

AUGHTON ENCLOSURE IN THE EIGHTEENTH AND EARLY NINETEENTH CENTURIES: THE STRUGGLE FOR SUPERIORITY

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Parliamentary enclosure came at the end of a long period of agricultural change. During the two centuries following 1550 the general trend towards mixed farming had been assisted by piecemeal enclosure, the increased use of fertilisers, the adoption of convertible husbandry and the introduction of new crops.¹ In counties such as Lancashire, where the demise of open field arable had occurred before the middle of the eighteenth century, enclosure by Act of Parliament was exclusively that of the common pasture and waste. The improvement of this marginal land became increasingly important during the Napoleonic Wars, 1793–1815, when food shortages and the high price of agricultural produce made expensive enclosure a more attractive venture.²

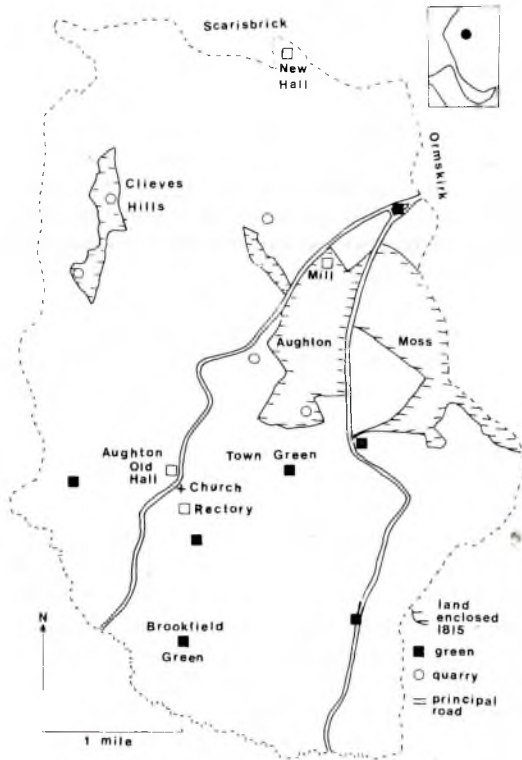
Turner suggests that the date of an Act may be two, three or more years after the initial idea was mooted, but points out that it is generally impossible to say when the first steps towards enclosure were made.³ Aughton, on the south-west Lancashire coastal plain, is one area for which this information is available. In this parish the time-lag was no less than eighty-seven years, and the unusual history of the difficulties encountered over enclosure here sheds additional light on the general picture, and illustrates the value of an intensive study of a small area. The years from 1718 to 1815 span the period between the purchase of the estates of the Heskeths of Aughton by lawyer John Plumbe of Wavertree Hall near Liverpool, and the end of legal action following the Aughton Enclosure Act of 1813. Between these two events lies almost a century of change, challenge and dissent. The Hesketh family made repeated

attempts to regain their property, and John Plumbe's difficulties in this direction were only eclipsed by his frequent and longer lasting battles with a determined and influential section of the freeholders.⁴ Plumbe found that his manorial rights were hotly disputed, and his attempt at enclosure of the commons was strenuously resisted. After his death in 1763 the freeholders continued to strengthen their position, thus creating further difficulties for John Plumbe's great-grandson and namesake when enclosure was finally agreed upon. This paper traces the course of these events and attempts to ascertain why successive generations encountered so much opposition, hostility and disrespect. The records of the Plumbe family are deposited in Liverpool Record Office.⁵ Although often couched in technical legal language, they are a remarkable reflection on eighteenth and early nineteenth century life and thought.

John Plumbe's ancestors had arrived in south Lancashire via Leicestershire from Suffolk, probably in the mid-seventeenth century. Baines records that they had been ruined in the Civil War.⁶ The Heskeths had also encountered difficulties at this time, and had seen their manor house at Aughton badly damaged and family deeds destroyed.⁷ Their estates lay in Aughton, Uplitherland (in the north of the parish and now mainly in Ormskirk) Scarisbrick and Ormskirk itself, and they also held the advowson of St. Michael's church in Aughton. They were sole lords of the manor of Uplitherland and lords of part of the manor of Aughton.⁸ These two manors comprised the eighteenth century parish and covered about 15 square miles. They straddled the western end of the wide sandstone ridge running east to west across the area,⁹ with the market town of Ormskirk lying immediately to the north and Liverpool twelve miles to the south.

Uplitherland had been held in undivided lordship since at least the early thirteenth century. From that time onwards its lords had always held a portion of Aughton manor, usually described as one third. In 1718 Richard, Lord Molyneux, was in possession of the remainder, but because of the vague way this manor was described in title deeds there is some confusion as to the actual fraction involved.¹⁰

In fact by this date the once clear distinction between the two estates had become blurred. The Heskeths' manor house was known as Aughton New Hall although it was situated on the extreme edge of the parish in Uplitherland.¹¹ There was no division of the area into two townships



Unenclosed land in Aughton, c. 1718

for administrative purposes. The records of highway surveyors and constables referred only to 'Aughton' and the Commonwealth Church Survey of 1650 described Aughton as a 'Little parish of itself'.¹² In this it was atypical of the area where large multi-township parishes were more usual. However, it did resemble the greater number of west Lancashire settlements in that it was a rural community of hamlets, isolated farms and cottages. Two main areas of common pasture remained on Clieves Hills and Aughton Moss, and there were several unenclosed greens which provided additional grazing (Fig. 1).¹³ In the early eighteenth century the population was about five hundred.¹⁴

II

Alexander Hesketh had purchased the family's estates in

1675 from his brother, Gabriel, who was then in the Counter prison in London, presumably for debt.¹⁵ The lands were mortgaged from 1684, and in 1716 the mortgage was assigned to John Plumbe. Two years later, when Plumbe felt that the amount owing was approaching the value of the property, Alexander and his son, Thomas, agreed to sell their lands to the lawyer. The terms of the sale included a three year lease of Aughton New Hall, and some of the Uplitherland and Ormskirk estates, to the vendors.¹⁶ Alexander had suffered from the effects of a brain haemorrhage since 1717, and by the time the lease expired he was dead.¹⁷ Thomas then refused to surrender the property, and Plumbe only obtained possession after Hesketh had been evicted by the sheriff of Lancashire, and lengthy legal proceedings had upheld the lawyer's claim.¹⁸

In 1725 John Plumbe must have viewed the condition of his newly purchased estates with dismay. The demesne had been badly managed by Alexander and neglected by Thomas. Gorse was growing in the fields. Part of the timber-framed manor house was in danger of collapse, and Whimbrick Mill, on Aughton Moss, was in ruins. Several tenant farms were similarly uncared for. Plumbe began a programme of improvement. By 1730 he had repaired the Hall, rebuilt the dovecote, cleared ditches and marled fields on the demesne. The wooden post-mill was rebuilt in brick.¹⁹ As many of the old leased farms, held by large entry-fines and small 'reserved rents', fell in, they were re-let at higher rents and nominal entry fines. Frequently, however, these still continued as leases for lives.²⁰ Occasionally farms were merged to produce larger and more economical holdings, and several of Plumbe's lease agreements detail the repairs or rebuilding required on individual estates. In some instances he bore the expense himself.²¹ The lawyer also began acquiring other property in the parish.²² It is often obvious that the previous owner was in financial difficulties, and occasionally that he was already in debt to John Plumbe.²³

Thomas Hesketh must have watched the onset of these improvements with mounting envy. In 1732 he began a long legal battle in which he tried, unsuccessfully, to undermine Plumbe's title to the Hesketh estates and thereby recover them for himself and his family. First he claimed that the conveyance of the property from Gabriel to Alexander Hesketh in 1675 should have been effected by Common Recovery. As it had not been, the estate should have

descended to Thomas by reason of a family settlement of 1648, which had subsequently been lost, but which he triumphantly produced. He alleged other irregularities in the proceedings surrounding Plumbe's acquisition of the estate, and in particular stated that the value of the estate had greatly exceeded the purchase price.²⁴ So Plumbe was forced to defend his title for the second time. By October 1735 Thomas Hesketh, who had sued *in forma pauperis*, had lost his case once more.²⁵ He died the following June in Newgate gaol.²⁶ His cause was immediately taken up by his son, Stanley, who to John Plumbe's dismay produced a second 'lost' family settlement dated 1663. This final and most complicated round in the Hesketh versus Plumbe legal saga continued until 1745 when a compromise was reached. Stanley Hesketh suffered a Common Recovery confirming the sale of the land to Plumbe, and received in return a payment of £500.²⁷ Although Plumbe claimed that it was for their own convenience that the Heskeths had overlooked the two settlements at the time of his purchase, he himself could hardly have been unaware of their existence. In 1731, when considering legal action against the freeholders, he included them in a list of 'Deeds in Order to make out the Mannor of Aughton'.²⁸ For over twenty years the artful Heskeths played the lawyer at his own game. The trials provided the unlikely spectacle of John Plumbe, widely experienced and respected in his own field, being put to considerable trouble and expense by two generations of the family. The law-suits were used as an excuse by the wily Lancashire tenants, who made them the pretext at times for not paying their rents.²⁹ They also had a profound effect on the course of the lengthy battle of the Plumbe family with the freeholders over the enclosure.

III

This dispute concerned the ownership of the common pasture. The final remnants of the common arable fields had probably disappeared about the end of the sixteenth century,³⁰ and the amount of unenclosed land remaining by the eighteenth century provided grazing for Aughton's land-owners and their tenants. A total of 460 statute acres, about one sixth of the total area of the parish, was eventually enclosed by the 1815 Act,³¹ and the area would have been slightly larger in the seventeen-twenties. Races were held on

Aughton Moss,³² and in addition, and often unofficially, the commons were a source of rock, sand and turf. Their condition was causing concern in 1725 when John Plumbe and Lord Molyneux, as the manorial lords, gave notice in Ormskirk market that persons removing such materials would be 'prosecuted with the utmost Severity of the Law'.³³ This could also be construed as a public declaration that the waste belonged to them. The freeholders of the two manors thought otherwise.

Aughton's freeholders were strong in both numbers and status. In 1726 they included members of the most eminent of Lancashire families; James Earl of Derby, Sir Edward Stanley of Bickerstaffe who later became Earl of Derby, and Ann Wollfall of Moor Hall, whose estate passed to the Stanleys of Hooton. There were also '50 or 60 others of Less distinction' who ranged through local gentry, such as Thomas Haskayne of Haskayne, down to yeomen like Thomas Barton of Whimbrick House. Many lived out of the parish, mostly in adjacent townships, but occasionally as far away as Liverpool or Preston.³⁴

In the seventeen-twenties there appears to have been some enthusiasm between the freeholders and the lords for the enclosure of Aughton Moss. This quickly evaporated when John Plumbe produced a draft agreement to enclose which so clearly favoured the rights of the manorial lords. For example, it contained clauses which confirmed the lords in possession of the quarries, gave them first choice of land and chief rents from the remainder, and imposed upon the new allotment holders the obligation to attend a court baron. It is not surprising that this agreement met with little approval. The freeholders took particular exception to any commitment involving them in the payment of chief rents and in attendance at a manor court.³⁵ This was John Plumbe's first major encounter with the opposition, and in the years to come he must have regretted the failure of his predecessors to keep up the Aughton and Uplitherland manor courts. By the eighteenth century there was no-one who could remember them ever having met.³⁶ However, Plumbe could legitimately claim other royalties as manorial lord. These he described as the rights to drive the commons and to collect waifs and strays and unclipped sheep, to let the delfs on the waste lands which implied, of course, ownership of the soil beneath, to collect chief rents – many of which originated from earlier enclosure of the waste – and to nominate constables. Traditionally the lords had nominated one each.³⁷

Plumbe was unfortunate in that he received little support from the Molyneux family. This appears initially to have been due to Sir Richard's uncertainty as to his rights to Aughton manor, and latterly to his successors' apathy in defending their manorial title. By 1731 the freeholders were proclaiming that they would recognise no lord of the manor of Aughton, and that as Lord Molyneux had given up his right to that title they would also take away John Plumbe's right and oppose anyone else claiming lordship.³⁸ They had already repeatedly interfered in the annual election of constables, sometimes making their own nominations for this office,³⁹ and staked their claim to the commons. They maintained that the soil and the inheritance of the waste belonged to the landowners as tenants in common 'without any superiority or Royalty being vested in any particular person'. In support of this Plumbe's tenants at the quarries on Clieves Hills and Aughton Moss were indemnified by the freeholders for non-payment of rent to the lawyer, and there was a similar indemnification over the withholding of chief rents.⁴⁰ The fact that 'Uplitherland' was falling out of use as a settlement name gave extra weight to the freeholders' assertion that the manorial rights there did not exist separately from Aughton. If Lord Molyneux was not lord of Aughton then John Plumbe was not either, and the freeholders were able to claim with a measure of plausibility that 'Aughton' meant the area of the whole parish. In June 1731 Plumbe commenced proceedings in the county palatine chancery court of Lancaster against maltster, Peter Woosey, and several other freeholders.⁴¹ His attempt to assert his manorial rights was, however, abruptly halted in 1732 by Thomas Hesketh's attempt to regain the estates. It was to be well into the next decade before the lawyer could resume his legal battle over the non-payment of chief rent and the other attacks on his royalties. The freeholders took good advantage of this respite.

With no nominations for constable forthcoming from Lord Molyneux between 1731 and 1738 they elected their own at the vestry. In 1739 Caryl, Lord Molyneux, once more attempted to exercise his rights. This was promptly rejected by several members of the vestry. One of these was Charles Stanley of Cross Hall, Lathom, a bitter opponent of John Plumbe.⁴² As a magistrate he was also able to thwart the lawyer at Quarter Sessions. Plumbe's attempt to alter Aughton's rating system (from one based on the ancient 'fifteen' to a fairer method based on acreage) was delayed

after the old rate was upheld by Quarter Sessions.⁴³ Nevertheless, threats of legal action by John Plumbe to the 'ley leyers' for illegally levying an inequitable rate meant that the new system was reluctantly adopted by the vestry at Michaelmas 1744.⁴⁴ This was also the day for electing constables. Plumbe nominated his tenant, James Marsh of Aughton New Hall, but the inhabitants ignored this and chose two others, although Marsh was the only officer sworn in at the West Derby Hundred Court. To Marsh's bewilderment, at the following Quarter Sessions at Wigan two other constables were appointed, and Plumbe ruefully recorded that on the Bench was Stanley of Cross Hall,

the Chiefe person that opposes the nomination of the Lords of the Mannor and Constantly appears among the Inhabitants upon an election of Constable tho' he does not live in the parish.⁴⁵

Although Marsh was eventually reinstated after Plumbe had applied to the Court of King's Bench, the lawyer had to be constantly on his guard for several years. He attended almost every meeting of Quarter Sessions until 1747 when the inhabitants admitted defeat and agreed to the nominations of the lords.⁴⁶ That year, however, over one quarter of the constables' 'ley' went unpaid.⁴⁷ The dispute over these appointments had its roots in the Civil War when the parishioners were allowed some involvement in elections. Having acquired that right they were obviously loath to relinquish it. In 1686, after yearly complaints by the parishioners, a Quarter Sessions order had decreed that, although the lords had allowed the inhabitants to advise them over the election of constables, this did not divest them of the undoubted right they had possessed before the 'unhappy times'. The parishioners were ordered not to give the court or the lords further trouble.⁴⁸

John Plumbe's other, more tangible, royalties caused him equally severe problems. Alexander Hesketh appears to have had only occasional difficulty in collecting chief rents. In contrast, in some years well over half went unpaid to John Plumbe or were paid late, and there appears to be a correlation between particularly bad years and episodes in the legal dispute between Plumbe and the Heskeths. Although most chief rents remained overdue for one or two years at the most, there was a hard core of non-payers. They were usually the owners of encroachments on the common.⁴⁹ Although they were not in the main the elite of the

inhabitants, nevertheless, some of the more powerful members of Aughton's society were behind them. Plumbe's rent rolls between 1724 and 1750 show about fifty chief rents.⁵⁰ The number varies slightly. Most were presumed to have originated from enclosure of the waste, but the absence of such grants of land in Plumbe's possession made it difficult for him to prove this. He blamed his failure to produce this evidence on Thomas Hesketh, who gave away family deeds to Ormskirk tailors for use as patterns shortly before the first decree against him in 1724.⁵¹ The collection of chief rents continued to be a problem after the Hesketh law-suits were over. However, by then Plumbe had the benefit of a recent Act of Parliament which gave power of distraint in such cases. For example, in 1751, Richard Hodgkinson owed Plumbe 25 years chief rent for a close that his father had taken in from Aughton Moss. He had used the Hesketh law-suits as an excuse for non-payment, and, although it is not clear to what extent he was threatened by Plumbe, that year the arrears were paid.⁵²

In addition to defending his right to chief rents John Plumbe needed to be vigilant to retain his rights of lordship over the common itself. The boundaries between Aughton and Uplitherland across Aughton Moss had been set by referees in 1657. Bartholomew Hesketh was then proclaimed sole lord of Uplitherland, and he, Lawrence Ireland and Lord Molyneux were declared lords of Aughton.⁵³ This boundary crossed the common south of Whimbrick Mill. However, by the eighteenth century the waste was all driven as one,⁵⁴ a practice that was cited as one piece of evidence, by those who wished to argue, that Aughton manor covered the whole parish. It was the right of the manorial lord to 'drive the commons' each year by removing and impounding stray animals from the common pasture. Lord Molyneux does not appear to have been concerned with this practice after 1739. At this date several unshorn sheep which had belonged to the late Peter Woosey of Town Green were removed and sold.⁵⁵ This may have been a deliberate attempt by Plumbe to annoy his adversary of the same name, Peter Woosey, who was acting as executor for the deceased. The episode can also be construed as an attempt to assert rights of lordship, particularly as this was the year when Lord Molyneux once again nominated a constable. Plumbe's claim to ownership of the waste continued to be disregarded. In 1748 he had to undertake another law-suit in the Court of King's Bench against

several offenders who had dug turf on Aughton Moss, and about this time he also sued two Ormskirk inhabitants for removing sand from his commons for the repair of Ormskirk's streets. John Magrath was no doubt mindful of these events when in 1757 he requested the lawyer's permission to make bricks on Brookfield Green for house repair.⁵⁶ All this was, of course, part of Plumbe's campaign to establish that, as lord of the manor, he was lawful owner of the soil of the commons.

The removal of sand and turf from the commons destroyed the pasture, and there was genuine anxiety over this practice in 1754. Aughton landowners and their tenants could depasture as many animals as they chose irrespective of the size of their tenements. The waste was, therefore, overstocked by tenants and pastured by persons with no right of common in the township. Driving the commons had given some measure of control but had one disadvantage. The date was published in advance, and so offenders simply removed their animals before the appointed day and returned them afterwards. With no pinfold or common herdsman to control the grazing the quality of the pasture was deteriorating. A decrease in the amount of common land available locally, and the growing profitability of agriculture were increasing the pressure on Aughton's commons. In 1754 the residents initially agreed, along with other proposals, that a pound should be erected and that a pinder and herdsman should be appointed.⁵⁷ However, Plumbe altered the draft drawn up by the resident freeholders and occupiers, substituting 'manors' for 'parish', stressing the lordship of himself and Lord Molyneux, and claiming the soil of Clieves Hills and three quarters of Aughton Moss for himself. To the inhabitants he allowed only the 'herbage', the grazing rights. He also inserted a clause that the Miller's Croft around his mill, once taken in from the waste but since neglected, should be allowed to be re-enclosed if it was ever needed by the miller. Not surprisingly Plumbe's attempted alterations to the agreement met with little approval. The freeholders objected strongly to his allegation that they had grazing rights only. The lawyer was told that unless he agreed to delete all references to his lordship 'matters must rest as they have done'.⁵⁸ John Plumbe has to be admired for his determined defence of his manorial rights against an equally determined opposition, but at eighty-three years of age he was perhaps more obstinate than realistic. He failed in 1754 over the control of the commons

as he had failed in 1726 over enclosure, and because of his stubbornness and the freeholders' intractability a much needed improvement was unable to proceed.

It is obvious that John Plumbe's relationship with the freeholders remained as bad as ever, and in 1759 the situation came to a head. In 1750 Plumbe had allowed his tenant, Andrew Goore, to re-enclose his garden from the waste, thereby cutting off Ann Watkinson's access to Ormskirk across the boundary brook.⁵⁹ Although they came to an agreement over this,⁶⁰ Goore's fence was pulled down on two occasions in 1752,⁶¹ and in 1759 was again partly destroyed by Mrs. Watkinson and others. The tenant tied a ladder across the breach only to find it soon in pieces and a road cut across his beds of cauliflower, sage and parsley. 'The Flame is now broke out in Aughton' wrote John Plumbe's son, William, seeking legal advice on his aged father's behalf, and relating how the freeholders were also laying claim to the delfs and threatening to throw down other enclosures. William Plumbe would have liked the offenders to be taken to court, but with almost the whole town behind them he seriously wondered what influence they would have on the jury.⁶² Andrew Goore had collected chief rents for the lawyer,⁶³ and this may have marked him out as a special target for attack. His garden was never fully restored to him, and it remained open to the common until after the 1813 Enclosure Act.⁶⁴

Some of the heat was taken out of the conflict by the deaths of William Plumbe in 1761 and of his father in 1763.⁶⁵ Towards the end of John Plumbe's life agents took over the management of his affairs, and continued to assume responsibility under his descendants, thus ending the family's personal involvement in Aughton. John Plumbe's grandson, Thomas, and his great-grandson, John, showed more interest in their army careers than in their Aughton estates. The family moved to Nottingham about 1785 and eventually settled at Tong Hall, Yorkshire.⁶⁶ The freeholders naturally took advantage of this changed situation to increase their hold over the township. Charles Stanley had died in 1754, and Peter Woosey's will was proved in 1762,⁶⁷ but there were others to take their place.

IV

In 1768, presumably as a test of the strength of Thomas

Plumbe's intentions, the freeholders felled several ash trees on the waste at Brookfield Green. Thomas initially asserted his right to the timber, and the freeholders drew up an agreement to oppose him and all other claimants to lordship. They also threatened to pull down all enclosures made by the Plumbe family over the past twenty years. The signatories to this agreement included William Parr, Anna Watkinson, William Stanley and Lord Derby's agent. No further action was taken by Plumbe, and the wood was eventually sold to defray the freeholders' legal expenses.⁶⁸ The freeholders continued to lay claim to the delfs. James Hale, who had the opportunity of renting the quarry on Aughton Moss from Thomas Plumbe, eventually declined to take up the lease after the 'town felt themselves aggrieved'.⁶⁹ He later opened a new quarry on the common which he worked rent free for the 'town' who paid him a wage.⁷⁰ There were other problems over the Clieves Hills delfs.⁷¹ After 1770 the quarries disappear from the Plumbe rentals.⁷²

Disputes over the Michaelmas election of constables began again in 1784. As before it was the failure of the Molyneux family to make a nomination that allowed the freeholders to put forward a candidate of their own.⁷³ The following year, although nominations were received from both lords, the freeholders chose two constables for themselves and declared once more that there was 'no lord of the manor'.⁷⁴ The officers nominated by the lords were sworn in at the next hundred court at West Derby, but Lord Molyneux's agent was forced to attend the Epiphany Quarter Sessions as the inhabitants were threatening to have their constables confirmed at this court.⁷⁵ This seems to have been the end of this particular dispute, although after the Molyneux estates were sold at the end of the century and the family discontinued nominating constables the inhabitants resumed electing one of their own.⁷⁶

Difficulties over control of the common pasture continued, and fertility was further reduced by the continual removal of dung to improve individual estates.⁷⁷ Eventually in 1787 the parish vestry appointed supervisors and agreed on the need for a pinfold. With cool and calculated deliberation they chose a site on Aughton Moss 'in an old stone delph'.⁷⁸ Brick-making must also have been detrimental to good grazing. James Sumner and Hugh Garrett helped in the construction of 'Mr. Parr's new house' about 1770. The clay was dug and fired on the common

about 20 yards from the site of the building without protest from Thomas Plumbe.⁷⁹ Island House (complete with date stone and Richard Parr's initials) remains to-day both as a monument to their workmanship and as a reminder of one freeholder's successful claim to the soil of the commons. The constables' accounts show that money received for digging turf and for animals trespassing on the commons was received by the vestry. On several occasions these accounts are even signed by the agents for the lords.⁸⁰ Horse racing continued until the land was enclosed, and the rents for booths and stands were also paid to the parish.⁸¹ The commons were not driven by the lords after the 1750s, and no-one had walked the boundary of the two manors since about the same time.⁸²

By 1802 the freeholders must have felt confident that, after forty years of almost non-existent manorial control of the common pasture, they could successfully challenge any claim to lordship in the event of enclosure taking place. They would thus deprive such claimants of an extra allocation of land. There was pressure to enclose the commons as Aughton's population was increasing, and both here and in the surrounding area agriculture was in transition towards the intensive arable farming of to-day.⁸³

The few inventories which survive for Aughton between 1701 and 1758 suggest a mixed farming economy where cattle rearing and associated products, such as cheese-making, were particularly important.⁸⁴ However, in 1743 a clause in John Plumbe's lease agreement with John Tatlock stipulated that only one quarter of the tenement was to be ploughed in any one year,⁸⁵ which suggests an attempt on Plumbe's part to curb the increasing arable. By 1773 Thomas Plumbe was concerned enough to ask his agent which tenants were ploughing more than their contracts allowed. Tenants were now permitted to till one third of their land, the remainder was to lie 'with green side up and unplowed'.⁸⁶ Similar restrictions also occur in the Earl of Sefton's tenancy agreements.⁸⁷ It seems that the major landowners were perturbed that the continuing trend towards arable agriculture would be at the expense of soil fertility. One result of this trend may have been extra animals grazing on the already over-stocked commons. The increase in arable was a response to the growing demand for produce. Liverpool's population was expanding and, as the pace of urbanisation increased, so the pasture closes gave way to the plough. By 1848 only one third of Aughton's old

enclosed lands remained under grass.⁸⁸ Cereal production had generally received a boost after the price of corn rose in the last years of the eighteenth century. Due to war with France and a succession of bad harvests at home, there was a growing air of insecurity regarding future food self-sufficiency.⁸⁹ Writers like Holt had advocated enclosure and extolled the value of human and animal manures as fertiliser. Fertiliser would be particularly beneficial on the hungry sandy soils which underlay Aughton's commons, and these manures were available in vast quantities in Liverpool, and transport to the west Lancashire plain was facilitated by the opening of the canal between Liverpool and Wigan by 1774.⁹⁰

There was now more incentive than ever before to enclose the waste, and the enclosure procedure was simplified for everyone by parliament in 1801.⁹¹ A meeting to consider enclosure was held in 1802.⁹² It was not until 1806 that John Plumbe sought the advice of lawyers regarding his prospects. He was informed that, although his general title to the manors of Aughton and Uplitherland was secure, it might prove difficult to prove ownership of the soil of these places due to the interruption of his rights in recent years. Serious contention was to be expected from the freeholders. In his favour, however, was the situation of his mill on the waste and the receipt of chief rents for enclosures.⁹³ In 1809 there was no opposition when the vestry authorised Henry Underwood to enclose a portion of the waste, and three years later they sanctioned the enclosure of Town Green.⁹⁴ Aughton's Enclosure Act is dated 3 June 1813, and falls within the most popular half-decade of the whole parliamentary enclosure movement.⁹⁵

The freeholders had taken the precaution of despatching one of their number, John Mawdesley, to London to watch their interest, and to ensure that no reference to the actual existence of a manor was included in the Act. Mawdesley appears to have been closely related to lawyer Plumbe's old opponent, Peter Woosey.⁹⁶ It was a wise precaution for *four* claimants to the lordship of Aughton, John Plumbe (who also claimed Uplitherland), the Earl of Sefton, the Earl of Derby and Sir Thomas Stanley Massey Stanley appeared.⁹⁷ Their claims were heard by the enclosure commissioners in Ormskirk the following year. The Earl of Derby based his case on a sixteenth century grant from the crown, the Earl of Sefton put forward his ancestor's purchase from Lawrence Ireland, the appointment of constables, and the driving of

the commons. Sir Thomas Stanley claimed through his ownership of the Old Hall and his collection of chief rents. Col. John Plumbe produced a long succession of title deeds and evidence of manorial rights, but was faced with difficulty in proving that Uplitherland was to be regarded as a separate manor from Aughton. John Mawdesley, the freeholder's representative, provided the expected 'serious contention'. He recalled how the chief rents were only recovered after threats of prosecution and how the quarrymen had been similarly threatened. He referred to the successful levelling of Andrew Goore's fences, Thomas Plumbe's obvious lack of interest in his manorial rights and the consequent assumption by the vestry of management of the commons. The commissioners decided that none of the claimants to lordship had established their case, and all except John Plumbe abided by the decision.⁹⁸

Plumbe took his case to Lancaster Assizes in 1815 where he was opposed by John Mawdesley, Lord Derby and Sir Thomas Stanley Massey Stanley. He again based his case on documentary evidence confirmed by enforcement of his manorial rights, although his counsel admitted that in recent years such occasions had been few. In his favour was his possession of the advowson of the parish church and the situation of Whimbrick Mill, which signified that the owner of the mill had the right to the waste. John Plumbe must have been grateful also for the 1657 award which clearly set out Gabriel Hesketh's sole lordship of Uplitherland and part share of Aughton.⁹⁹ The defendants claimed that there was no evidence to support the continuance of these manors to 1815. There were no surviving court rolls, and as there was no court leet the constables had to go to West Derby to be sworn in. The quarries had long remained untenanted, and there was no gamekeeper to preserve the lords' game. The manor existed only on parchment and, disregarding the appointment of constables, they denied that there had been any manorial rights exercised since 1770.¹⁰⁰ In summing up the case the judge decreed that John Plumbe had a clear title based on the documents. The failure to hold courts did not necessarily imply that there was no manor, and the weight of evidence showed that one clearly existed. What had been done to transfer it to the freeholders? Many acts on the part of the landowners were consistent with their right of common. Others were due to the lord not being present to prevent the infringement of his rights. He advised the jury that

if you are of the opinion that the Plaintiff once had a right to be lord of one third part of Aughton and the whole of the Manor of Uplitherland you will decide the issues in his favour. . . .

Without hesitation they found a verdict for John Plumbe, and after eighty-nine years the freeholders' challenge was finally over.¹⁰¹

The way was now clear for enclosure to proceed. The allotment evidence is patchy because the map and award are missing.¹⁰² Also, as the newly enclosed lands were tithe free, these areas were left blank on the subsequent tithe map.¹⁰³ Very occasionally individual plans or rough sketches of apportionments have survived. This scant evidence indicates that a landowner's new allotment was placed as near as possible to his existing estate. If, like the Earl of Derby, a freeholder had several estates, then his allotments could be scattered across the area.¹⁰⁴ As lord of the manor John Plumbe's share was one sixteenth of the commons or 28 acres. The rector received one eighth. This was in place of tithes and right of common. A small area of less than 2 acres was reserved for quarrying stone and other materials for road repair. The remainder was divided up between the landowners in proportion to the value of their estates. John Plumbe, therefore, received a further portion of 39 acres.¹⁰⁵ Provision was made in the Act for individuals to sell their apportionment or right of common before the award was finally executed. Consequently, in six sales between 1815 and 1818 forty-nine plots changed hands, a total of 148 acres, or roughly one third of the area of the common pasture.¹⁰⁶ Very probably the improvement of Aughton's waste was completed about the end of 1823, as in September of that year John Plumbe received estimates for banking, planting hawthorn hedges and fencing his new enclosures. This was expected to amount to 17s. 2d. per eight yard rood.¹⁰⁷

Settlement amidst the new fields took longer. A few farms and cottages appeared alongside the enclosure roads before 1845, and at the eastern end of Aughton Moss a hamlet of small farmsteads, blacksmith and agricultural workers dwellings was in the making. The earliest datestone here is 1839. The majority of these new householders were not native to Aughton.¹⁰⁸ The first large mansions were also in evidence by 1845. Four years later the Liverpool to Ormskirk railway line opened and the area's potential as a commuter base was realised. This had less effect on Clieves

Hills, as the rail link was some distance away, and this part of the township still retains its rural aspect. However, many of the allotments on Aughton Moss were better situated for residential purposes. In this area in particular a new era was beginning. Residential development now covers about two thirds of Aughton Moss. Whimbrick Mill has been demolished and the quarry has become a recreation area. It is particularly ironic that the drama which surrounded these two symbols of lordship for so long failed to find a niche in the oral traditions of Aughton.

V

Why did successive generations of the Plumbe family face such hostility from the freeholders of Aughton? At the root of it lay the claim to ownership of the commons. The freeholders were not prepared to allow anyone to exercise manorial rights on what they regarded as their inheritance, and thereby claim preferential treatment in the event of enclosure. Both parties may have believed that coal was present beneath the waste land. In fact Aughton Moss lies to the west of the coal measures, but before geological maps were available the inhabitants were not to know that.¹⁰⁹ As a lawyer who had invested in land John Plumbe was probably regarded as an upstart by the longer-established gentry families. He was not personally popular. 'Mighty Sanguine and Hott' is how he was described by his son four years before his death, and 'opulent and overbearing' is John Mawdesley's portrayal of him fifty-five years later.¹¹⁰ The community would have been further prejudiced against him by his money-lending practices and the financial disasters sometimes suffered by his debtors. The most spectacular of these was the Heskeths' downfall, and sympathies would naturally lie with that family. 'The General Cry was against us' Plumbe's solicitor remarked in 1737 on the tenants refusing to pay their rents, but in a context which suggested that he was referring to a higher level of society within the Ormskirk area.¹¹¹ There is no doubt that the freeholders found the lengthy Hesketh law-suits very convenient and used them adroitly. For John Plumbe they were expensive, totally unforeseen, and a constant source of irritation and anxiety between 1732 and 1745. Plumbe, moreover, was an improving landlord, and the more traditionally-minded landowners would have regarded some of his farming

methods with scorn, while others perhaps watched with envy. He was in favour of enclosure provided it was favourable to him, and in this respect he could complain bitterly about practices of which he himself was guilty. He was indignant when Andrew Goore's fences were levelled, and yet a few years earlier had no scruples about siding with the Scarisbrick freeholders when William Scarisbrick enclosed part of his commons.¹¹² After the lawyer's death his heirs' lack of interest in Aughton's manorial affairs allowed the inhabitants to have almost complete control over management of the common pasture. It is intriguing to note, however, that two of the claimants to rights of lordship named in the Enclosure Act were descendants of those who had frequently stated that they would 'have no lord of the manor'.¹¹³

Some of the Plumbe family's problems originated in the past. The division of manorial lordship in Aughton in the middle ages led to uncertainties several centuries later. Assarting and sub-division of estates over a long period had produced a society with an unusually large number of freeholders, some of whom were socially superior to John Plumbe and his family.¹¹⁴ The events of the eighteenth century could hardly have occurred in neighbouring Bickerstaffe, held in undivided lordship by the Stanley family and later by the Earls of Derby, where there were only a few freehold estates, and where there was a manor court in operation.¹¹⁵ The seeds of the Aughton freeholders' independence were perhaps sown in the Civil War when they were first involved in electing constables. The award of 1657, which defined the boundaries and the lords of the two manors, indicates a dispute over ownership at this time. The disappearance of Uplitherland as a separate entity seems to have been a key factor, and there was some laxity by the lords of both manors in asserting their rights. It is uncertain to what extent the freeholders were involved in 1657, but at that time Bartholomew Hesketh was told that his only claim to the common of Uplitherland was that of a 'charterer'.¹¹⁶ It is difficult to assess how keenly Alexander Hesketh had exercised his lordship, or to determine to what extent the events of the previous century were reflected in the Plumbe family's difficulties. The inhabitants must have been aware of them, and no doubt they continued to hope that eventually parish affairs would become completely independent of manorial ties. In 1725 an outsider won possession only after a protracted legal battle over his title.

The Molyneux family were at a low ebb. The freeholders did not fail to seize their opportunity.

The unusual structure of society in Aughton, and John Plumbe's further legal battles with the Heskeths were important components in the ensuing struggle for superiority. By the end of the eighteenth century changing social and economic conditions had increased the pressure on the common pasture at a time when manorial control was particularly weak. For both lords and freeholders the advantages of improvement were greater in the early years of the nineteenth century than they had been in 1726, and when the Enclosure Act was finally passed in 1813 the parliamentary enclosure movement was at its height. The history of the events which preceded the enclosure of Clieves Hills and Aughton Moss illustrates just how lengthy, painful and complex this process could be.

NOTES

- 1 J.A. Yelling, *Common Field and Enclosure in England 1450-1850* (1977), pp. 174-192.
- 2 Michael Turner, *English Parliamentary Enclosure* (Folkestone, 1980), pp. 79, 86.
- 3 Turner, *English Parl. Enc.*, p. 63.
- 4 The Plumbe family used several other terms for the owners of freehold land, for example landowners, charterers, inhabitants.
- 5 In Liverpool Central Libraries. The Plumbe-Tempest papers; all documents in this collection are hereafter cited simply as 920 PLU with the appropriate call number.
- 6 Edward Baines, *The History of the County Palatine and Duchy of Lancaster*, ed. James Croston, V (1893), p. 239.
- 7 920 PLU 2, Bartholomew Hesketh's memorandum 1645.
- 8 920 PLU A2.
- 9 R. Kay Gresswell and Richard Lawton, 'Merseyside', *British Landscape through Maps* (1964), p. 6. Geologically it forms part of the western end of the Skelmersdale platform.
- 10 *The Victoria History of the County of Lancaster*, ed. W. Farrar and J. Brownbill, (hereafter *VCH. Lancs.*), III (1907), pp. 292-9.
- 11 O.S. 6" (1845), sheet 83.
- 12 L(ancashire) R(ecord) O(ffice), PR 56; *Commonwealth Church Survey*, ed. Henry Fishwick (Record Society of Lancashire and Cheshire, I), 1878, p. 94.
- 13 920 PLU 12 'Heads and Proposals made for the Better enjoyment of the Commons and Wast grounds. . . .'
- 14 Grace Wyatt, 'Aughton 1541-1841' (unpub. Local History Diploma dissertation, Liverpool Univ. 1980) p.11.
- 15 *VCH. Lancs.* III, p. 294 n. 14.
- 16 920 PLU L.
- 17 920 PLU 10d. 'Briefe, Hesketh against Plumbe'.

- 18 920 PLU L.
 19 920 PLU 10d. 'Briefe, Hesketh against Plumbe'.
 20 920 PLU 36, 'Survey of Mr. Heskeths Estate in Aughton . . . 1718';
 920 PLU 40, 'Aughton Rents for 1741'; 920 PLU O, for example the
 lease agreement of James Fazakerley, 16 May 1732.
 21 For example 920 PLU O. The lease of the Locker Fields was
 purchased back by Plumbe and the estate added to Whimbrick Mill
 in February 1743. The miller was allowed £23 out of his rent to erect
 a new house, stabling and shippon.
 22 920 PLU 36, 'Estates in John Plumbe's possessions and from whom
 bought', 1741.
 23 For example 920 PLU B; 920.PLU I; 920 PLU O, John Hale.
 24 920 PLU 10d., 'Briefe, Hesketh against Plumbe'.
 25 920 PLU 10c, letter from Nash Mason, 6 Nov. 1735.
 26 920 PLU 30, letter from Thomas Starkie, 13 June 1736.
 27 920 PLU L.
 28 920 PLU 30.
 29 920 PLU 10d. letters from John Brownsword, 2 Oct. 1722, 23 Mar.
 1723, letter from Nash Mason, 6 Nov. 1735; 920 PLU 30, letter from
 Thomas Starkie, 29 May 1737.
 30 Public Record Office, MPC 24. This estate map, made about 1598,
 shows traces of open fields remaining near St. Michael's church.
 31 L.R.O. PR66, Aughton Tithe Award, 1848.
 32 G. Coultard Newstead, *Gleanings towards the Annals of Aughton*, (Liv-
 erpool, 1893), pp. 130-1.
 33 920 PLU 31.
 34 920 PLU 12, draft 'Articles of Agreement'.
 35 Ibid.
 36 920 PLU 16 'Plumbe contre Woosey et al', Bill filed 20 June 1731.
 37 920 PLU 31, 'Case', 1749.
 38 920 PLU 30, 'Deeds in Order to make out the Manor of Aughton',
 letter to Mr. Farnworth, 2 Mar. 1731.
 39 920 PLU 2, 'An Account of the Charge expended for the Lord
 Molyneux and John Plumbe Esq. . .'.
 40 920 PLU 30, 'Deeds in Order to make out the Manor of Aughton'.
 41 920 PLU 16, 'Plumbe contre Woosey et al', Bill filed 20 June 1731.
 42 920 PLU 2, 'An Account of the Charge expended for the Lord
 Molyneux and John Plumbe Esq. . .'.
 43 920 PLU 15, 'Case about the Leys of Aughton'; 'Briefe'; 920 PLU
 31, 'Briefe'.
 44 920 PLU 15, Letter to Mr. Parkinson, 6 Dec. 1742; L.R.O. PR 3019
 1/2.
 45 920 PLU 2, 'Mr. Plumbe Case as One of the Lords of the Mannor of
 Aughton'.
 46 920 PLU 2, 'An Account of the Charge expended for the Lord
 Molyneux and John Plumbe Esq. . .'.
 47 L.R.O. PR 56, Aughton Parish Constables' Accounts, 1737-1754.
 48 920 PLU 2, Wigan Quarter Sessions Order, 11 Oct. 1686.
 49 920 PLU 38, Aughton chief rent rolls, 1724-1760. Particularly bad
 years were 1726, 1733, 1735, 1744 and 1745.
 50 Ibid.
 51 920 PLU 31, 'Case'.
 52 920 PLU 31, letter from Thomas Starkie, 2 Apr. 1745; draft letter
 from John Plumbe undated; Richard Hodgkinson's note, 25 Jan.
 1751.

- 53 *VCH. Lancs.* III, p. 297.
- 54 920 PLU 31, 'Case'.
- 55 920 PLU 31, indemnification for John Marsh, 14 Aug. 1739.
- 56 920 PLU 31; 920 PLU 3.
- 57 920 PLU 12, 'Heads and Proposals made for the Better enjoyment of the Commons and Wast grounds. . . '.
- 58 920 PLU 12, letter from Alexander Radcliffe, 3 Apr. 1754.
- 59 920 PLU 3, message from John Plumbe, undated.
- 60 920 PLU 31, 'Articles of Agreement . . . for a Road to Bartons House over the Cart Plat', 1752.
- 61 920 PLU 3, letter from Andrew Goore, 11 Feb. 1752, and John Plumbe's note appended 27 Feb. 1752.
- 62 920 PLU 32, letter from William Plumbe, 20 June, 1759.
- 63 920 PLU 31, letter from Andrew Goore, 1 May 1756; 920 PLU 9, entry in John Plumbe's diary for 8 June 1756.
- 64 920 PLU 24, Lancaster Assizes 1815. 'Minutes of the case between John Plumbe Esq., plaintiff, and John Mawdesley Esq., The Rt. Hon. Edward Earl of Derby, and Sir Thomas Stanley Massey Stanley Bart. defendants'. Statement by the defendants' counsel.
- 65 *VCH. Lancs.* III, p. 295 n. 4.
- 66 920 PLU O, A deed of 1 Jan. 1786 describes Thomas Plumbe as 'late of Wavertree now of Nottingham'. In a lease of 1808 it is recorded that his son, John, lived at Tong Hall.
- 67 Baines, *Lancaster*, V, p. 267; L.R.O. WCW Peter Woosey of Ormskirk, gent. 8 June 1759.
- 68 920 PLU 12, 'Notes of the Proceedings at the Meetings on the Claims to the Manors of Aughton and Uplitherland on the 25-26 Feb. 1814 and 8-9 Aug. 1814'. evidence of John Mawdesley and Henry Spencer.
- 69 920 PLU 12, 'Notes of the Proceedings. . .', James Hale's evidence.
- 70 920 PLU 24, Lancaster Assizes 1815, James Hale's evidence.
- 71 920 PLU 32, letter from William Weston 19 Dec. 1783.
- 72 920 PLU 41.
- 73 920 PLU 2, letter from Aughton parish clerk, John McCausland, 9 Oct. 1784.
- 74 920 PLU 2, letter from John McCausland, 29 Sep. 1785.
- 75 920 PLU 2, note appended to Thomas Plumbe's nomination for 1785; letter from John McCausland, 2 Oct. 1785; 'John Websters Expenses in going to Wigan Sessions. . . '.
- 76 920 PLU 12, 'Notes of the Proceedings. . .', John Allen's evidence.
- 77 L.R.O. PR 63, entry in Vestry Minutes for May 22 1787.
- 78 *Ibid*; 920 PLU 24, Lancaster Assizes, Peter Barton's evidence.
- 79 920 PLU 12, 'Notes of the Proceedings. . .', Hugh Garrett's evidence; 920 PLU 24, Lancaster Assizes, James Sumner's evidence.
- 80 L.R.O. PR 59, for example the constables' accounts for 1789, 1795.
- 81 920 PLU 24, Lancaster Assizes, statement by Mr. Topping for the defendants and Peter Barton's evidence.
- 82 920 PLU 12, 'Notes of the Proceedings. . .', John Allen's evidence.
- 83 Wyatt, dissertation, pp. 10-11; T.W. Fletcher, 'The Agrarian Revolution in Arable Lancashire', *Transactions of the Lancashire and Cheshire Antiquarian Society*, CXXII (1962), pp. 94, 96, 103.
- 84 For example, L.R.O. WCW Thomas Moss 1722, and WCW Peter Pendlebury 1759.
- 85 920 PLU O, John Tatlock's lease agreement 1743.
- 86 920 PLU 32, letter to Mr. Rowe, 5 Feb. 1773; 920 PLU O, Henry

- Wharton's lease agreement 1 Jan. 1776.
- 87 For example L.R.O. DDM 21/57, George Green's lease agreement 27 Jan. 1791.
- 88 L.R.O. PR 66, Aughton Tithe Map and Award 1848.
- 89 Turner, *English Parl. Enc.*, p. 86.
- 90 J. Holt, *General View of the Agriculture of the County of Lancashire* (1795) pp. 21, 47, 102; J.J. Bagley, *A History of Lancashire with Maps and Pictures* (Henley-on-Thames, 1970), p. 53.
- 91 General Enclosure Act. 14 Geo III (1801).
- 92 L.R.O. DDM 21/34.
- 93 920 PLU 12, 'Opinion' J. Littledale 9 Oct. 1806.
- 94 L.R.O. PR 63, entries in Vestry Minutes for 5 Oct. 1809 and 7 June 1812.
- 95 H(ouse of) L(ords) R(ecord) O(ffice), 'An Act for inclosing Lands in the Township of Aughton', 53 Geo III; Turner, *English Parl. Enc.* p. 68.
- 96 920 PLU 12 'Notes of the Proceedings. . .', Mr. Mawdesley's evidence. John Mawdesley was probably a close relative of Peter Woosey. He is mentioned in Woosey's will, and in 1814 lived on one of his Aughton estates.
- 97 H.L.R.O., Aughton Enclosure Act. 1813.
- 98 920 PLU 12, 'Notes of the Proceedings. . .'.
99 920 PLU 24, Lancaster Assizes, counsel for John Plumbe.
- 100 Ibid. counsel for the freeholders.
101 Sir Simon Le Blanc.
- 102 L.R.O. AE, List of Enclosure Awards.
- 103 L.R.O. PR 66, Aughton Tithe Map and Award 1848.
- 104 L.R.O. DDK 290/11/1 'Aughton Enclosure Allotments to Earl of Derby'; 'Sketch of Lands in Aughton Allotted to the Rt. Hon. the Earl of Derby, 1819'.
- 105 920 PLU 36, 'An Account of land sold, being part of the Commons in Aughton'; H.L.R.O. Aughton Enclosure Act 1813.
- 106 Ibid.
- 107 920 PLU 33, letter from H. Culshaw 2 Sept 1823.
- 108 Ormskirk Library, H.O. 107-2196 Aughton Census 1851.
- 109 Ordnance Survey Geological Drift 1", sheet 84 Wigan.
- 110 920 PLU 3, letter from William Plumbe; 920 PLU 12, 'Notes of the proceedings. . .'.
111 920 PLU 30, letter from Thomas Starkie, 29 May 1737.
- 112 920 PLU 2 'Copy of Agreement and Leve to Mr. Gill to pull down the Inclosures of Scarisbrick Common', 8 Dec. 1748.
- 113 The Earl of Derby and Sir Thomas Stanley Massey Stanley.
- 114 Aughton manor had been divided into three by 1235. and many freehold estates were created when William Bradshaw 'dissipated his inheritance' in the mid-sixteenth century, *VCH. Lancs.* III, pp. 293, 295. Seventy-nine items for sixteenth century encroachment are listed in 920 PLU 3.
- 115 *VCH. Lancs.* III, p. 279; L.R.O. DRL 1/7 Bickerstaffe Tithe Award, 1847.
- 116 920 PLU 29 'witnesses to prove the bondrage by perambulation for the manor of Uplitherland with the partision betwixt Aughton and Uplitherland'.

ACKNOWLEDGEMENTS

This research was undertaken for a dissertation as part of a Diploma in Local History at the University of Liverpool, and I would particularly like to thank my tutor, Mr. Paul Booth, for his help and advice in the preparation of this paper. Special thanks are due also to Mrs. Janet Withersby, Mr. Reg. Coney, Mr. and Mrs. Barry Frodsham, Mr. and Mrs. Ian Forbes, Mrs. Cynthia Bush and the staff of the Lancashire and the Liverpool Record Offices.

