Papers. Warrants, 1625-1662.
2643, 2644, Correspondence and Papers of the Barrington Family of Hatfield
2645, 2650 Broad Oak.

HARLEIAN MSS.

- 427 Colonel Edward Whalley's Regiment and purchase of Crown Lands.
1075, 1110, 1400,
1555, 5825 Pedigrees of the Whalley family.

LANSDOWNE MSS.

- 821-823 Correspondence of Henry Cromwell, d. 1673.

Guildhall Library

- MS.6673/6 Parish Registers of St. Andrew's, Holborn, Burials, Vol. 6,
 1688-1698.
MS.4310 Parish Register of St. Mary Bothaw, 1536-1657.

Guildhall Record Office

Sheriffs' Courts: Rolls of Actions (mostly debt) 1626-1631.

Repertory 44. Guildhall Repertories, 1629-1630.

House of Lords' Record Office

Main Papers. 11 Mar. 1647/8-27 Mar. 1648. Book of Orders, Ordinances etc.
[of both houses], 4 Nov. 1647-8 Jan. 1648/9.

Commons' Journal. MS. Vol. 51, 25 April-13 Sept. 1660.

Lords' Journal. MS. Vol. 48, 25 April-29 Dec. 1660.

MS.25 12 Car.II. Private Act for restoring Earl of Newcastle to his lands.

Merchant Taylors' Company

Company Book of Apprentices, 1606-1609.

Company Book of Freeman, 1530-1648.

Public Record Office

Main Series used. Individual citations are not given.

CHANCERY

C2. Chancery Proceedings, Series 1.

C3. Chancery Proceedings, Series 2.

C5-10. Chancery Proceedings, Six Clerks' Series.

C33. Chancery Entry Books of Decrees and Orders.

C54. Chancery Close Rolls.

C142. Chancery Inquisitions Post Mortem, Series.

C193. Chancery Miscellaneous Books (Crown Office).

COURT OF COMMON PLEAS

CP.25(2). Feet of Fines.

COURT OF KING'S BENCH

KB.27. Placita Coram Rege or Coram Rege Rolls.

COURT OF REQUESTS

Requests 2. Proceedings.

COURT OF WARDS

Wards 5. Feodaries' Surveys.

Wards 7. Inquisitions Post Mortem.

Wards 9. Miscellaneous Books, including Books of Contracts of Wardships and Leases, Petitions, Decrees and Affidavits.

EXCHEQUER

- E121. Exchequer King's Remembrancer, Crown Lands: Certificates as to the Sale of.
- E304. Exchequer, Conveyances and Sale of Crown Lands.
- E320. Exchequer, Augmentation Office: Particulars for the Sale of the Estates of Charles I.

EXCHEQUER-LAND REVENUE

- LR1. Land Revenue, Enrolments and Leases.
- LR2. Land Revenue, Miscellaneous Books.
- LR11. Land Revenue, Estreats of Court Rolls.

FLEET PRISON

- Pris.I Commitment Books, 1685-1842.

PRIVY COUNCIL OFFICE

- PC.2. Registers.

STATE PAPERS

- SP.18. State Papers Domestic, Interregnum, 1649-1660.
- SP.19. Committee for the Advance of Money, 1642-1656.
- SP.23. Committee for Compounding with Delinquents, 1643-1660.
- SP.25. Council of State, 1649-1660.
- SP.28. Commonwealth Exchequer Papers, 1642-1660.
- SP.29. State Papers Domestic, Charles II.
- SP.63. State Papers Ireland, Eliz. I to George III, 1558-1782.

WILLS AND ADMINISTRATIONS

Proved in the Prerogative Court of Canterbury. Citations, Probate II and Probate 6 in the text, include the wills of Joan, Lady Barrington, Robert Cromwell, Dame Mary Eliot, George Horsey, Sir Thomas Penyston, Sir Herbert and Dame Barbara Springett, Sir Alexander Temple, Peniston Whalley. Letters of Admin. to Ralph Jones for goods of John Whalley during minority of Herbert Whalley (June 1667).

Cambridge University Library

MS. Mm.I.37, pp. 192-3 Transcript of will of Thomas Whalley, d. 1637.

Essex Record Office, Chelmsford

D/DRuTI/218, 225-7,
229, 230, 233, 238. Deeds relating to Longhouse Place, Chadwell.

D/DP41/1/1. Parish Register of Chadwell.

D/DPTI/2001.
D/DSX 357. Indentures of Sale.

Huntingdonshire Record Office

Bundle 114 Vol. 20 f. 217. Will of Walter Whalley, d. 1617.

Nottinghamshire County Record Office

HILDYARD MSS. 2.1. Exchanges of land holdings.

PORTLAND MSS. Manuscripts of the Duke of Portland, not calendared by H.M.C. Main Series used: DDP.8, 26; DD4P.22.

TALLENTS MSS. DDT.3, 45, 101.

VERE-LAURIE MSS. DDVC.24.

Nottingham University Library

CLIFTON MSS. Cl.C.488. Letter of Sir Gervase Clifton to Richard Whalley the younger (1622).

Oxford, Bodleian Library

RAWLINSON MSS. A.8, 24, 33-40, 60-61; B.143.

TANNER MSS. LII.

Oxford, Worcester College

CLARKE MSS. MS.3.11 (formerly 31). Chiefly news letters.

Scottish Record Office, Edinburgh

RS. 26/3 f. 271. Register of Sasines concerning E. Whalley's grant
RS. 26/4 f. 326. of Liddington in Haddingtonshire, Scotland.

Borthwick Institute of Historical Research, York

Wills and Administrations in the York Registry

Vol. XXIII f. 159. Will of Richard Whalley the elder, d. 1583.

f. 294 Retford. Letters of admin. to R. Bayley for goods of John Whalley (Jan. 1671/2).

B. Printed

Note: Except where otherwise stated the place of publication is London.

Parliamentary and State Papers, Records and Documents

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

Acts of the Privy Council of England, ed. J. R. Dasent. Vols. XXVI (1902);
XXVII (1903).

Accounts and Papers. Vol. LXII (1878), Parts I and III (Index), Members of
Parliament, 1213-1874.

Calendar of the Committee for the Advance of Money, 1642-1656, ed. M. A. E.
Green. 3 vols. (1888). Part III.

Calendar of the Committee for Compounding, 1643-1660, ed. M. A. E. Green.
5 vols. (1889-1892). Part III, Cases 1647-1650 (1891).

Calendar of State Papers, Colonial Series, America and West Indies, 1661-1668,
ed. W. Noel Sainsbury (1880).

Calendar of State Papers, Domestic Series, ed. F. H. Blackburne-Daniell,
M. A. E. Green, W. D. Hamilton.

Calendar of State Papers Ireland, ed. R. P. Mahaffy, 1647-1660 and Addenda
1625-1660 (1903); 1660-1662 (1905); 1663-1665 (1907).

Calendar of Treasury Books, ed. W. A. Shaw. Vol. I, 1660-1667 (1904).

Letters and Papers, Foreign and Domestic, Henry VIII, ed. J. Gairdner and
R. H. Brodie. Vols. XIV, part I, 1539 (1894); XX, part I, 1545 (1905).

Notes and Extracts from the Nottinghamshire County Records of the 17th Century,
ed. H. H. Copnall (Nott., 1915).

Peacock, E., Army Lists of the Roundheads and Cavaliers, 2nd ed. (1874).

Peacock, M. G. W., An Index of the Names of the Royalists whose Estates were
Confiscated (1879).

Records of the Borough of Leicester, 4 vols. (C.U.P., 1899-1923). Vol. IV,
1603-1688, ed. H. Stocks.

Statutes of the Realm, 9 vols. + 2 Indices (1810-1828). Vols. IV, 1547-1585
(1819); V, 1625-1680 (1819).

The Acts of the Parliaments of Scotland, 11 vols. + Index (1814-1875). Vols.
VI, part II (1872); VII (1820).

The Journals of the House of Commons. Vols. II-VIII.

The Journals of the House of Lords. Vols. X-XI.

Thurloe, J., A Collection of State Papers, ed. T. Birch. 7 vols. (1742).

Books, Pamphlets, Newspapers, Correspondence etc.

Abbott, W. C. ed., The Writings and Speeches of Oliver Cromwell, 4 vols. (Cambridge, Mass., 1937-1947).

Anon., Letters of Philip [Stanhope], second Earl of Chesterfield ... (1837).

Anon., Reports of Cases Taken and Adjudged in the Court of Chancery, in the Reign of King Charles I, Charles II, James II, William III and Queen Anne, 2nd ed. 3 vols. (1715-1716). Vol. I.

Bodleian Pamphlets:

'The Civil Rights and conveniences of Episcopacy, with the inconveniences of Presbytery asserted ...' (1661). Pamphlet 114.

'The Mystery of the Good Old Cause Briefly unfolded ...' (1660). Wood (209).

'The Religion Established by Law asserted to conduce most to the true Interest of Prince and Subject ...' (1674). 4^ov.38 Th., 133 No. 9.

Winstanley, W., 'Dregs of Treachery ...' (1665). Wood (209).

British Museum, Thomason Tracts:

'A Letter from the Commissioners of Scotland [to the Speaker of the House of Lords] Representing the hard usage of the Earl of Lauderdale by the Souldiers of the Army at Wooburn ...' 1 Aug. 1647. E400 (33).

'A Letter from His Excellency Sir Tho. Fairfax' [apologising for the treatment of Lord Lauderdale and Mr. Chiesly by his soldiers]. 20 Aug. 1647. 669 f. 11 (67).

'A Narrative of the Souldiers demeanour towards the Lord Lauderdale at the Court at Woburne, in July last ...' 11 Sept. 1647. E407 (36).

Calamy, E., An Account of the Ministers,... ejected or Silenced after the Restoration ... (1713 ed.).

Cropper, P. J., Bibliotheca Nottinghamiensis. The Sufferings of the Quakers in Nottinghamshire, 1649-1689 (Nott., 1892).

Firth, C. H. ed., The Clarke Papers, 4 vols. (Camden Soc., 1891-1901).

———, The Life of William Cavendish, Duke of Newcastle ... By Margaret, Duchess of Newcastle (1907).

———, The Memoirs of Edmund Ludlow, 2 vols. (1894).

———, Scotland and the Commonwealth, 1651-1653 (Scottish History Soc., XVIII, Edinburgh, 1895).

Godolphin, J., The Orphans Legacy: or a Testamentary Abridgement ..., 2nd ed. (1677).

Heath, J., A Chronicle of the Late Intestine War in the three Kingdoms of England, Scotland and Ireland, 2nd ed. (1675).

Historical Manuscripts Commission Reports:

7th Report and Appendix (1879).

8th Report and Appendix, Part I (1881, and re-issue 1907).

Leyborne-Popham (1899).

Ormonde, New Series, I (1901); III (1904).

Portland, I (1891); II (1893).

Various Collections, VII (1914).

Kennett, W., A Register and Chronicle Ecclesiastical and Civil ... (1728).

Latham, R. and Matthews, W. eds., The Diary of Samuel Pepys, II vols. proposed,
5 currently published. Vol. I (1970).

Lomas, S. C. ed., T. Carlyle, The Letters and Speeches of Oliver Cromwell,
3 vols. (1904).

Matthews, A. G., Calamy Revised (Oxford, 1934).

Mercurius Politicus, Nos. 548 (30 Dec. 1658 - 6 Jan. 1658/9); 592 (27 Oct. -
3 Nov. 1659).

Palmer, S. ed., E. Calamy, The Nonconformist's Memorial ..., 2nd ed., 3 vols.
(1802-1803). Vol. III.

Raymond, Sir T., The Reports of Divers Special Cases Adjudged in the Courts
of Kings Bench, Common Pleas & Exchequer in the Reign of King Charles II
(1696).

Rutt, J. T. ed., The Diary of Thomas Burton Esq., 4 vols. (1828). Vols. I, III.

Scrope, R. and Monkhouse, T. eds., State Papers Collected by Edward, Earl of
Clarendon, 3 vols. (1767-1786). Vol. II.

The Harleian Miscellany ..., selected by T. Park, 10 vols. (1808-1813). Vol.
III (1809), 'A second Narrative of the late Parliament ...' (1658).

The Hutchinson Papers, ed. Prince Society, 2 vols. (Albany, N. York, 1865).

Toon, P. ed., The Correspondence of John Owen (1616-1683), (Cambridge, 1970).

West, W., The First Part of Simboleography which may be termed the Art, or
description of Instruments and presidents (1605). The Second Part of
Symboleography, Newly corrected and amended (1606). Both parts in one
vol.

Whitlocke, B., Memorials of the English Affairs ... (1682).

Secondary Material

Genealogical Works

Note: Of the Harleian Society volumes of Visitations, only those most frequently used have been included.

Archdall, M. ed., J. Lodge, The Peerage of Ireland ..., 7 vols. (Dublin, 1789). Vol. VI.

Berry, W., County Genealogies: Pedigrees of Essex families (1839).

Bull, Sir W. ed., J. Comber, Sussex Genealogies, Ardingley, Horsham and Lewes Centres, 3 vols. (Cambridge, 1931-1933). Lewes Centre.

Burke, Sir B., Dormant and Extinct Peerages (1883).

Burke, J., A Genealogical and Heraldic History of the Commoners of Great Britain and Ireland, 4 vols. (1833-1838), + Index (Oxford, 1907). Vols. II, IV.

Burke, J. and J.B., The Extinct and Dormant Baronetcies of England, 2nd ed. (1844).

G. E. C[okayne], Complete Baronetage, 5 vols. + Index and Appendix (Exeter, 1900-1909). Vols. I-IV.

———, The Complete Peerage, 13 vols. (1910-1940). Vols. III, IV, ed. V. Gibbs; VII, VIII, IX, ed. H. A. Doubleday and Lord Howard de Walden.

Harleian Society Publications

Allegations for Marriage Licences issued by the Bishop of London, 1520-1610. XXV (1887).

Familiae Minorum Gentium, IV. XL (1896).

Le Neve, P., Pedigrees of the Knights. VIII (1873).

Lincolnshire Pedigrees, P-Z. LII (1904).

Visitations of Essex, 1552-1634, Part I. XIII (1878).

Visitation of Kent, 1619. XLII (1898).

Visitations of London, 1568. I (1869); 1633-1635. XV (1880); XVII (1883).

Visitations of Nottinghamshire, 1569, 1614. IV (1871).

Visitation of Northamptonshire, 1681, LXXXVII (1935).

Visitations of Sussex, 1530, 1633-1634, LIII (1905).

Marshall, G. W., The Genealogists' Guide (Guildford, 1903).

Miscellanea Genealogica et Heraldica. Vols. II (1876); 2nd Series, IV (1892); 5th Series, III (1918-1919), IX (1935-1937).

Nichols, J. G. ed., Herald and Genealogist, 8 vols. (1863-1874). Vol. VI (1871).
Nottinghamshire Visitation 1662-1664 (Thor. Soc. Rec. Series, XIII (1949).
Rye, W., Norfolk Families, 2 vols. (Norwich, 1911-1913).

The Genealogist, New Series, Vols. II (1885), III (1886), XII (1895-1896),
XIII (1896-1897), XVIII (1901).

Warrand, D. ed., Hertfordshire Families: History of Hertfordshire (V.C.H.
Genealogical Vol., 1907).

Warren, Rev. T., A History and Genealogy of the Warren Family (privately printed,
1902).

Waters, H. F., Genealogical Gleanings in England, 2 vols. (Boston 1901). Vol. I.

Whitmore, J. B., A Genealogical Guide (1953).

County Histories

Atkyns, Sir R., The Ancient and Present State of Gloucestershire ..., 2nd ed.
(1768).

Blomefield, F., An Essay towards a Topographical History of the County of
Norfolk ..., 11 vols. (1805-1810) + Index (1862). Vols. VIII, IX by Rev.
C. Parkin.

Bigland, R., Historical, Monumental and Genealogical Collections relative to
the County of Gloucester ..., 2 vols. (1791-1792) + Supplement (1889).
Supplement part 6, No. 270.

Clutterbuck, R., The History and Antiquities of the County of Hertford ...,
3 vols. (1815-1827). Vol. II (1821).

Cussans, J. E., History of Hertfordshire ..., 3 vols. (1870-1881). Vol. II
(1874-1878), parts XI, XII.

Gatty, Rev. A. ed., J. Hunter, Hallamshire. The History and Topography of the
Parish of Sheffield in the County of York ... (1869).

Hasted, E., The History and Topographical Survey of the County of Kent ...,
4 vols. (Canterbury, 1778-1799).

Horsfield, T. W., The History, Antiquities and Topography of the County of
Sussex, 2 vols. (Lewes, 1835). Vol. I.

Lipscomb, G., The History and Antiquities of the County of Buckingham, 4 vols.
(1847). Vol. III.

Morant, P., The History and Antiquities of the County of Essex ..., 2 vols.
(1768).

Nichols, J., The History and Antiquities of the County of Leicester ..., 4
vols. in 8 parts (1795-1811). Vols. II, part II (1798); IV, part II (1811).

Shipp, W. and Hodson, J. W. eds., J. Hutchins, The History and Antiquities of
the County of Dorset ..., 3rd ed., 4 vols. (1861-1873). Vol. IV.

Thoroton, R., The Antiquities of Nottinghamshire ... (1677).

Throsby, J. ed., Thoroton's History of Nottinghamshire ..., 3 vols. (Nottingham, 1790-1796).

Victoria County Histories

Derbyshire. Vol. II (1907).

Essex. Vol. II (1907).

Hertfordshire. Vol. II (1908).

Huntingdonshire. Vol. II (1932).

Leicestershire. Vol. II (1954).

Lincolnshire. Vol. II (1906).

Nottinghamshire. Vol. II (1910).

Sussex. Vol. VII (1940).

General Historical Works

An Introduction to Scottish Legal History by various authors (Stair Society, XX, Edinburgh, 1958).

Anon., Calendar of Nottinghamshire Wills in the York Registry, 1514-1619 (Worksop, 1890).

Bailey, T., Annals of Nottinghamshire, 4 vols. (1853). Vol. III.

Beesley, A., The History of Banbury (1841).

Bell, H. E., An Introduction to the History and Records of the Court of Wards and Liveries (C.U.P., 1953).

Berry, Sir J. and Lee, S. G., A Cromwellian Major-General: the career of Colonel James Berry (Oxford, 1938).

Bliss, P. ed., A. Wood, Athenae Oxonienses ..., 4 vols. (1813-1820). Vol. III (1817).

Bosher, R. S., The Making of the Restoration Settlement: the Influence of the Laudians, 1649-1662 (1951).

Brailsford, H. N., The Levellers and the English Revolution (1961).

Brett-James, N. G., The Growth of Stuart London (1935).

Bromley, J. S. and Kossman, E. H. eds., Britain and the Netherlands, 2 vols. (1960, 1964). Vol. I.

Brown, C., The Lives of Nottinghamshire Worthies and of Celebrated and Remarkable Men in the County from the Norman Conquest to A.D. 1882 (1882).

- Brunton, D. and Pennington, D. H., Members of the Long Parliament (1954).
- Buckland, W. E., The Parish Registers and Records in the Diocese of Rochester (Kent Arch. Soc. Records Branch, 1912).
- Calder, I. M. ed., Letters of John Davenport, Puritan Divine (New Haven, 1937).
- Clark, A. ed., Register of the University of Oxford, 1571-1622, 4 vols. (Ox. Hist. Soc., 1887-1889). Vols. XI and XII (1887-1888).
- Coate, M. ed., The Letter Book of John Viscount Mordaunt 1658-1660 (Camden Soc., 3rd Series, LXIX, 1945).
- Cliffe, J. T., The Yorkshire Gentry: From the Reformation to the Civil War (1969).
- Cocks, Sir Barnet ed., Erskine May, Treatise on the Law, Privileges, Proceedings and Usage of Parliament, 17th ed. (1964).
- Cobbett, W. ed., The Parliamentary History of England from the Earliest Period to 1803, 36 vols. (1806-1820). Vol. III, 1642-1660 (1808).
- Collins, A. ed., Historical Collections of the Noble Families of Cavendish, Holles, Vere, Harley, and Ogle, with the Lives of the most remarkable Persons (1752).
- Cooper, C. H. and J., Athenae Cantabrigienses, 1500-1611, 3 vols. (Cambridge, 1858-1913). Vol. I, 1500-1585.
- Cooper, W. D. ed., Savile Correspondence (Camden Soc., Old Series, LXXI, 1858).
- Davies, G., The Early Stuarts, 1603-1660, 2nd ed. (Oxf. Hist. of Eng., IX, 1959).
- Dictionary of American Biography.
- Dictionary of National Biography.
- Dunlop, O. J., English Apprenticeship & Child Labour (1912).
- Everitt, A. M., The Community of Kent and the Great Rebellion, 1640-1660 (Leicester, 1966).
- Finch, M., The Wealth of Five Northamptonshire Families, 1540-1640 (Northants. Rec. Soc. Publications, XIX, 1956).
- Firth, C. H., Cromwell's Army (1902. University paperback, 1962).
- , The Last Years of the Protectorate, 1656-1658, 2 vols. (1909. Reprint N. York, 1964).
- Firth, C. H. and Davies, G., The Regimental History of Cromwell's Army, 2 vols. (Oxford, 1940).
- Foster, J. ed., London Marriage Licences, 1521-1869 (1887).
- , Gray's Inn Admission Register, 1521-1889 (1889).
- , Alumni Oxonienses: the Members of the University of Oxford, 1500-1714, 4 vols. (1892).

- Foss, E., The Judges of England, 1066-1864, 9 vols. (1848-1864) Vol. VI (1857).
- Gardiner, S. R., History of the Great Civil War, 1642-1649, 4 vols. (1893-1894). Vol. III (1894).
- , The History of the Commonwealth and Protectorate, 1649-1656, 4 vols. (1903). Vol. IV.
- Godfrey, J. T., Notes on the Churches of Nottinghamshire, Hundred of Bingham (1907).
- , The History of the Parish and Priory of Lenton (1884).
- Grant, D., Margaret the First, A Biography of Margaret Cavendish, Duchess of Newcastle, 1623-1673 (1957).
- Harben, H. A., A Dictionary of London (1918).
- Hardacre, P. H., The Royalists during the Puritan Revolution (The Hague, 1956).
- Hawkins, M. J. ed., Sales of Wards in Somerset, 1603-1641 (Somerset Record Society, LXVII, 1965).
- Hill, C., Economic Problems of the Church from Archbishop Whitgift to the Long Parliament (Oxford, 1956. Panther reprint 1971).
- , Puritanism and Revolution (1958. Panther ed. 1968).
- , Reformation to Industrial Revolution (1967. Pelican reprint 1969).
- , The Century of Revolution, 1603-1714 (1961).
- Holdsworth, W. S., A History of English Law, 3 vols. (1903-1909); 13 vols. (1922-1952); 7th ed. (1956-). Vol. VII, 2nd ed. (1937); Vol. VIII, 6th ed. (1938).
- Hoskins, W. G., Provincial England. Essays in Social and Economic History (1963. Papermac reprint 1965).
- Hurstfield, J., The Queen's Wards. Wardship and Marriage under Elizabeth I (1958).
- Hutchinson, T., The History of the Colony of Massachusetts' Bay, 2nd ed., 2 vols. (1765, 1768). Vol. I.
- Ives, E. W. ed., The English Revolution 1600-1660 (1966).
- James, M., Social Problems and Policy during the Puritan Revolution, 1640-1660 (1930).
- Jones, W. J., The Elizabethan Court of Chancery (Oxford, 1967).
- Jordan, W. K., Edward VI. The Threshold of Power (1970).
- ed., The Chronicle and Political Papers of King Edward VI (1966).
- Jowitt, Earl and Walsh, C. eds., The Dictionary of English Law, 2 vols. (1959).

- Reaney, P. H., The Place Names of Essex (English Place Names Society, XII, Cambridge, 1935).
- Richardson, W. C., History of the Court of Augmentations, 1536-1554 (Louisiana State University Press, 1961).
- Russell, C., The Crisis of Parliaments. English History, 1509-1660 (Oxford, 1971).
- Schoenfeld, M. P., The Restored House of Lords (The Hague, 1967).
- Shaw, W. A., The Knights of England, 2 vols. (1906).
- Simpson, A. W. B., An Introduction to the History of the Land Law (Oxford, 1961).
- Smith, F. F., A History of Rochester (1928).
- Somerville, R., The Savoy: Manor, Hospital, Chapel (1960).
- Stone, L., An Elizabethan: Sir Horatio Palavicino (Oxford, 1956).
- , The Crisis of the Aristocracy, 1558-1641 (1965).
- , Social Change and Revolution in England, 1540-1640 (1965. Longmans paperback 1967).
- Tate, W. E., The English Village Community and the Enclosure Movements (1967).
- The Parliamentary or Constitutional History of England from the Earliest Times to the Restoration of Charles II, 24 vols. (1751-1762). Vols. XX and XXI, 2nd ed. (1763).
- Thirsk, J. ed., The Agrarian History of England and Wales, IV, 1500-1640 (C.U.P. 1967).
- Train, K. S. S., Twenty Nottinghamshire Families (Nottingham, 1969).
- Turberville, A. S., A History of Welbeck Abbey and its Owners, 2 vols. (1938-1939). Vol. I., 1539-1755.
- Underdown, D., Pride's Purge, Politics in the Puritan Revolution (Oxford, 1971).
- , Royalist Conspiracy in England, 1649-1660 (New Haven, 1960).
- Veall, D., The Popular Movement for Law Reform, 1640-1660 (Oxford, 1970).
- Venn, J. and J. A. eds., Alumni Cantabrigienses ..., part I to 1751, 4 vols. (Cambridge, 1922-1927).
- Waylen, J., The House of Cromwell and the Story of Dunkirk, A Genealogical History of the Descendants of the Protector with Anecdotes and Letters (1891).
- Wedgwood, C. V., The Trial of Charles I (1964. Fontana reprint 1967).
- Welles, L., The History of the Regicides in New England (N. York, 1927).

Wentworth, T., The Office and Duty of Executors ... (1774 ed.).

Western, J. R., Monarchy and Revolution: The English State in the 1680s (1972).

Williamson, J. A., Hawkins of Plymouth, 2nd ed. (1969).

Wilson, C., England's Apprenticeship, 1603-1763 (1965. Longmans paperback 1971).

Wood, A. C., Nottinghamshire in the Civil War (Oxford, 1937).

Publications of Learned Societies and Periodicals

Note: Only the titles of those Society publications most directly bearing on the thesis are included, but all periodical titles cited in the text are given.

Archaeologia Cantiana

D'Elboux, R. H., 'Coats of Arms in Queenborough Castle', LVIII (1946).

Hawkins, Rev. E., 'Notes on Some Monuments in Rochester Cathedral', XI (1877).

Also Vols. XII (1878), XVII (1887), XXV (1902), XXVI (1904), XLI (1929), XLIV (1932).

Bulletin of the Institute of Historical Research

Coward, B., 'Disputed Inheritances: Some Difficulties of the Nobility in the Late Sixteenth and Early Seventeenth Centuries', XLIV (1971).

Kitching, C., 'Alchemy in the Reign of Edward VI: an Episode in the Careers of Richard Whalley and Richard Eden', XLIV (1971).

MacCaffrey, W. T., 'Talbot and Stanhope: an Episode in Elizabethan Politics', XXXIII (1960).

Congregational Historical Society Transactions

Matthews, A. G., 'A Censored Letter', IX (1926).

Derbyshire Archaeological and Natural History Society Journal

Carrington, W.A., 'Deeds, etc. Enrolled, County of Derby', XXIV (1902).

Cox, Rev. J. C., 'Proceedings of the Derbyshire Committee for Compounding, and other Commonwealth Papers', XIII (1891).

Sitwell, Sir G. R. bart., 'A Picture of the Iron Trade in the Seventeenth Century', X (1888).

———, 'The Loyal Duke of Newcastle', XIII (1891).

Economic History Review

Habakkuk, H. J., 'English Landownership, 1680-1740', 1st Series, X (1940).

———, 'Public Finance and the Sale of Confiscated Property during the Interregnum', 2nd Series, XV (1962).

———, 'Landowners and the Civil War', 2nd Series, XVIII (1965).

Mousley, J. E., 'The Fortunes of Some Gentry Families of Elizabethan Sussex', 2nd Series, XI (1959).

Stone, L., 'The Elizabethan Aristocracy - A Restatement', 2nd Series, IV (1951).

Tawney, R. H., 'The Rise of the Gentry, 1558-1640', 1st Series, XI (1941).

Thirsk, J., 'The Sales of Royalist Land during the Interregnum', 2nd Series, V (1952).

Trevor-Roper, H. R., 'The Elizabethan Aristocracy: an Anatomy Anatomised', 2nd Series, III (1951).

English Historical Review

Firth, C. H., 'Cromwell and the Insurrection of 1655', IV (1889).

———, 'The Royalists under the Protectorate', LII (1937).

Gonner, E. C. K., 'The Progress of Inclosure during the Seventeenth Century', XXIII (1908).

Mayes, C. R., 'The Early Stuarts and the Irish Peerage', LXXIII (1958).

Historical Association

Thirsk, J., 'Tudor Enclosures', Pamphlet G.41 (1958. Reprint 1967).

Historical Collections of Staffordshire

New Series, XII (1909).

Historical Journal

Hertzler, J. R., 'The Abuse and Outlawing of Sanctuary for Debt in Seventeenth Century England', XIV (1971).

Zagorin, P., 'Sir Edward Stanhope's advice to Thomas Wentworth, Viscount Wentworth, concerning the Deputyship of Ireland: an Unpublished Letter of 1631', VII (1964).

History

Coleman, D. C., 'The "Gentry" Controversy and the Aristocracy in Crisis, 1558-1641', LI (1966).

Thirsk, J., 'Younger Sons in the Seventeenth Century', LIV (1969).

Huntington Library Quarterly

Gay, E. F., 'The Temples of Stowe and Their Debts. Sir Thomas Temple and Sir Peter Temple, 1603-1653', II (1938-1939).

Journal of British Studies

Edie, C. A., 'Charles II, the Commons and the Newark Charter Dispute: the Crown's Last Attempt to Enfranchise a Borough', X (1970).

Journal of Economic History

Zagorin, P., 'The Social Interpretation of the English Revolution', XIX (1959).

Journal of Modern History

Mayes, C. R., 'The Sale of Peerages in Early Stuart England', XXIX (1957).

Thirsk, J., 'The Restoration Land Settlement', XXVI (1954).

Massachusetts Historical Society Collections

3rd Series, I (Boston, 1825); 4th Series, VII (1865), VIII (1868).

Northern History

Holiday, P. G., 'Land Sales and Repurchases in Yorkshire After the Civil Wars, 1650-1670', V (1970).

Notes and Queries

4th Series, III (1869); 5th Series, V (1876), VII (1877); 7th Series, X (1890); 8th Series, IV (1893); 10th Series IX (1908); 11th Series, IV (1911).

Nottinghamshire and Derbyshire Notes and Queries

Vol. I (1892-1895).

Past and Present

Curtis, M., 'The Alienated Intellectuals of Early Stuart England', XXIII (1962).

Simon, J., 'The Social Origin of Cambridge Students', XXVI (1963).

Science and Society

Hill, C., 'Land in the English Revolution', XIII (1948-1949).

Somerset Archaeological and Natural History Society Proceedings

Vol. XXXVI (1890).

Sussex Archaeological Society Collections

Lower, M. A., 'Sir William Springett & the Springett Family', XX (1868).

Stenning, A. H., 'A Return of the Members of Parliament for the County and Boroughs of Sussex', [Eliz. I-Chas. II]. XXXIII (1883).

Also Vols. II (1849), IV (1851), V (1852), XIII (1859), XVI (1864), LXX (1929), LXXVII (1936).

The Genealogists' Magazine

Garrett, R. E. F., 'Chancery and Other Proceedings', XV (1965), Nos. 3 and 4.

The Thoroton Society Record Series

Tate, W. E., 'Parliamentary Land Enclosures in the County of Nottingham, 1743-1868', V (1935).

Transactions of the Essex Archaeological Society

Galpin, Rev. Canon F. W., 'The Household Expenses of Sir John Barrington (1645-1667)', New Series, XXIII (1942-1945).

Lowndes, G. A. ed., 'The History of the Barrington Family', part II, New Series, II (1879-1883).

Waller, W. C., 'An Extinct County Family: Wroth of Loughton Hall', New Series, VIII (1900-1903).

Also New Series, XII (1911-1913); 3rd Series, II (1966).

Transactions of the Royal Historical Society

Chesney, H. E., 'The Transference of Lands in England, 1640-1660', 4th Series, XV (1932).

Hurstfield, J., 'Lord Burghley as Master of the Court of Wards, 1561-98', 4th Series, XXXI (1949).

Leonard, E. M., 'The Inclosure of Common Fields in the Seventeenth Century', New Series, XIX (1905).

Transactions of the Thoroton Society

Blagg, T. C., 'Car-Colston', LXXIV (1970).

Blagg, T. M., 'Dr. Robert Thoroton', XII (1908).

Chaworth-Musters, Mrs. L., 'Chaworth Family', part II, VIII (1904).

Hildyard, M. T., 'Dr. Robert Thoroton', LXI (1957).

Hubbard, H. L., 'Colonel Francis Hacker, Parliamentarian and Regicide', XLV (1941).

Wood, A. C., 'Notes on the Clifton Family', XXXVII (1933).

Welsh History Review

Habakkuk, H. J., 'The Parliamentary Army and the Crown Lands', III (1967).

Yorkshire Archaeological Society Record Series

Vols. XLIII (1911), LX (1920), LXXXIX (1934).

Unpublished Theses

Gentles, I. J., 'The Debentures Market and Military Purchases of Crown Land, 1649-1660' (University of London Ph.D., 1969).

Holiday, P. G., 'Royalist Composition Fines and Land Sales in Yorkshire, 1645-1665' (University of Leeds Ph.D., 1966).

Thirsk, J., 'The Sale of delinquents' estates during the Interregnum, and the land settlement at the Restoration - a study of land sales in south eastern England' (University of London Ph.D., 1950).