

# Warburton References in the Halmote Records of Tottington Manor

The Halmote was a Court held by the Lord of the Manor, usually in his Hall. The name has Saxon origins. The Court combined the functions of a Court Leet in matters affecting the general populace, and Court Baron which dealt with the affairs of the Lord and his estates.

The Manor of Tottington was large, stretching from Musbury and Cowpe in the north to Affetside in the west and Walshaw in the South West (Wikipedia). Thus it encompasses Edenfield where the Edenfield clan originates. In turn Tottington Manor was just part of The Honour of Clitheroe which was based on Clitheroe Castle.

The Edenfield Clan was built from inputs from various people and essentially begins in 1559 when Thomas Warburton was still living, his son Francis was deceased, and his grandson Thomas was living. These dates are matched by an entry in the Halmote, but these are not the first references to Warburton (usually spelt Warburton) in the Halmote records.

A number of the records refer to certain persons being granted use of certain land. In 1554 there is reference to a message and land being surrendered by Adam Rothwell to 4 persons (including Francis Warburton) as feoffees to the use of Peter Rothwell for 20 years after the death of Adam's father. This seems to be an example of a practise of using trustees to bypass obligations to the Lord of the Manor. Wikipedia describes the practise as follows:

*The practice of enfeoffing feoffees with fees, that is to say of granting legal [possession of] one's land-holdings ("holdings" as only the king himself "owned" land..) to a group of trusted friends or relatives or other allies whilst retaining use of the lands, began to be widespread by about 1375. The purpose of such an action was two-fold:*

- 1. Akin to modern tax avoidance, it was a legal loop-hole to avoid the suffering of the customary feudal incidents, namely the payment of feudal relief on an inheritance, the temporary loss of control of a fiefdom through wardship where the landholder was under the age of majority of 21, and the forcible marriage of a young heiress. Nor could the land-holding escheat, that is to say revert permanently to the overlord, as was customary where the land-holder died without a legal heir. When the fiefdom was held by a group of feoffees, the death of the beneficial holder was legally irrelevant to its continued holding by them. They simply allowed the lands to continue to be used by the deceased's heir. The feoffees were "an undying corporation which never suffered a minority and could not be given in marriage". The feudal overlord, the king himself if the land was held in-chief, was not entitled to exact feudal relief from the new beneficiary nor was he entitled to seize control of the lands and their revenues until such heir was of full-age, nor was he entitled to sell the heiress in marriage or to marry her to one of his own sons. This had a considerably deleterious effect on the royal finances, which state of affairs was rectified by the aggressive and imaginative new fiscal measures taken by King Henry VII after his accession in 1485.*
- 2. The land-holder was able effectively to bequeath his land to whomsoever he wished, and was no longer bound by the custom of primogeniture where the eldest son alone had the right, on payment of the appropriate feudal relief, to inherit, that is to demand to be re-enfeoffed with his father's land-holdings by his father's overlord.*

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*The effect was that on a man's death he appeared to hold little or no land, whilst in reality he had full use of it and of the revenues derived from it. If he was thought by the county escheator to have been a tenant-in-chief, a jury for an Inquisition post mortem would be convened to enquire into what manors he held from the king and who was his legal heir. Frequently the verdict of such inquisitions even in the case of the decease of the most influential men of the county, was "he holds no lands of the king in this county". Such reports can be a major source of confusion to the modern historian or biographer who is unaware of the operation of feoffees to uses. As McFarlane summarised "it can make a great landowner (sic) appear to die a landless man".*

The 1554 reference seems to demonstrate this process in action. A number of the other references in the Court Rolls are more cryptic but seem to be references to the same situation.

The Court Rolls of Clitheroe include the records of the various courts within the Honor. Whilst there are some records as early as 1377 the majority are from the 16th century, up to 1567. The records for the Tottington manor cover the period 1504 to 1567.

The Warburton references in the Rolls are as follows (note although a variety of spellings are used I have converted them all to Warburton):

1. The earliest Warburton reference are in lists of tenants of the Honor dated 1443. Here a Thomas Warburton is included in a list of tenants of Tottington, and a John Warburton in the list for Haslingden.
2. No further information is available until 1513 when a Thomas is mentioned as having use (along with 3 others) of land in Tottington and common pasture in Alden. I believe this is the first example of Thomas in the role of trustee to allow continued use of the land by the tenant's descendants. The majority of references to holdings in Tottington seem to include common pasture, and in some cases land in Alden. The only references to Alden I can find in Google Maps are to a valley near Edenfield.
3. 1515 Thomas is made a Constable of Tottington. There is also talk of prospecting for a straight road from Holcombe to Durden. This is probably modern Dearden, and there is Dearden Brook, Dearden Moor and Dearden Clough in Edenfield, and Deardengate in Haslingden. The prospecting includes looking at the route to Thomas's house, and a road from Holcombe to Edenfield must pass close to Stubbins, which is south of Edenfield. Therefore it is likely the reference to Thomas's house is a reference to Stubbins Hall..
4. In 1516 there is a further transaction in which Thomas is a trustee.
5. In 1523 Thomas is appointed affairor of the court, though I can't find what that is.
6. In 1525 and again in 1527 a Thomas is fined 12d (12 old pennies) though it isn't clear what his offences were.
7. In 1526 there is reference to a George Warburton in a plea of trespass, obstructing the footpath to Holcombe Chapel. It is possible this is Thomas's son, but as he is probably older than Francis, Thomas's heir, he is more likely a brother. There is also another transaction in which Thomas is a trustee.
8. 1527 George was fined 4d for cutting hollies in Dearden and Alden.
9. In 1527 and 1549 there are the only mentions of Thomas in a court other than Tottington. These are at Haslingden where Thomas becomes a trustee in 1527. In 1549 the trustees surrendered the land back to the tenant.

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10. In 1529 Geoffrey Warburton was elected a moor looker.
11. In 1530 Thomas Warburton is one of several men delivering 3 messuages and 30 acres in Tottington with common and appurtenances in Alden to the greave to be surrendered for the use of another group of men. I interpret this as one group of trustees handing over to another group. He was also sued, with one other for 26s 8d debt for the salary of the chapel of Holcombe. This suggests he held some position at the church.
12. In 1533 a messuage and 19 acres in Tottington, called Gilbert with common pasture and appurtenances in Alden was surrendered to the use of Francis Warburton, son of Thomas Warburton.
13. In 1539 there is a complicated arrangement relating to a messuage called Redeleghes occupied by George Warburton, a close of land called Flat Field occupied by Thomas Warburton, and 2 closes called Overcroft and Nethercroft occupied by George Warburton, all in Redeleghes. The total was 30 acres, value 40s per annum, beyond reprises. It included common pasture in Tottington and part of the lands in Alden. Thomas Warburton, gent. had delivered this to Thomas Nuttoo Greave of Tottington to be surrendered to the use of 4 men under a pair of indentures made between Thomas Warburton and James Shay on 12 June 1539. There is mention of 20s per annum rent, a fine of 10s and the Greave and Thomas Warburton were found sureties. Fines were not punishments in this case but fees for setting up an arrangement. This is the first case of Thomas and his family entering an arrangement to enfeoff their own land to avoid obligations.
14. In 1540 there was another complex arrangement concerning a messuage called Ramysbothom and Dickefield (30 acres), a messuage in Tottington called Carr House with common in Alden, and a half messuage (11.5 acres) called Redyscher. Again there is an indenture dated 24th March 1540 between Thomas Warburton and Richard Ramysbothom in which Thomas (a trustee) appears to be granted income from the land to pay an earlier debt. However the curiosity here is that Thomas is "of the Little Clegge in the Town of Butterworth, gentleman". Butterworth is near Rochdale. A footnote to the British History Online entry for Butterworth says "Thomas Warburton the elder, Ellen his wife, and Thomas his son, made settlements of an estate in Butterworth in 1558; Thomas Warburton, who died in 1634 at Stubbins, held messuages in Little Clegg, Hollinworth, and Butterworth".
15. In 1542 Thomas was sued for 23s 8d by the chaplain. I presume this means he hasn't paid his wages (again). Also has the salary gone down? On the previous occasion in 1530 it was 26s 8d.
16. In 1543 a Thomas Warburton was fined 20d for making a fray upon John Shipplebotham who was fined the same amount.
17. In 1550 George, executor of a will is subject of a plea for a debt against him.
18. In 1552 Francis Warburton was elected an appraiser to the court.
19. In 1553 Thomas Warburton was among several who were "forbade fine" by right of their inheritance when Atenfield Chapel was taken from the King for the use of William Kenyon and his heirs. Again I think they would be acting as trustees for William Kenyon, and were excused paying a fine for this transaction. Forbade fine means excused the fine in this case, but in other contexts it refers to a potential recipient of a fine foregoing it.

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20. In 1554 Francis Warburton was a feoffee (trustee) of Birwode lee (6 acres with common of pasture and a part of land in Alden) which was tenanted by the Rothewell family. Also there is reference to Agnes Warburton, now wife of Thomas Warburton, late wife of Peter Rothwell who forbade fine for her dower.
21. In 1554 Francis and George Warburton make an oath that a defendant in a plea of debt does owe the whole amount (9 shillings).
22. In 1555 Thomas Warburton complained against George Batersby in plea of debt (19s). Francis was a trustee in the transfer of use following the death of a tenant. Thomas was also in a dispute about a tree and fined 3d.
23. In 1556 Francis, son and heir apparent of Thomas is a trustee in land given to the use of Elizabeth, wife of Robert Chadwick, for her life.
24. In 1558 Thomas Warburton of Little Clegg, gent. surrendered Strongstiddle (30 acres in Tottington with part of land in Alden) to his son Robert Warburton and his assigns for 59 years. He also surrenders (Buckden, Calfe Hey, and the Loone (16 acres in Tottington and a part of land in Alden) to the use of James Warburton and his assigns for 39 years. George Warburton forbade fine for the whole of the premises for his life, and for his wife's life, and Thomas Warburton junior forbade fine for certain covenants. Thomas Warburton also claimed a debt of 6s 8d against the widow of John Bride, who was also fined 3d.
25. In 1559 Thomas Warburton of Little Clegg, gent. surrendered Stubbins Hall and various lands (16 acres) in Tottington to trustees for the use of his wife Alice for her life. Ann Warburton widow of Francis forbade fine for 14 years. Thomas also surrendered 2 messuages and 32 acres to the use of Thomas Warburton son of Francis, deceased, and his heirs. George Warburton was complained against for a debt of 6s 2d but the plaintiff did not prosecute and was fined 3d.
26. In 1559 George Warburton was elected a constable.
27. In 1563 James and Thomas Warburton are jurors.
28. The Tottington Rental of 1662 has the following entries, plus John Warburton of Stubbings was the first name on the list of homagers of the court who swore oath to the return:
  - I) John Warburton of Stubbings, etc £2 0s 71/2d ancient rent plus £1 17s 111/2d for commons, encroachments, new improvements and Alden rents. There are only two higher rents in the manor.
  - II) John Warburton of Birchley 9s 5d, and 3s 6d.
  - III) John Warburton of Holcomhey 7s 3d, and 5s 9d.
  - IV) Thomas Warburton of Little Holcombe 10s 0d, and 8s 3d.
  - V) The trustees of Thomas Warburtons land on Affitside 0d, and 8s 0d.
  - VI) John Warburton of Holcombe hey senior 0d, and 6d.
  - VII) John Warburton for Copthorne Springs 10d, and 8d.

## Genealogical Details

The following characters are listed in the index to the 3rd volume:

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1. Agnes wife of Thomas, previously married to Peter Rothwell who died leaving a son and heir. The marriage was circa 1554 so probably at least a second marriage.
2. Alice wife of Thomas (of Little Clegg). In 1559 Thomas gave her use of Stubbins Hall for life. It would seem she is likely a third wife.
3. Ann is referred to as the widow of Francis in January 1559.
4. Francis is last mentioned in May 1556 as the son and heir of Thomas. He is first mentioned, and given use of land, in 1533, meaning he must have been an adult by then.
5. Geoffrey is mentioned just once, in 1529 when he is elected moor looker.
6. George is first mentioned in 1526 in reference to blocking the footpath to Holcombe chapel. There are several mentions, sometimes relating to debts, but he is mentioned in the same transaction as both Thomas and Francis. It is likely he was a brother of Thomas, as he seems older than Francis, Thomas's son and heir. He would seem old to be made constable in 1559 so this maybe a younger, later George.
7. James is mentioned as being given used of land by Thomas of Little Clegg, at the same time (1558) that Robert is also. Robert is referred to as Thomas's son. James is not so mentioned but possibly is also a son.
8. Robert (see James).
9. Thomas. There are numerous mentions of Thomas, starting in 1513. In 1515 he is made a constable. This would suggest he is in his 20s by this time, and probably older as his son Francis is given use of land in 1533, suggesting he was an adult by then. Probably the latest date for his birth would be 1490. He seems to have been the tenant of various lands in Tottington, including Stubbins Hall, as well as lands, including Little Clegg in Butterworth, near Rochdale. Leaving use of Stubbins Hall to Alice (probably his 3rd wife) probably suggests he expects her to outlive him. He would be at least 70 years old, and as a third wife she could be a good bit younger.
10. Thomas, son of Francis is first mentioned in 1559. He is also the Thomas mentioned in a footnote to the Butterworth entry on British History Online where he is described thus: *"Thomas Warburton the elder, Ellen his wife, and Thomas his son, made settlements of an estate in Butterworth in 1558; Thomas Warburton, who died in 1634 at Stubbins, held messuages in Little Clegg, Hollinworth, and Butterworth; Duchy of Lancashire.*

## Background

Warburtons seem to have been present in this part of Lancashire at an early date. The 1442 list of tenants includes a Thomas in Tottington, and a John in Haslingden. Tottington is in Bury parish.

Although parish records for Haslingden, St James go back to 1603, only marriages are on LOPC or Ancestry before the 1680s. However although there are two early Warburton marriages there is no evidence of sustained Warburton presence until the late 17th century. Bury, St. Mary is a different story with regular Warburton entries from the 1590s onwards from all over the parish. There is a similar story at Rochdale, St Chad which includes Butterworth. Therefore although the Tottington Warburton entries are probably from one family they are by no means the only Warburton family in the area.

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### Conclusion

The Thomas Warburton who first appears in the Court Rolls in 1513 is probably descended from the Thomas who is a tenant in 1442. He was born around 1490, or a little before. He was a pillar of the community being a constable in 1515, a frequent trustee in en feoffments, closely involved in Holcombe Chapel, and tenant of properties including Stubbins Hall, Strongstiddle, Redfeleghes, and Buckden. Also by 1540 he held Little Clegg in Butterworth and seems to be living there.

Two wives of Thomas are mentioned, but since the first, Agnes was fairly recent in 1556, and previously a widow, it would seem they came after the mother of his children.

Thomas's contemporary George was also a tenant in Tottington, and probably Thomas's brother.

His sons included Francis, Robert, and probably James. Francis was married to Ann but died between 1556 and 1559. He would have been born around 1510.

Thomas son of Francis was an adult in 1559. The reference on the British History Online website says he made settlements of an estate in Butterworth in 1558. However he did not die until 1634 at Stubbins so ca only have been a very young adult in 1558. I suspect the settlement in Butterworth was actually made by his grandfather. Even so there is a strong suspicion that the Thomas who died in 1834 was the grandson of Francis.