

A Seventeenth-Century Land Indenture Issued in Buckinghamshire

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1. Introduction

This paper reports a close examination of the lower half of a bipartite land indenture, a legal document combining two types of documents called 'bagain and sale' and 'feoffment', made in Buckinghamshire in 1662. It witnesses to the assignment of four acres of arable land in Colebrooke¹⁾ field in Horton from Thomas Bulstrode of Horton, esquire, to John Slocombe of Colebrooke in Horton, mercer, for fifty pounds. According to the deed, the cession of the land was to be completed by the alienor within five years from the date when this indenture was made, 31st May 1662. This lower half of the indenture seems to have been originally retained by Thomas Bulstrode because his name is written on the folded-up bottom edge of the document. The document is written on a parchment measuring approximately 670 mm wide by 380 mm high at its highest part of the undulating cutting edge on the upper part. The document is ruled with approximately 57 mm left margin though there is no right margin, and the text is written in 42 lines. The attached circular seal measures 30 mm by 35 mm. It is covered with paper and hung from the document by using the method called *sur double queue*, a method to seal on a double parchment strip passing through the slits in the folded part of the document.

This indenture was included in the library of the late Kaisaku Kumagai (born 29th June 1920 in Gifu, died 17th February 1990 in Kyoto), legal historian, professor emeritus of Osaka University. His family commissioned Professor Tatsuo Yabe, who is a professor of the Faculty of Law, Hiroshima Shudo University, the work of bequeathing his collection to Hiroshima Shudo University Library. It is by this means that the author has had the

1) Colebrooke has more frequently been spelled as Colnbrook.

opportunity to transcribe the indenture.²⁾ Details such as when and where the late Professor Kumagai obtained this document have not yet been ascertained. It is probable that he purchased the indenture abroad, but it is also possible that he received this document from his father-in-law, Yukitoki Takigawa, who was professor of the Faculty of Law, Kyoto University, and also once acted as the president of the university.³⁾ At present, however, the background of Professor Kumagai's acquisition of this indenture is totally unknown.

The rest of this paper is tripartite. In the following section (Section 2), the sentences of the document are transcribed. Section 3 contains discussions about the content of the deed and persons whose names are in this document with statuses such as the alienator, alienee and witness. These individuals shall be correlated with information in other historical documents. The final section consists of concluding remarks.

2. A Transcription of the Indenture

2.1 The Front Side of the Document

A transcription of the front side of the document follows.⁴⁾

This Indenture made the one and Thirtieth day of May xx⁵⁾ in the Foureteenth year of the Raigne of our Sovereigne Lord Charles the Second by the Grace | of God of England Scotland France and Ireland kinge

2) See *Osaka Law Review (Handai Hōgaku)* (Mar. 1985) Nos. 133–134, pp. 503–509, for Professor Kumagai's biographical information and research achievements. As the indenture is in transition to Hiroshima Shudo University Library and has not yet been archived, no call number has been assigned.

3) This information was provided by Professor Tsuneo Yabe, Hiroshima Shudo University.

4) The transcriber's expansions are italicized. Line-breaks are shown with a vertical stroke (|) and uncertain letters with a dot below (ẋ). Interlinear insertions are marked by carets (^ ^). Emphasized words are shown in bold and the double hyphen (=) is used because two parallel hyphens are used for hyphenation in the document. Word-initial double *f* (*ff*) is transcribed as capital F.

5) There are two x-like symbols here.

Defendor of the Faith &c⁶⁾ **Betweene** Thomas Bulstrode of Horton in the Countie of Bucks *Esquire* of the one parte And Iohn | Slocombe of Colebrooke in Horton aforesaid Mercer of the other parte **Witnesseth** That the said Thomas Bulstrode for and in consideracon of the sume of Fifty pounds Lawfull | money of England to him in hand paid by the said Iohn Slocombe at or before th'ensealing heereof the Receipt whereof the said Thomas Bulstrode doth acknowledge by these pre-|sents And thereof and of every parte thereof acquitte and discharge the said Iohn Slocombe his heires executors and administrators by these *presents* Hath Granted bargained | sold alyened enffeffed and confirmed And by these *presents* doth grante bargain selle Alyen enffeffe and confirme vnto the said Iohn Slocombe All those his Foure | Acres of Land Arable lying and being in Colebrooke feild in Horton aforesaid by the lande late of Iohn Peters of Horton aforesaid th'elder *Gentleman* on the South parte | the Lande of M^r⁷⁾ Lee in the occupacon of Iohn Helperbie of Horton aforesaid Farmer on the North parte And the house late of the said Iohn Peters nowe in the | Tenure of Mary Peters late wife of the said Iohn on the west parte Together with all wayes easements Comons Comon of pasture profitts Comodityes hereditaments | and appurtnantes whatsoever vnto the said Foure Acres of Arable Lande in any wise belonging or appertayning or therewith heeretofore vsed occupied or | enjoyed as parte parcell or Member of the same And alsoe all Evidences writings escripts and Muniments touching land concerning the said Foure Acres of Arable | Lande singly And True Coppies of all other Evidences and writings concerning the *premisses* Ioinctly with any other lands the same to bee coppied out at the | Costs and charges of the said Iohn Slocombe his heires and Assignes And the Revercon and revercons Remynder and remaynders of the *premisses* And alsoe all his the said Thomas | Bulstrodes estate right Tytle Interest property clayme and demand whatsoever of in and vnto the same or any parte thereof **To have and To hold** the said Foure | Acres of Arable Lande with their and every of their appurtnances vnto the said Iohn Slocombe and To his heires and Assignes for ever To and for the only vse & behoofe | of the said Iohn Slocombe and of his heires and assignes

6) This abbreviation stands for 'etc'.

7) 'M:' is written on the line and 'r' is written above the ':' as a superscript.

for ever **And** the said Thomas Bulstrode for himselfe his heires execu^{rs}⁸⁾ administrators and Assignes doth Cove-|nante and Grante to and with the said Iohn Slocombe his heires and assignes by these *pr*esents That hee the said Thomas Bulstrode for and notwithstanding any Acte or thing done to | the Contrary hath full power and good right and perfect and Lawfull Authority to Grante alyen bargain selle & assure the said Foure acres of Lande with their Appurⁿants vnto the | said Iohn Slocombe his heires and assignes in manner & forme aforesaid And alsoe that the said Foure Acres of Lande with their appurⁿants by these presents bargained and sold | now remayne and bee and from tyme to tyme heereafter shall Remayne Contynue and bee vnto the said Iohn Slocombe his heires & assignes for ever clearly acquitted discharged | or otherwise sufficiently saved harmesse and indemnified by the said Thomas Bulstrode his heires executors and administrators of and from all former or other bargaines | sales guifts grants Wills Entayles Dowers Ioinctures Statutes Iudgements executions Fines vses Charges and Incumbrances whatsoever heeretofore had made done or suffred by the | said Thomas Bulstrode or his assignes or by any other person or persons whatsoever lawfully clayming by from or vnder him or by virtue of his right Title Estate or Interest therein | or by his Acte consent meanes or procurements The Rente and services due to the Cheife Lord or Lords of the Fee or Fees of the *pr*emisses onely excepted and foreprised/⁹⁾ **And** the | said Thomas Bulstrode for himselfe his heires executors administrators and assignes doth Further Covenante promise and agree to and with the said Iohn Slocombe his heires and | assignes by these *pr*esents That hee the said Thomas Bulstrode his heires and Assigns shall and will from tyme to tyme and at all tymes heereafter within the space of Five years | next ensuing the date heereof and at the Costs and charges in the Lawe of the said Iohn Slocombe his heires and assignes and at their Reasonable request doe make Acknowledge | suffer Execute and perfect or cause to bee made done acknowledged suffred executed and perfected all and every such Further lawful and reasonable acte and acts thinge and things de-|vice and devices assurance and assurances whatsoever for the

8) On the line 'executo:' is written, and 'rs' is written above the ':' as a superscript.

9) A virgule is inserted here.

further better and more perfect assuring securing and suremaking and for the cleare and absolute enjoying of the said Foure | acres of Arable Lande with their appurtnants vnto the said Iohn Slocombe his heires & assignes for ever according to the true intent & meaning of these presents Bee it by Fine or Fines Feoffment | recovery with single or double voucher by deed or deeds inrolled or not inrolled the acknowledgement of these presents to bee inrolled or by all or any of these wayes or meanes or by any other u¹⁰⁾ | Lawfull & reasonable wayes & means whatsoever All which further assurances soe to bee made & executed of the premisses or any parte thereof shalbee and invre and shalbee deemed adjudged ^construed^ and | taken to bee and Invre To the only vse and behoofe of the said Iohn Slocombe & of his heires and Assignes for over And To and for none other vse intent or purpose whatsoever **Pro-|vided** always And It is the True Intent & meaning of the partyes to these presents & Either of them And the said Iohn Slocombe for himselfe his heires executors & administrato^{rs}¹¹⁾ | doth Covenante promise & agree to and with the said Thomas Bulstrode his heires and Assignes by these presents That if hee the said Thomas Bulstrode his heires or Assignes shall pay or cause | to bee paid vnto the said Iohn Slocombe his heires executors or administrators the full sume of Fiftie pounds Lawfull money of England at one entire payment at any tyme within | the space of Two full yeares now next coming after the date of these presents at or in the Porche of the Parish Church of Horton aforesaid with an Intent & desire to haue the said Foure | acres of Arable Lande with their appurtnants reconveyed to him the said Thomas Bulstrode his heires or Assignes That then hee the said Iohn Slocombe his heires & Assignes and all & every | person or persons clayming Interest in the premisses by from or vnder him shall & will at the request Costs & Charges in the Lawe of the said Thomas Bulstrode his heires & Assignes sufficiently | in the Lawe Regrante Reconvey & Reassure the said Foure acres of Arable Lande with their appurtnants vnto the said Thomas Bulstrode his heires & assignes for ever

10) There is a u-like letter at the end of this line, but we do not need additional words here. It might be a line filler.

11) On the line 'administrato:' is written, and 'rs' is written above the ':' as a superscript.

Free from all Incumbrances incurred by the said Iohn Slocombe his heires or assignes or any other person or persons clayming by from or vnder him them or any of them **In Witnesse** whereof the | said partyes to these presents haue heerevnto Interchangeably sett their hands & Seales the day and yeare first abovewritten Annoque Domini **1662**

As stated in Section 1, the name of Thomas Bulstrode is also written on the folded-up bottom edge of the document as ‘Tho: Bulstrode’.

2.2 The Reverse Side of the Document

A transcription of the endorsement and signatures of the witnesses follows.

Sealed and Delivered and Lawfull and peaceable in | Livery and Seisin of the Foure Acres of Arable | Land within menconed with their appurtnants was made | and delivered by the within Named Thomas Bulstrode vnto the within menconed Iohn Slocombe | To hold the same to him his heires and Assignes | according to the effect & purport of the Indenture | within written In the presence of |

Samuell Bulstrode
daniell hall
Robert Hall

There is also an index line to show the date on which this deed was made:

13th maii the 14 year Carolus 2 1662

The person who wrote this index seems to have mistaken 31st for 13th.

3. The Contents of the Deed and People Whose Names are Entered in the Document

The village of Horton where this conveyance was executed now belongs to Berkshire, though it was a parish in Buckinghamshire when this document

was made.¹²⁾ St Michael's Parish Church, the porch of which was the appointed place in the covenant of the right to re-claim the land alienated by the deed, still exists. The period of validity of the right to claim the return is two years. The porch of a parish church was a typical place entered in this type of document as an appointed place on such payment. In the porch of the parish church of Horton, a historical Norman arch, which would have been there when this indenture was prepared, is still conserved.¹³⁾ Other wordings used in this deed are also quite conventional and typical as a so-called 'bagain and sale with feoffment' in the seventeenth century.

The names of both the alienator and alienee can be found in *A Calendar of Deeds and Other Records Preserved in the Muniment Room at the Museum, Aylesbury*, which was issued in 1941 by the Records Branch of the Buckinghamshire Archæological Society. According to this volume, the name of Thomas Bulstrode of Horton, the alienator, can be found on a lease dated the 13th December 1647 and a charter of feoffment dated the 12th April 1658. The lease shows that he rented two small islands called Cookes Eyte and Burges Eyte to George Sharpe, fisherman, for the rent of 20 shillings and six eels per year. Requesting eels as a condition for the rent is fairly unique. In the charter of feoffment, we can find not only the name of Thomas Bulstrode but also the name of John Slocombe of Colebrooke, who is the alienee of the document transcribed in the previous section. According to the summary of the charter in the above-mentioned volume, Thomas Bulstrode granted tenements including the one called Churchhouse to twelve inhabitants of the town of Horton because they are accustomed to the use of them. It is likely that Thomas Bulstrode was a rather generous squire. The attorney of the charter of feoffment is Robert Hall, one of the witnesses of the land indenture examined in this study. The charter was made four years before the land indenture was prepared. Robert Hall might have been a retained attorney of Thomas Bulstrode around that time.

It is worthy of note that Thomas Bulstrode was probably an acquaintance of John Milton. According to Chapter VII of David Masson's *The Life of John*

12) The transfer of the parish was made in 1974.

13) Refer to the "History" in the webpage of *St Michael's, Horton* (www.stmichaels-horton.org/horton/horton-history-building.php).

Milton (1859: 437–442), Milton spent five years and nine months (July 1632 to April 1638) in Horton, Buckinghamshire. Masson states that Milton's paternal country residence was in this village and gives a detailed explanation of the family of Bulstrodes.¹⁴⁾ It was a well-known family and they resided in the Manor House of Horton, and Thomas was the eldest son of seven children between Henry Bulstrode and Mary, daughter of Thomas Read of Barton, Berkshire. The eldest son between Thomas and his wife Coluberry, daughter of Simon Mayne, of Dinton, was born in 1629 and all the subsequent children of theirs were born in the village. This explains why Masson believes that Milton had probably been acquainted with the Bulstrode family.

Masson also mentions that Thomas's father Henry, a member of the Parliament, fought in the Civil War on the parliamentary side and died in 1643, but some scholars including Gyll (1862) and Lipcomb (1847) see Thomas's father as Henry who died in 1632.¹⁵⁾ If Thomas's father Henry died in 1632, he could not have participated in the Civil War. Following this argument, the Henry who took part in the war is Thomas's brother who shares his father's name. In fact, Thomas also took part in the Civil War on the parliamentary side. Beckett (2015: 45, 113) shows that Henry and Thomas were the parliament's deputy lieutenants in June 1642 and Thomas took part in an eight-week siege by Thomas Fairfax as one of the commanders of the Aylesbury forces in May and June 1646. Beckett (2015: 126) also

14) Beckett (2015: 13) states that John Milton's father rented one of the properties owned by Henry Bulstrode and that John Milton lived there during his stay in Horton.

15) See the genealogical trees of the family in Gyll (1862) *History of the Parish of Wraysbury, Ankerwycke Priory and Magna Charta Island; with the History of Horton, and the Town of Colnbrook, Bucks* (London: Henry G. Bohn), pp. 217–218, and in Lipscomb (1847) *The History and Antiquities of the County of Buckingham*, Vol. 4 (London: J. & W. Robins), p. 572. They describe Henry, Thomas's father, as having died in 1632 at Upton, and Lipscomb (1847) regards Henry who died in 1643 as one of Thomas's siblings who shares the same name with his father. Gyll (1862) regards one of Thomas's siblings Henry as born in 1643, which is inconsistent with the year of his father's death, 1632, shown in the same genealogical tree. There are three members of the family named Henry in these pedigree charts and their information is in confusion.

states that Thomas was the governor of Aylesbury for some time in the 1640s. There are also three family members named Thomas found in the genealogical tree drawn by Lipcomb (1862) and Gyll (1847), but considering their ages, it must be the Thomas who was a son of Henry Bulstrode and died on the 8th February 1676 who conveyed the four acres of land to John Slocombe. Another member of the Bulstrodes, Samuel, who witnessed the land transfer,¹⁶⁾ must be the eldest son of Thomas. Samuel, who was born in 1629,¹⁷⁾ would have been 32 years old when the land indenture was made.

There are also some descriptions about the alienee of the land, John Slocombe of Colebrooke, found in Gyll (1862). Gyll found his name in an indenture of 'lease and release' issued on the 21st September 1683.¹⁸⁾ The name John Slocombe was also found in two documents on 'fines and deeds' issued in 1677 and 1704 and several documents on 'fines and recoveries' issued in 1679, 1682, 1689, 1690, 1694 and 1695.¹⁹⁾ He served as a chapel warden of Colnbrook in 1662.²⁰⁾ In 1699, a certain John Slocombe subscribed five pounds to the highway leading from London to Colnbrook.²¹⁾ There is also the name of John Slocombe found in the records of Baptism summarized by Gyll, but it is another John Slocombe because the record shows that Edmund, a child of John Slocombe, was baptized on the 14th September 1600.²²⁾ This John Slocombe is the one buried on the 11th December 1607 and is the grandfather of our John Slocombe.²³⁾ That is, the Edmund who was baptized in 1600 is the father of our John Slocombe. There is a genealogical tree including the pedigree of the Slocombs in Gyll (1862: 233)²⁴⁾ and it shows that Edmund died in 1658 and our John Slocombe's wife, Elizabeth, died in 1714.

There are also the names of the persons whose lands were located next to

16) Samuel Bulstrode spelled his own name as 'Samuell' in the land indenture.

17) Cf. Masson (1859: 442) and Gyll (1862: 218).

18) Cf. Gyll (1862: 61). In Gyll (1862), Colebrooke is spelled as 'Colnbrook'.

19) Cf. Gyll (1862: 154-158, 295-301).

20) Cf. Gyll (1862: 291-292).

21) Cf. Gyll (1862: 285).

22) Cf. Gyll (1862: 258).

23) Cf. Gyll (1862: 261).

24) In Gyll (1862), Slocombe is sometimes spelled as 'Slocomb'.

the four acres of land transferred by the deed this study examines found in Gyll (1862). John Peters, gentleman, whose land was on the south of the four acres of land, died in 1658,²⁵⁾ four years before the indenture was made. He married Mary Salter on 18th May 1623.²⁶⁾ Her name also appears in the deed as the owner of the land that was on the west of the four acres of land. Gyll (1862) also reports the records of the baptisms of John Peters' children²⁷⁾ and some legal documents in which his name appears.²⁸⁾ The indenture tells us that the four acres of land was bordered on the north by the land owned by Mr. Lee and occupied by John Helperbie. Gyll (1862: 22) tells us that John Lee, Esquire of London, bought property in Horton in 1657, five years before the indenture was made. The property must be that neighboring to the north of the four acres of land. The name of John Helperbie is not found in Gyll (1862). The spelling of the family name on the indenture clearly reads Helperbie, but the scribe of the deed might have heard the name wrong because there is a John Hemperley found in the records of baptisms, which says that his son, Walter was baptized in 1641.²⁹⁾ Of course, it is also possible that Gyll might have read the family name wrong.

4. Concluding Remarks

This study closely examined a seventeenth-century land indenture made in Buckinghamshire, a half of which was donated to Hiroshima Shudo University. This indenture, far-removed from the place where it was originally issued, turned out to have belonged to an important figure of Horton, Buckinghamshire, in the seventeenth century. What is even more interesting is the fact that the holder of this document shared the same time and space in the parish of Horton with John Milton, one of the most important literary figures in the history of English literature. As stated in the previous sections, however, much is still unknown. We do not know how the late

25) Cf. Gyll (1862: 261).

26) Cf. Gyll (1862: 43).

27) Cf. Gyll (1862: 258–259).

28) Cf. Gyll (1862: 76, 299, etc).

29) Cf. Gyll (1862: 259).

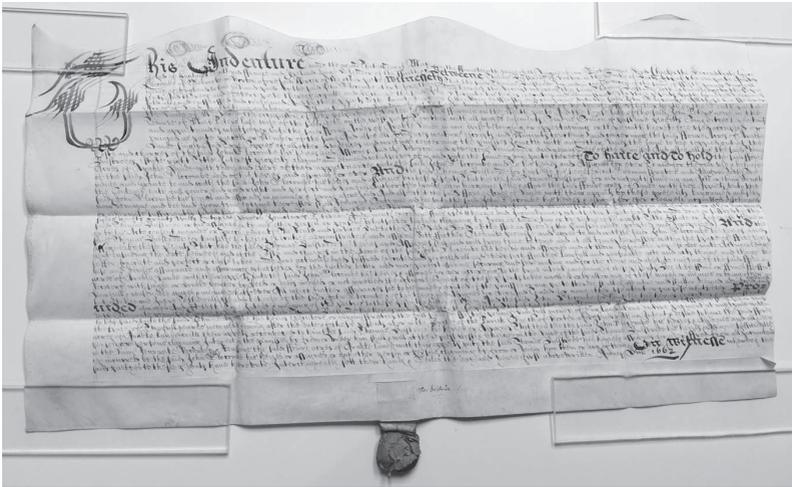


Figure 1: The Front Side of the Indenture Issued in Buckinghamshire on 31st May 1662.

Professor Kumagai acquired the document and even lack accurate information regarding the Bulstrode family members. The other part of the indenture must have been made, but we do not know whether it still exists or not. The disclosure of the information of the part of the indenture that came to Hiroshima might help us identify the other part, which is likely to be in England if it still exists. There must be more documents related to Thomas Bulstrode and John Slocombe to be found if we were to pursue our investigation in the National Archives in London and other archives in England which keep historical documents from Horton, but we will have to wait for another opportunity to conduct these on-site investigations.

Acknowledgement

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