

**Legal Land Legacies of the Sixteenth and Seventeenth Centuries:
An Introduction to the Early Indentures Held at the
University of Victoria**

By Ken Streutker

Project in partial fulfillment of the requirement for the degree of
Master of Arts
University of Victoria
Department of English

8 August 2016

Committee Members:

Supervisor

Dr. Adrienne Williams Boyarin, Department of English

Department Member

Dr. Janelle Jenstad, Department of English

Outside Member

Dr. Hélène Cazes, Department of French

Table of Contents

Introduction	3
Written Records and Property Rights	4
Writs, Charters, Chirographs and Indentures	5
Land Holding Structure	8
Technical Notes On Indentures	14
Toponyms	17
The University of Victoria Indentures	19
People and Places	21
Relevance and Going Forward	22
Appendix of Archives	24
Bibliography	26

University of Victoria Indentures from the Sixteenth and Seventeenth Centuries

Introduction

The collection of documents held by the University of Victoria's Mearns Centre for Learning-McPherson Library Special Collections and University Archives includes, at present, ten items catalogued as "indentures." Dating from 1585 to 1792, these documents comprise records of land transfers between several individuals across different counties and townships in England. This project contextualizes, and creates new resources for the study of, the five catalogued indentures that were written in the sixteenth and seventeenth centuries (Ind.Eng.1, Ind.Eng.2, Ind.Eng.3, Ind.Eng.4, and Ind.Eng.5) and one other indenture currently catalogued less specifically as a "document" (Doc.Brown.5). These documents collectively provide insight into some of the economic and agricultural transactions taking place during the Early Modern period and a glimpse at the era's system of land ownership. The contents of the documents also allow us to build up information about the countryside, villages, and towns through spatial exploration guided by the toponyms found in these records. By this means, the documents will come to serve a greater purpose: when the spatial information is combined with research on the people whose names populate the documents, then a greater understanding of the lives of the people, the manner in which agriculture or land use developed, and how subsequent events such as famine, plague, and natural resources utilization influenced local and regional development. This project provides access to the contents of these indentures and serves as a foundational resource to facilitate further research.

This resource provides a general introduction to the origins and uses of these types of written records, a brief account of the history and development of indentures, a description of the

content structure of indentures, an overview of some of the most important legal terms found in the UVic documents, a summary of the land title structures in use in England during the period in question, and descriptions and full semi-diplomatic transcriptions of the UVic documents.

Written Records and Property Rights

Written records of property ownership can be traced back at least as far as the Anglo-Saxon period in England, yet how much documentation existed more than 1,000 years ago cannot be ascertained to any degree of certainty. The roughly 2,000 writs and charters still in existence from before 1066 cannot be used to indicate accurately how much or how little of the daily transactions was recorded.¹ As M.T. Clanchy notes, “the Anglo-Saxon vernacular writ. . . was the root from which later varieties of royal charters and letters grew, . . . [but] it seems unlikely that England was governed by a bureaucracy using documents in its routine procedures before 1066” (17). After the Norman Conquest, the number and variety of records kept grew dramatically, as did the ways in which land was distributed and held. Manors were granted to men loyal to William the Conqueror, and land distributed to those who offered services and allegiance. Many of these early grants were still not recorded in writing, depending instead on warrants by word of mouth and memory. In some cases, “the descendants of the Norman conquerors, particularly the earls, probably did believe in a right of conquest. Physical objects, especially knives, were kept as titles to property” (Clanchy 27). By the end of the twelfth

1

M.T. Clanchy, *From Memory to Written Record: England 1066-1307* (London: Edward Arnold, 1979), 14-15, notes that conjectures vary so widely that it is impossible to come to some sort of consensus. Various scholars argue for widespread literacy and destruction of large amounts of documents by the Norman invaders, while others hold that literacy in general was low during the Anglo-Saxon period. Clanchy remains the respected authority on the development of law and medieval documentary culture in the English middle ages, and I rely heavily on him for this background material.

century, however, “tenure by charter among the tenants-in-chief at least was beginning to be normal” (Clanchy 27). By the end of the thirteenth century, serfs and villeins used documents to record their rights and authority to transfer, acquire, or convey property. Based on documents found at Peterborough Abbey, Clanchy even goes so far as to calculate that by 1300, “it seems reasonable to conclude that at least hundreds of thousands, and perhaps millions, of peasants’ charters were made” (35). We need to look at this proliferation of charters and documents from two different perspectives: first, we should consider the forms or types of documents; and second, we must consider the land-holding system or structure that existed, and continued to exist well into the nineteenth century, so that we can understand the terminology and legal ownership structure of the indentures found in the University of Victoria collections.

Writs, Charters, Chirographs and Indentures

As English bureaucracy expanded and dependency on documents rose, specific forms of documentation were developed. The principal successors to the Anglo-Saxon writ were charters, chirographs, and indentures. The many extant records from the Anglo-Saxon period were, by and large, in a form that presented an order from a lord to one of his vassals to perform a certain duty. Such documents, called “writs,” were rarely recorded elsewhere (i.e., only a single document, with no copies, was made), and rarely contained information related to land holdings. “Charters,” the more common medieval form from the twelfth and fourteenth centuries, are what Clanchy describes as “public letter[s] issued by a donor recording a title to property” (64).²

2 The definitions given here of “Writ” (breve in Latin) and “Charter” (carta in Latin) are quite specific, whereas in the *Middle English Dictionary Online* “writ” is defined as something in writing, while “charter” is defined as a “written document signed and sealed and issued by some legal authority”. I have used the narrower definitions to clarify the difference between the use of the terms and the practices surrounding the creation and retention (or non) of such documents.

Numerous early charters were issued for lands donated to monasteries and other religious entities; however, the very nature of such charters left them open to easy forgery and falsification. As A.W.B. Simpson notes, “the security of conveyances executed by feoffment accompanied by charter was a continuous source of worry to landowners, for both theft of charters and forgery of them were common” (121). As with writs, the contents of the charters were rarely recorded elsewhere, and all charters describing donations were kept by the recipients of such donations. A further issue with charters was the level of detail in the description of a property being conveyed to the recipient. In most early charters, descriptions were rare; on some occasions physical features of a landscape known only to locals would be included to define a particular field, agricultural feature, or property, while “a later [medieval] charter describing the same property might be more specific” (Clanchy 64), sometimes mentioning its specific borders in relation to a road, or the boundary of a neighbouring field. Despite this development, however, the possibility of falsification was high with a single-copy document, and there was little opportunity for people to search historical records to find corresponding information or corroborative evidence, as there was little retention of official records of writs or charters outside the boundaries of the benefiting estate or monastery itself.

It was not until the late twelfth century that systematic recording of legal documents began, evidence of which luckily survives on a final concord dated 15 July 1195, which notes:

This is the first chirograph what was made in the king’s court in the form of three chirographs, according to the command of his lordship of Canterbury [Hubert Walter] and other barons of the king, to the end that by this form a record can be made to be passed to the treasurer to put in the treasury. (Qtd. and trans. in Clanchy 48)

The above-quoted instance is not necessarily the first time a document was ever copied out three times for the purpose of record keeping; what does appear to be new, however, is that the document was recorded with the intention of being archived in a state-sponsored archival system (in this case, the Exchequer, or treasury). Such “chirographs” meant a significant change in the way transactions were recorded. Initially completed in duplicate, with each party receiving a copy of the agreement—sometimes sealed by the other party—the process of creating chirographs in triplicate improved security and accountability. As the above example shows, recording, copying, and archiving a transaction anticipated and allowed for clarification or adjudication should questions arise about the intent or contents of an agreement. Chirographs also had another security feature not found in previous writs or charters: once an agreement had been written out in duplicate and before the parchment containing both copies was cut in two, the word “Chirographum”—from the Greek “chiro-” + “graph,” meaning “written by hand”—was set between the copies in large letters; the cut that separated the two copies of the agreement was made through this word. The authenticity of the parts could be ascertained when the pieces were brought together and the letters lined up properly. Although initially straight-line cuts were used, practice soon saw the cut made by “a wavy or indented line. . . [T]his practice grew so common in the later Middle Ages that chirographs became generally known as “indentures”” (Clanchy 66).

When triplicate procedure was used for governmental record keeping, as in the example from 1195 quoted above, the third part of the chirograph came to be known as the “feet of fines.”³ These feet of fines “remain in the public records [of the United Kingdom] in a series

3 The origins of the term “foot of fine” are Latinate. The chirograph served as a “final” accord or agreement. The word “fine” in this sense derives from Latin “finis” and French “fin” (the end). The ‘foot’ is the third part of the

from 1195 up to 1833, when the system, which had worked in much the same way for six hundred years, was finally abolished” (Simpson 123). By the sixteenth and seventeenth centuries, the inclusion of the word “chirograph” or other phrase along the indenture line was no longer customary, and only the curved or indented cut of the document remained; other security measures, such as the attachment of seals and the development of personal signatures, replaced the practice and were eventually considered more secure against forgery. It is necessary to note here, however, that indentures did not deal exclusively with the conveyance of land, but that the contents of these documents could include mortgage agreements, dowry settlements, land leases, or other forms of financial transactions or debt bonds. Indenture, then, should not be confused with a land title deed. As with charters and chirographs of the middle ages, a range of agreements could be produced by indenture.

Land Holding Structure

Indentures are the ultimate subject of this project. To understand them, we need a vocabulary for discussing the land-holding structure and tenurial system in existence in the Early Modern period. In the twenty-first century, there is little awareness of such structures. Certainly when watching period dramas such as *Downton Abbey*, viewers understand that land is owned by the Lord of the Manor,⁴ while the labourer must certainly be either an employee or someone who tends the land and pays a fee to the lord. But the structure is not so simple in reality. In

triplicate document: the bottom or ‘foot’ intended for archiving, hence “Foot of Fine,” or “Feet of Fines.” The terms should not be misunderstood to imply financial agreements or penalties. Clanchy, *From Memory to Written Record*, 68.

4 Aaron Rathborne, *The Surveyor in Foure Bookes* (London: W. Stansby for W. Burre, 1616), 176-7, describes a manor as an entity which “hath thereunto belonging messuages, lands, tenements, rents, services and hereditaments; wherof part are demesnes, being those aneintly and time out of minde, the lorde himselfe ever used, occupied and manured with the mannor house; the residue are freeholds, farmes and customarie or coppihold tenements.”

legal terms, as Simpson notes, “all land whatsoever is held, mediately or immediately, that is directly or indirectly, of the Crown” (1). This definition does not mean that the Crown owns all land,⁵ but rather that any landowner occupies that land by the leave of the crown.

The land holding structure that existed in England for nearly 1,000 years was largely the product of the Norman invasion. After the invasion, it was necessary for William I to ensure continued loyalty and reward those who fought alongside him. He secured their loyalty by “parcelling up the land of the country amongst his followers, who became his tenants for their land, holding by his grant” (Simpson 3). The process of parcelling up land did not include “any process of wholesale eviction” of the peasantry, but more likely a replacement of an Anglo-Saxon lord by a Norman lord (Simpson 4). For labourers, there was likely very little difference, as most were already either slaves, servants, or tenants of an Anglo-Saxon lord.⁶ Although some land may initially have been granted by William in exchange for military service from his lords, a large number of grants were made for other services rendered. Simpson estimates that, by 1086, there were probably about 1,500 tenants in chief.⁷ In a similar system, these new lords of estates or manors might then call on their tenants or labourers to provide services throughout the year in exchange for land tenure.

Tenure (the holding of land or property and the conditions under which it might be held, from which we get the word “tenant”) came in many different forms, from tenures requiring

5 A.W.B. Simpson, *A History of the Land Law* (Oxford: Clarendon, 1986), 47-48. Simpson describes how under the feudal system, the King was ultimately the lord of all tenants in the realm, and as such would have control over all land in the realm. Legally, however, lawyers had always rejected the idea that a lord ‘owned’ his land, and as such, even the king, the ultimate lord, did not ‘own’ the land.

6 Simpson, *A History of the Land Law*, 5, gives a short description of the likely land ownership situation that existed before the Norman conquest, noting, however, that very little is known “of the immediate effect of the Conquest on the Saxon peasantry.” He describes the system as parasitic in nature, with a new tenant in chief acquiring “the enjoyment of rights over land and services due from peasants.”

7 *Ibid.*, 4.

military service to those requiring personal servitude.⁸ The largest group of tenures came to be known as “socage.” Socage tenure covers all tenures that require a form of financial payment to the lord of the manor, and “by the middle of the fifteenth century the socage tenant usually owed a money rent, such rents being known as ‘quit rents’, for by paying the rent the tenant was quit of other service” (Simpson 12). The classification of the various forms of tenure was important, as the type dictated the fees to be paid annually. Although lands were granted by William I, for instance, the recipients did hold the land as “freehold”; they were, rather, “seised” of the land—that is, in legal possession of it by leave of the lord—hence the legal term “seisin.” Without a long discussion on how the concept of seisin changed and became more defined into our own era, the crucial point is that a person who had seisin of his or her land was the legal holder of that property, regardless of whether that person was in actual possession (living on) the property. Tenants could be in possession of a property through indentured tenure agreements, but did not necessarily live on or “own” the property in their possession.⁹

The term “fee,” where it appears in indentures related to land rights and transfers, does not mean a financial charge; it refers to the absolute holding of the tenant, “his fee or fief” (Simpson 49). Hence, when the term is found in one of the Victoria indentures transcribed later in this document (Ind.Eng.4, line 36), a long and complex agreement between John Sparrow and James Coker written in 1676, it does not mean that a fee has been imposed, but rather more simply that the land in lifetime “freehold” possession of Sparrow can be passed on by him through inheritance or by sale. Under the tenure system, land could be held for year terms or life

8 Simpson, *A History of the Land Law*, 10, gives as an example of personal service the “presenting [of] an embroidered glove for the sovereign’s right hand” by the Lord of the Manor of Worksop at the coronation of George VI in 1937.

9 Simpson, *A History of the Land Law*, 40-44. Further details and more in-depth discussion of the legal background and descriptions of seisin can be found in Simpson’s book, particularly the discussion on pages 40 – 44.

terms, much as land can be rented today for specific periods of time. Life terms could be passed on to heirs, as could land held in seisin. However, should holders of such land die without an heir, then the land reverted to the lord of the land, or to the person from whom the land was acquired in the first instance. Hence the occurrence of the formulaic worry over “reversion or reversions” in the indenture under discussion (line 22), as well as all others transcribed below.¹⁰

Over time, changes occurred in the way land was transferred, or allowed to be transferred, between different parties. In some instances, legal loopholes were exploited to effect ownership changes. With each change, the potential arose for new terminology to describe the manner in which the transfer was accomplished or how the new tenant should be viewed under the law. The numerous legal descriptions and terms make for confusing reading and create difficulty in understanding the underlying principles of land ownership or land rights. Simpson gives a helpful, more simple overview of the land ownership system when he notes that “freeholders are all tenants, so they *hold* the Manor of Dale (or whatever the property is called). Their interests are measured by time; they hold the manor *for* an estate in fee tail, or *for* life, or whatever, either *in possession*, or *in remainder*, or *in reversion*” (88). Herein lies the difficulty of conceptualizing and understanding earlier land holding systems: the land is not “owned”; it is held “for” or on behalf “of” a more powerful state entity. As Simpson puts it, “The tenurial system converted the villagers into tenants, and the theory of the law placed the freehold of most of the lands of the manor in the lord. Some of his tenants, it is true, will be freeholders, but the

10 Victoria, *Ind.Eng.2*, (1664) 119. *Ind.Eng.3*, (1676) 123. Several other examples of the use of “reversion and reversions” are found in other documents that form part of this project, including the following lines in the *Ind.Eng.2* document, an agreement between Conway and Machon, at Line 19 which reads: “enfeoffed and conveyed, or mentioned to be herein or hereby granted and conveyed with their and every of their rights members and appertences whatsoever and the reversions and remainders”; and in the *Ind.Eng.3* document, an agreement between Sparrow and Coker, at Line 23 which reads: “churchfield and the homfields being two parcells of pasture behind the stable and the reversion and reversions remainder and remainders of all and every the...”

majority hold unfreely in villeinage” (108).¹¹

In addition to land ownership rights, there were also rights of use for movables and buildings on the land: rights to use pasture for animals, right to use a path to travel from one field to another, rights to gather or move timber or compost, and other rights. Such rights, although rarely specified in the Victoria indentures transcribed below (except in the case of Ind.Eng.5, a lease agreement), are generally included in a contract under the terms “hereditaments” and “appurtenances.” Hereditaments generally covered common areas, grazing rights, and passage, while appurtenances covered more substantial rights, such as gathering turf, timber, or items associated with use and maintenance of structures. These hereditaments and appurtenances, and the manner in which land was held of the lords in general, eventually resulted in problems as populations grew and land became more scarce. Where tenants traditionally had access to “waste” land, for instance (land that did not fall under any formal tenure agreement and served as common space), such land became more valuable as populations grew; lords could attempt to convert it into tenable land, reducing shared space and affecting older tenure agreements that made allowance for it. In later years, particularly in the eighteenth century but already underway in the sixteenth, land enclosure encroached on, and in many cases usurped, waste lands to create larger fields or farms to be worked by fewer tenants or even one single tenant.¹²

One final point of vocabulary necessary to understanding the legal formulae in the Victoria indentures is the oft-found term “copyhold” or the phrase “copy of court roll.” Whereas in the immediate century after the Norman invasion a group of land tenants were described as

11 To hold land in villeinage is to hold land by copyhold instead of freehold. Copyhold is simply an agreement for the use of the land by a tenant for a specific contract term.

12 For an insight into the contemporary views and debates related to the pros and cons of enclosure, the collection of papers edited and published by Joan Thirsk and J.P. Cooper entitled *Seventeenth Century Economic Documents* (1972) serves as a good source.

“tenants in villeinage,” with the advent of more elaborate archival systems for land conveyances, this group gradually became “copyholders.” These holders of the land would be free men, but the property they held was not “freehold”; instead, their land was held in exchange for services or payment. Throughout the centuries following the Conquest, as the provision of services slowly disappeared and the rights of such tenants were increasingly recognized by the courts, there was also change in the form or the textual agreement by which tenants held lands. In processes of “alienation” (the return of land to the lord of the manor), the original requirements for service were quit, and new tenure agreements were drawn up. These new agreements were recorded in county courts, and a copy of each agreement was made for the tenant. The tenant’s copy became known as the “copyhold,” and an additional copy was archived in the county court rolls.

Widely different conditions existed under copyhold; not every tenant had copyhold for life or lives or could allow passage of agreements from father to son, for example. As Eric Kerridge notes in his book on agrarian problems in the sixteenth century, “In most lifehold manors reversions for one, two or three lives were allowed, and often even reversions on reversions” (36), but at each passing from one person to another a fee or surrender had to be paid to the lord of the manor before the inheritor could acquire the premises. In indentures from the fifteenth and sixteenth centuries, as well as in earlier land documents, the length of tenure would be described in the part of the indenture called the *habendum*—Latin “to be held,” in English the section that begins with the words “To Have and to hold.” In legal practice, the precise wording following this phrase is important, as lengths of tenures could be questioned in relation to the formula. Kerridge quotes from a 1618 publication, Norden’s *Surveiors Dialogue*:

Although the wordes *sibi et suis* [to him and his] and *sibi et heredibus* [to him and

heirs] in some mens construction be all one, I holde the difference great, for the first extends but unto a man and his issue at the moste, wher the seconde is infinite. In Watlington wher they holde onlie for 3 lives, whereof 2 to be named by the taker, not named in the copie, the habendum is *sibi et suis* and so the estate determines upon the death of the laste. And so no dowbte the intention of *sibi et suis* was that the estate shoulde determyne upon the death of the takers last childe and reverte into the lordes handes. (Quoted in Kerridge 36)

In the Victoria indenture between John Sparrow and James Coker below (Ind.Eng.4, lines 90-94), mention is made of the copyhold premises in possession of third parties, namely Timothy Carutt and Isaac Grandorge. These copyhold premises, as the agreement states, must be reverted back to the lord of Black Notley manor (Essex) in keeping with the customary rules of that manor. In an earlier Victoria indenture between Henry Churchey and William Wodley (Ind.Eng.1, written 1586, lines 15-18), the document clearly indicates that the property be passed on not only to the signatory to the agreement but also to the “heires,” and no mention is made of the property reverting to the lord of the manor. Further complications could arise when sub-tenants of tenants, or even sub-sub-tenants, entered, and the land structures of John Sparrow and his tenants (as evidenced in the related Victoria indentures Ind.Eng.3, Ind.Eng.4, and Ind.Eng.5) show how complex sub-agreements or worry over sub-agreements could be. Here too, however, tenures of lives or life could be agreed, and sub-letting agreements could be adjudicated by the court of the manor or county in events where the direct tenant of the lord had died.

Technical Notes On Indentures

As bureaucracy grew and legal matters became more numerous in the late medieval and

Early Modern periods, the sophistication of documents also increased. Whereas a writ may have consisted of a few sentences to order a specific task be completed, by the sixteenth and seventeenth centuries, the contents of many legal documents, including land indentures, had become formulaic and consisted of several distinct and identifiable sections. The Victoria indentures described and transcribed below follow a general format, and they consist of the following main sections, found in common with most other indentures of the same period:¹³

The Premises: This section includes a list of the parties to the agreement, an account of the previous ownership of the property conveyed, and a “testatum,” which notes that the document witnesses a transaction for or by which the agreement is undertaken.

The Operative Section: This section begins with the phrase “Witnesseth that,” followed by an explanation that the land is conveyed by one person to another; a “parcels clause” follows, describing the exact property to be conveyed, and then the “habendum” clause, mentioned above, which identifies the conditions under which the recipient may enjoy the benefit of the property, and a “redendum clause,” which stipulates what is to be paid or given in exchange for the property. Any special conditions of the transactions follow, as well as stipulations or limitations on the length of time or users of the property.

13 The information presented here on the structure of indentures is distilled from the following sources: Bouvier, John. *A Law Dictionary: Adapted to the Constitution and Laws of the United States of America, and of the Several States of the American Union: With References to the Civil and Other Systems of Foreign Law*. Philadelphia, G.W. Childs, 1870, and the Bedfordshire Archives and Record Office presentation found at: <http://www.bedfordshire.gov.uk/CommunityAndLiving/ArchivesAndRecordOffice/GuidesToCollections/HowToInterpretDeeds.aspx> Although crucial terms are outlined earlier in this paper, for a more extensive, detailed, and reliable glossary of relevant legal terms and their definitions, see the University of Nottingham Manuscripts and Special Collections glossary online: <https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deeds/glossary.aspx>

The Conclusion or Eschatocol: The “eschatocol” (the opposite of the “protocols” that open a document) recognizes the people present and how the agreement is legitimized (generally by signature and seal); it normally begins with the phrase “In Witness whereof.”

The dating systems in many earlier documents follow regnal calendars rather than the Julian calendar, giving the name of the monarch and the year within the reign. In the University of Victoria indentures, examples of dating solely by regnal year can be found at the beginning of the two earliest documents, Doc.Brown.5 and Ind.Eng.1, both of which note the year of the reign of Elizabeth I. In Ind.Eng.1, the agreement is made in the “eight and twentieth yeare of the raigne of our Soveraigne Lady Elizabeth” (28 Elizabeth 1), while Doc.Brown.5 is made in the “fowre and thirtieth yeare of the raigne of our Soveraigne Ladie Elizabeth” (34 Elizabeth I). Regnal years can be calculated in different manners, either by counting “from the date of the death of the predecessor or the coronation of the succeeding monarch” (Clemens and Graham 223). For English kings from the reign of Edward I and prior, they were often counted from the day of the beginning of the Exchequer year, which fell on Michaelmas (29 September). Should a ruler come to the throne before that date, the period leading up to Michaelmas would be counted as the first regnal year, regardless of the length of time the ruler had been in office. After Edward I, the coronation date was the most typical marking of the year-to-year reckoning, but a further difficulty in counting regnal years in relation to Christian years arises because the date of the legal start of the Christian year could fluctuate in the medieval and Early Modern periods as well. While in our modern era the first day of the year is set at 1 January, in England, throughout the periods of our documents, the beginning of the new year could also be reckoned from 25 December (Christmas) or from 25 March (the Annunciation). This calculation is especially important to dating Victoria’s Doc.Brown.5, because the date it was written—15 March in 34

Elizabeth 1—means that it was written in what we would now call March 1592, but, as becomes clear in the terms of the document, must be considered March 1591 to the makers of the indenture, who calculated the beginning of the next Christian year from 25 March and not from 1 January (see the transcription below, especially line 5, which refers to the following March when payment is due as 1592).

The reign of Charles II, and how the regnal years of that reign are handled in the indentures, is equally interesting. Although Charles II did not become king until 29 May 1660, which should mark his first regnal year, the first regnal year is calculated from 30 January 1649, the day on which his father was executed (i.e., the date of the death of his predecessor). The intervening years of the English Commonwealth (1649-1660), therefore, are not recognized in these documents. For this reason, the indenture dated 1664 (Ind.Eng.2, line 1), for example, is recorded as made in the “sixteenth yeare of the reign of our sovereign Lord king Charles the second,” though Charles II been in power for just over four years at the time of its writing.

Toponyms

Indentures in general, or rather land indentures, record agreements between parties to exchange or transfer the usage or ownership of a property between those parties. In the twenty-first century, such land transfer agreements might not necessarily include specific field names, nor even the names of nearby villages or towns, but simply geographic coordinates – latitudes and longitudes: clinically precise, imaginatively uninteresting and eventually, for historians of the future, uninformative. In documents from previous centuries, including the University of Victoria indentures, specific properties are mentioned by name, or in some instances, delineated by mention of specific geographic features such as rivers or roads, or by mention of names of

owners of fields that form one of the boundaries of the property in question. Although the indentures do not provide researchers with a detailed view of how people lived in the past – they serve only to record a legal agreement - the information contained within the indentures can be used to supplement information found in other sources to build up a more complete and in depth understanding of the past.

In particular, the place names and property names, as well as the family names, form important sources of information. Niclas Burenholt and Stephen Levinson note that “place names (toponyms) are one of the most conservative elements in a language,” and they often present a story all by themselves. The roots of the names can stretch back into history; in many instances, place names in England can be traced back to the Anglo-Saxon era and even beyond. In the short discussion on Victoria Ind.Eng. 1, an example of the origin of the name Redmarley - “clearing around the reedy pond” - is included. Although the pond no longer exists, according to the town’s official website, a few of the town’s elderly residents do remember the site of the pond. Lisa Radding and John Western, *What’s in a Name? Linguistics, Geography, and Toponyms* note that toponyms are “deeply entrenched in culture [and their] meaning stems from the cultures in which they are used” (400). By identifying the toponyms found within the indentures, and by performing research on the toponyms, the people, the parishes, and the events related to those places, more detailed descriptions of the villages and the lives of the people can be created. Ultimately, such in-depth research leads to a greater understanding of the significance of the places mentioned and the lives of the people involved.

Research on toponyms found in documents such as the Victoria indentures starts obviously with the place names and identifying their locations geographically. Macro-views will subsequently try to recreate the connection of such places with the surrounding world. Micro-

views will delve further into available local resources to extract information and add that information to a larger, more inclusive database. By correlating existing data from sources such as town and city records of public events, official documents, parish registers which record births, deaths and marriages, manor rolls or court rolls, manor steward records, local legal disputes or personal wills, a socio-geographic perspective can be constructed of the region or places in question. In the short discussions on the people mentioned in the Victoria indentures, parish records and manorial and local judicial records were used to establish connections between the people and to create a greater presence for them beyond the mentions in the indentures. People such as Sir Martin Frobisher and Sir William Cecil are people of national and international stature and easy to research, but researching the lives of the Henry Churchey's, the Elizabeth Machon's, and the John Sparrow's of the indenture documents is no less interesting, or less important. For researchers working to create a more detailed understanding of the early modern era, indentures offer not only a record of land transfers, but also a potential link to a more distant past and an opportunity to place the people and communities within the broader historical context of their work.

The University of Victoria Indentures

The Victoria indentures of the sixteenth and seventeenth centuries are representative of land transfer documents created throughout England during that time period. The manuscripts on parchment record in a formulaic manner the agreements reached between the parties to the agreements.¹⁴ The physical documents are secured by their indentations and the addition of wax

¹⁴ The indentures follow the format of such legal documents as described earlier in this paper where an overview of the main sections of land deed documents is given under "Technical Notes on Indentures" (pages 12-13).

seals to the documents to prevent forgeries. The manuscripts are in good condition, although some fading of text is occurring in Ind.Eng.4 and Ind.Eng.5, while frequent folding and unfolding has caused creases and subsequent loss of text in certain areas. The manuscripts are of varying sizes, although Ind.Eng.4 stands out for its large size and the insertion of a second, smaller, sheet of parchment to record all the details of the land transfer agreement. The manuscripts are all written in English Secretary hand, although a distinct difference can be seen between the more careful, and what might be called ‘courtly,’ hand of the Doc.Brown.5 manuscript and the much later Ind.Eng.4 document.

Doc.Brown.5 is a mortgage agreement between Sir Martin Frobisher and the Crown. The Victoria indenture is Frobisher’s copy of that agreement as the seal and signatures are those of Lord Burghley and John Fortescue. Ind.Eng.1 and Ind.Eng.2 are unrelated documents, but both deal with land transfers, with Ind.Eng.2 being of interest in that it concerns the deeding of land as part of a dowry. The three remaining manuscripts, Ind.Eng.3, 4, and 5, are related documents, as they record land transactions between the same parties at different intervals. The inter-relationship of the documents also means that their contents are more detailed and intricate due to the nature of English land ownership laws of the Early Modern era.¹⁵ To provide a clearer understanding of the documents and their relationships, the next section provides an overview of key people and places mentioned in each of the sixteenth – and seventeenth – century Victoria indentures.

15 A more detailed discussion on land ownership structure is given earlier in this paper under the title: Land Holding Structure, starting on page 6.

People and Places:

The more detailed descriptions of the documents found in the tables attached to the transcriptions list the names of the people mentioned within the documents as well as those people who were signatories or witnesses to the documents. This section of the paper, however, offers some basic information on some of the people mentioned. Information was gathered by



searching online through various parish registers as well as county records. The information here provides a starting point for further research. In the body of the paper, standard scholarly authority names for the people mentioned as can be found in resources such as the *Oxford Dictionary of National Biography*, have been used. For people lacking a scholarly authority name, their names have been normalized in such a way as to suggest a possible authority name.

The map shows the counties in England to which the documents are related. West and South Yorkshire are the site of properties mentioned in Victoria Doc.Brown.5 and Ind.Eng.2. Worcestershire is the site of the properties mentioned in Victoria Ind.Eng.1 although the Parish of Redmarley became part of Gloucestershire in 1931. The county of Essex is the site of the properties mentioned in the remaining three indentures, Victoria Ind.Eng. 3, 4, and 5.

Relevance and Going Forward

The study and transcription of documents such as the indentures held by the University of Victoria's Special Collections, diplomatics, paleography, codicology and more, are important. Modern academics and scholars bring to bear not only modern scientific methodologies and practices, but also modern methods of critical analysis and historical perspectives that enhance and expand the level of knowledge surrounding documents such as these. The data gleaned from these documents, such as toponyms, help to create a broader understanding of the lives and environment of the people who were the tenants of the properties mentioned in the documents, including their rights of ownership. These documents contain, if not directly then at least indirectly, information that can lead to better understanding of the land tenure system of Early Modern England; the legal aspects of such tenancies and how those legalities and the concern with language changed; structural data or 'meta' data that establishes the form and format or conventions of this genre of document; an opportunity to study the changes in the English language over a period of time; and historical content that can be combined with information from other sources to create more detailed descriptions of the land, villages, and lives, of the tenants. The information allows for the mapping of the landholdings of individuals, and expansion of research into other areas concerning the localities.

The documents show how legal concerns regarding land holding were addressed, and how the sophistication of such agreements developed over time. Where earlier Anglo-Saxon-era land deeds might describe a property as extending from a certain tree along the length of a path or canal and from there extending the length of several hundred paces, without the mention of any buildings or other attributes, the documents of several hundred years later are more precise,

at least in terms of details regarding usage and buildings as well as approximate sizes of fields.

From a paleography perspective, even the 100-year period covered by the documents shows a distinct change from the careful courthand of the Frobisher document to the more fluid hand of the agreement between Sparrow and Coker. Through careful study of these documents it is possible to trace the steps in the development of such documents over time they are compared to other, older documents, including the development of the language (it's normalization in terms of spelling and pronunciation) and the changes in scripts.

By providing careful semi-diplomatic transcriptions of the documents and doing some basic research on the contents, the final output of this project serves as an important resource for the library. Whereas online photographs of the documents might make them accessible to some scholars, the completed transcriptions will allow a wider audience to explore and study the contents of the documents. This is important for several reasons: with clear transcriptions, the physical condition of the actual parchments will deteriorate more slowly as there is less need for people to access the original document; the transcriptions of the contents, when hosted online with meta tagging, will make the documents searchable in a variety of ways, and as such allow linguists, historians, legal scholars, geneologists, and many others to retrieve data relevant to their research from the Victoria documents; the transcriptions will serve as a guideline for other junior scholars working with documents from the same era – it will allow them to do comparisons of letter-forms, spelling, and abbreviation conventions, among other things.

As more documents within the genre, or outside the genre, are made available online by other scholars around the world, more collaborative research will be possible, and potentially lead to new ideas or significant discoveries.

Appendix of Archives

Chelmsford, Essex Record Office

D/ABW/84/1/20 (Will of Mary Coker of Black Notley)

Chelmsford, Essex Record Office

D/DHt T194/5 (Copy of Court roll Black Notley - Surrender of Mary Coker and William Clopt on Admission of John Mayset s. of John Mayset, of Bocking Hall, gent. Related to property called Tripps)

Chelmsford, Essex Record Office

D/DHt T375 (Deed of Messuage called Tripps, land called Howsculls and Cadsoules Croft and two crofts called Long and Middle Crofts (6a.), Black Notley) 1666

Chelmsford, Essex Record Office

D/DHt T129/9A Agreement: John Sparrow, of Sible Hedingham, gent. (2)John Wade, of Halstead, gentleman (3)Samuel Sparrow, of Great Yeldham, gent., Concerning the debts of Margaret White, widow, mother, of John and Samuel Sparrow - 19 June 1666

Chelmsford, Essex Record Office

D/ABW 54/4 (Will of Edward Symonds of Black Notley - 1636)

Chelmsford, Essex Record Office

D/ABW 69/216 (Will of John White of Shalford - 1679)

Chelmsford, Essex Record Office

D/ABW 81/10 (Will of John White Senior of Shalford – 1711

Church of Jesus Christ of Latter-Day Saints. Utah, USA. "England Marriages, 1538–1973 ,"

database, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:NJNP-4VH> : 10 December 2014), John Wodlye and Elizabeth Holforde, 1546; citing Redmarley-D'Abitot, Worcester, England, reference 2:39MPT8J; FHL microfilm 918,804.

Church of Jesus Christ of Latter-Day Saints. Utah, USA. "England Births and Christenings,

1538-1975," database, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:NVRG-736> : 30 December 2014), Willyam Wodlye, 1545; citing Redmarley D"Abitot, Worcestershire, England, reference - 2:2GT6LMG; FHL microfilm 918,804.

Church of Jesus Christ of Latter-Day Saints. Utah, USA. "England Births and Christenings,

1538-1975," database, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:N1LJ-1QP> : 30 December 2014), William Wodlye, 1552; citing Redmarley D"Abitot, Worcestershire, England, reference - 2:2GT6P7H; FHL microfilm 918,804.

Church of Jesus Christ of Latter-Day Saints. Utah, USA. "England Births and Christenings,

1538-1975," database, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:NTCD-PJF> : 30 December 2014), Richard Conway, 05 Feb 1636; citing South Kirkby, York, England, reference it 1; FHL microfilm 1,542,263.

Church of Jesus Christ of Latter-Day Saints. Utah, USA. "England Births and Christenings,

1538-1975," database, *FamilySearch* (<https://familysearch.org/ark:/61903/1:1:J9TX-Y8W> :

30 December 2014), Elizabeth Machon, 12 Dec 1641; citing South Kirkby, York, England, reference it 1; FHL microfilm 1,542,263.

Forest of Dean, Family History Trust.

Record ID 256811 Register Reference : P265 IN 1/1 (Baptism of Alyce Churchey, daughter of Henry Churchey – 1571)

Forest of Dean, Family History Trust.

Record ID 60531 Register Reference : N/A (Marriage of Henrye Churchey to Margerie Pinnocke of Langdon – 1567)

Forest of Dean, Family History Trust.

Record ID 173532 Register Reference : P265 IN 1 / 1 (Death of John Barston - 1585)

Forest of Dean, Family History Trust.

Record ID 173548 Register Reference : P265 IN 1 / 1 (burial of Florice, son of John - 1586)

Forest of Dean, Family History Trust.

Record ID 174094 Register Reference : P265 IN 1/1 (burial of Richard Barston, son of John - 1628)

Forest of Dean, Family History Trust.

Record ID 256938 Register Reference : P265 IN 1/1 (Baptism of William Barston, son of John 1583)

Forest of Dean, Family History Trust.

Record ID 257048 Register Reference : P265 IN 1/1 (Baptism of John, son of John, 1590)

Forest of Dean, Family History Trust.

Record ID 5148 Register Reference : P125 IN 1/6 (Marriage of John Barston (likely John Sr., to Jone (last name unknown) 1560)

Forest of Dean, Family History Trust.

Record ID 11925 Register Reference : P125 IN 1/6 (Burial of Sibble, wife of John Wodley, 1596)

Forest of Dean, Family History Trust.

Record ID 173794 Register Reference : P265 IN 1/1 (Burial of Elyzabeth Barston, Widdow - 1602)

Kew, The National Archives

Prob/11/385 (Will of John Sparrow)

Prob/11/383 (Will of Isaac Grandorge)

Kew, National Archives: Reference E 178/1466, Nottinghamshire: Finningley Certificate of default made by Sir Martin Frobisher in a payment of 500L. Due to the Exchequer

Kew, National Archives: Reference E178/1411, Yorkshire: Whitwood Certificate that Sir Martin Frobisher had made default in a payment of 500L.

Trustees of Free UK Genealogy – record of marriage John Sparrow and Frances Sexton, 1655.

http://www.freereg.org.uk/search_records/55dc0f03f493fdde8002a4cc?search_id=578dcfe933045b3d020003d5

Bibliography

- Baston, K. Grudzien. "Sparrow, John (1615–1670), Translator and Lawyer." *Oxford Dictionary of National Biography*. Oxford: Oxford University Press, 2004-16. Web.
<http://www.oxforddnb.com.ezproxy.library.uvic.ca/view/article/26087>.
- Beal, Peter. *A Dictionary of English Manuscript Terminology 1450–2000*. Oxford: Oxford University Press, 2011. Web.
- Bedford Borough Council and Central Bedfordshire Council. *Archives and Records*. 2016. Web.
<http://www.bedfordshire.gov.uk/CommunityAndLiving/ArchivesAndRecordOffice/GuidesToCollections/TitleDeeds.aspx>.
- Bedford Borough Council and Central Bedfordshire Council. *Archives and Records*. 2016. Web.
<http://www.bedfordshire.gov.uk/CommunityAndLiving/ArchivesAndRecordOffice/GuidesToCollections/HowToInterpretDeeds.aspx>.
- Bouvier, John, and Daniel A. Gleason. *A Law Dictionary, Adapted to the Constitution and Laws of the United States of America, and of the Several States of the American Union: With References to the Civil and Other Systems of Foreign Law*. Philadelphia: G.W. Childs, 1870. Web. <https://archive.org/details/lawdictionaryada01bouvuoft>.
- Braintree Museum. *A Brief History of Braintree*. 2012. Web.
<http://www.braintreemuseum.co.uk/wp-content/uploads/2012/04/Brief-History-PDF.pdf>
- Brown, Michelle P. *A Guide to Western Historical Scripts from Antiquity to 1600*. Toronto: University of Toronto Press, 2002. Print.
- Burenhult, Niclas, and Stephen C. Levinson. "Language and Landscape: a Cross-Linguistic Perspective." *Language Sciences*. 30 (2008): 135-150. Print.
- Chelmsford, Essex County Council. Essex Record Office. <http://seax.essexcc.gov.uk/>
- Clanchy, M.T. *From Memory to Written Record: England 1066 – 1307*. London: Edward Arnold, 1979. Print
- Clemens, Raymond, and Timothy Graham. *Introduction to Manuscript Studies*. New York: Cornell University Press, 2007. Print
- Green, Richard F. *A Crisis of Truth: Literature and Law in Ricardian England*. Philadelphia: University of Pennsylvania Press, 1999. Print.
- Humphery-Smith, Cecil R. *The Phillimore Atlas and Index of Parish Registers*. Chichester: Phillimore, 1984. Print.
- Kerby-Fulton, Kathryn, Linda Olson, and Maidie Hilmo. *Opening up Middle English Manuscripts: Literary and Visual Approaches*. Ithaca: Cornell University Press. 2012. Print.
- Kerridge, Eric. *Agrarian Problems in the Sixteenth Century and After*. London: Allen & Unwin. 1969. Print.
- Lancashire, Ian. *Lexicons of Early Modern English*. Toronto: University of Toronto Press and

- University of Toronto Libraries, 2006. Web. <http://leme.library.utoronto.ca/>.
- Lyon, Bryce D. *From Fief to Indenture: The Transition from Feudal to Non-Feudal Contract in Western Europe*. Cambridge: Harvard University Press, 1957. Print.
- MacCaffrey, Wallace T. "Cecil, William, first Baron Burghley (1520/21–1598)." *Oxford Dictionary of National Biography*, Oxford University Press, 2004. Web. <http://www.oxforddnb.com/view/article/4983>.
- McDermott, James. "Frobisher, Sir Martin (1535?–1594)." *Oxford Dictionary of National Biography*, Oxford University Press, 2004. Web. <http://www.oxforddnb.com/view/article/10191>.
- Morgan, Kenneth O., ed. *The Oxford Illustrated History of Britain*. Oxford: Oxford University Press, 1984. Print.
- National Archives. *Finningley forfeiture*.
Web.<http://discovery.nationalarchives.gov.uk/details/r/C8091879>
- National Archives. *Whitwood forfeiture*.
<http://discovery.nationalarchives.gov.uk/details/r/C8091880>
- Norden, J. *The Surveyors Dialogue (1618) A Critical Edition*. Ed Mark Netzloff. New York: Routledge. 2016. Print.
- Ponomarev, A.L., ed. "Capelli, Andrea. *Dizionario di abbreviature Latini ed Italiani*. Milano, 1912. LXVIII, 529 p., ill." Moscow State University. Department of History. 2 April 2000. Web. <http://www.hist.msu.ru/Departments/Medieval/Cappelli/>.
- Radding, Lisa, and John Western. "What's in a Name? Linguistics, Geography, and Toponyms*." *Geographical Review*. 100.3 (2010): 394-412. Print.
- Rathborne, Aaron. *The Surveyor in Foure Bookes by Aaron Rathborne*. London: W. Stansby for W. Burre, 1616. STC 20748. Print.
- Ryle, G. *The Concept of Mind*. London: Hutchinson. 1949. Print.
- Ryle, Gilbert (1968). *The Thinking of Thoughts: What Is 'le Penseur' Doing?* University Lectures, (18) (The University of Saskatchewan). Web. University of Kent. The Centre for Social Anthropology and Computing.
http://lucy.ukc.ac.uk/csacsia/vol14/papers/ryle_1.html
- Stevenson, Angus. *Oxford Dictionary of English*. Oxford: Oxford University Press, 2010. Print.
- Thirsk, Joan, and J.P Cooper, eds. *Seventeenth-Century Economic Documents*. Oxford: Clarendon, 1972. Print.
- Simpson, A.W.B. *A History of the Land Law*. 2nd Ed. Oxford: Clarendon, 1986. Print.
- Smith, A H. *The Place-Names of Gloucestershire*. Cambridge: Cambridge University Press, 1964. Print.
- University of Cambridge. Scriptorium. *Medieval and Early Modern Manuscripts Online*. Faculty of English. 2006-2009. Web.
<http://SCRIPTORIUM.english.cam.ac.uk/handwriting/materials/alphabets/>
- University of Cambridge. Scriptorium. *Basic Conventions for Transcription*. Medieval and Early

- Modern Manuscripts Online. Faculty of English. 2006-2009. Web.
<http://SCRIPTORIUM.english.cam.ac.uk/handwriting/materials/conventions/>
- University of Michigan. *Middle English Dictionary*. Chief Ed. Frances McSparran. 24 April 2013. Web. <http://quod.lib.umich.edu/m/med/>
- University of Nottingham. Manuscripts and Special Collections. *Introduction to Deeds*. Nottingham. 2016. Web.
<https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deeds/introduction.aspx>
- University of Nottingham. Manuscripts and Special Collections. *Introduction to Deeds In Depth*. Nottingham. 2016. Web.
<https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deedsindepth/introduction.aspx>
- University of Nottingham. Manuscripts and Special Collections. *Table of Deeds and Documents*. Nottingham. 2016. Web.
<https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deedsindepth/table.aspx>
- University of Nottingham. Manuscripts and Special Collections. *Identification Flowchart*. Nottingham. 2016. Web.
<https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deedsindepth/flowchart.aspx>
- University of Nottingham. Manuscripts and Special Collections. *Glossary*. Nottingham. 2016. Web.
<https://www.nottingham.ac.uk/manuscriptsandspecialcollections/researchguidance/deedsindepth/glossary.aspx>
- University of Oxford. Bodleian Libraries. *Paleography Tutorial and Exercises*. Oxford: Oxford University Press. 2016. Web. <http://rycote.bodleian.ox.ac.uk/palaeography-introduction>
- Worcestershire Archive and Archaeology Service. Parish Registers at Worcestershire Archives. http://www.worcesterbmsggh.co.uk/parish/redmarley-dabito#parish_registers
- Worcester, England (Diocese). Consistory Court; Fry, Edw. Alex. (Edward Alexander). *Calendar of wills and administrations in the Consistory Court of the Bishop of Worcester, 1451-[1652] Also marriage licenses and sequestrations now deposited in the Probate Registry at Worcester*. <https://archive.org/details/calendarofwillsa40worc>