

CHAPTER FIFTEEN.

IMPLEMENTATION OF THE ACT OF 1739: ADMINISTRATION

15.1 The role of the Trustees and the Commissioners On 6 August 1739, at the first meeting of the newly appointed Trustees, the act itself was read, the clerk and treasurer were appointed, and a decision was taken that a motion to apply for a Commission of Sewers be postponed until the following month. ¹

At the subsequent meeting it was decided that a petition be drawn up requesting a commission to scour and cleanse the river from Hertford to Ware, and from thence to the 'new cut'. A list of proposed members was prepared. This petition and list were then submitted to the Lord High Chancellor, the Lord Chief Justices, and the Chancellor of the Duchy of Lancaster, who on 10 November agreed that such a commission be issued. ²

Yet it was not until 9 February 1740 that the Great Seal was affixed to 'A Commission of Sewers for the River Lee in the County of Hertford', ³ and it was not until 11 June 1740 that the commissioners first met. ⁴ Part of this delay may have been caused by the need to obtain the seal of the Duchy of Lancaster, for although no such seal has been found, one was issued when the commission was renewed in 1750,⁵ and it has to be assumed that one was issued in 1740.

A further reason for this delay may have been doubts about the exact legal position, for this commission was awarded jurisdiction over the navigable river between Hertford and Ware, an extension of their authority compared to those commissions issued in 1695 and 1721. The limits of these last commissions had been based on those specified in the Act of 1571, and reflected the official acceptance that the City of London had built a 'new cut' during the 1570s. The City had upheld their claims in the Act of 1739, but now new limits of jurisdiction were being proposed that bore no relation to the Act of 1571.

These new limits were sensible, for why should the commissioners not enjoy jurisdiction over the whole stretch of the flash-lock navigation, but there may have been doubts that required legal opinion to be given. Whatever, the commission was appointed, with the new limits, and began work in June 1740.

Whilst waiting for the commission to be issued the Trustees had started implementing those improvements above Ware authorised in the Act of 1739, but it was not until after June 1740 that the Trustees and commissioners could turn their attention to the river below Ware. Then their first task was to restore the traditional flash lock navigation to its desirable state.

For this task the traditional powers of the commissioners sufficed, without recourse to the Trustees except for finance. The commissioners issued general or specific orders for the clearing of shoals, scouring of the river, and strengthening the banks. They instructed millers, fishermen and riparian landowners to cease those practices and encroachments which had impinged upon the navigation. These orders were then implemented or

supervised by their surveyor, William Whittenbury, who had been appointed at the first Court of Sewers. During this phase of the work, the role of the Trustees was strictly limited. They merely paid the bills incurred by the surveyor in carrying out the commissioners' instructions. At no time did they question these instructions. The only initiative they took was to seek legal opinion whether they could pay for legal counsel to assist the bargemen present their complaints at the Courts of Sewers. They could.⁶

As this work of restoration progressed, the bargemen began to consider more ambitious improvements, the erection of turnpikes in Broxbourne Gull and at Stanstead. Such problems and solutions were first raised, discussed and agreed upon at Courts of Sewers, but the commissioners did not have sufficient powers to authorise such improvements.

Such improvements could only be authorised by the Trustees, using the vague powers along the river below Ware granted by the Act of 1739. Thus reports of the commissioners' discussions and proposals on these matters had to be made to meetings of the Trustees, who then further considered them, made some minor changes, and issued the necessary orders.

Such developments can only have highlighted a certain artificiality in the separation of function. All Trustees had been nominated as commissioners in 1740. Since the Trust had a system of replacing its membership whilst the commission did not, some difference in membership did arise, but this did not change the situation. No conflict arose between the two bodies. Indeed it was only a small group who did attend. For their convenience meetings of both bodies were held on the same day. In the morning a Court of Sewers would be held. After lunch the same people would convene a meeting of the Trustees. Under such circumstances it is not surprising that there was no conflict between the two bodies, and that the need for two separate bodies came in time to be questioned.

By the mid-1740s the role of the Commissioners of Sewers had become less important than in the first few years of their existence. They had dealt efficiently with many of the problems presented to them, and the outstanding problems were those best dealt with by the Trustees, for they necessitated powers not enjoyed by the commissioners. Furthermore the routine work of maintenance could be left to their surveyor, whose initiative was never questioned by the commissioners.

Under such circumstances Courts of Sewers became mere formalities. Fewer and fewer complaints were presented by the bargemen, the last being in 1749, and minutes merely noted matters which were being discussed and decided upon by the Trustees. The need for separate meetings must have been questioned. Indeed in January 1749 a joint meeting of the Trustees and commissioners was held to discuss the problem of Stanstead Turnpike, but this was unique.

The Trustees did obtain a new commission in June 1750, and all Trustees once more were appointed.⁷ This did not revive the commission. Thereafter all that was minuted were formal entries about the dispute over Stanstead Turnpike. This was for administrative

convenience only, as the Trustees failed to attract the necessary quorum of ten whilst only six of them could convene a Court of Sewers. No other business was transacted at these Courts.⁸

8. *PRO, RAIL 845/53,-Court of Sewers, 28 December 1750, 11 January 1751, 25 January 1751, 13 November 1751, 11 February 1752. On all these occasions business was minuted and obviously transacted, in the expectation that the afternoon meeting of the Trustees would be adjourned as inquorate. At other meetings similar business was minuted at the morning meeting of the commissioners and the afternoon meeting of the Trustees.*

Then in August 1751 the bargemen submitted complaints about the miller at Enfield Mills, but to the Trustees not the commissioners, even though there had been a Court of Sewers that very morning, and even though the nature of the complaints were such as would have been submitted to the commissioners the previous decade.⁹

Finally on 11 February 1752 the Court of Sewers was adjourned until the following month.¹⁰ This was the last Court of Sewers ever to be minuted, and the numerous blank pages in the minute book, and the absence of any later reference to a Commission of Sewers, suggest that it must have been the last ever to be convened.

The authority of the commission along the Lea was not formally revoked until the Act of 1767, but it played no role after February 1752, and was not renewed in 1760. Thereafter the Trustees took on the sole responsibility for the Lea between Ware and the 'new cut', including those responsibilities which had at first been carefully reserved to the commissioners.

This new pattern of administration was that envisaged in the bill submitted in 1738, but which Parliament had rejected in favour of the dual role of Trustees and commissioners. It is open to question whether this development was strictly legal, but it was never challenged. It was in nobody's interest to do so.

Another major administrative innovation was made at about this same date, to the arrangements applicable to the short stretch of the river between Hertford and Ware. Once the Trustees had implemented those improvements specified in the Act of 1739, the Trustees and the commissioners shared the same dual function that they enjoyed along the river below Ware. In addition the Borough of Hertford continued to maintain the two turnpikes at Hertford and the navigation down to the end of Hartham Common.

The bargemen made few complaints to the commissioners about this stretch of the river, and none after January 1743. Presumably the work of the burgesses and the surveyor sufficed.

Then in 1750 the Borough of Hertford purchased a fishing weir, Constants Weir, from the Earl of Salisbury. They proposed to replace it with a turnpike, and approached the Trustees. The latter set up a committee to supervise and finance the cost of this work, and appointed a keeper to look after the turnpike when it had been finished.

These developments stimulated the committee to rethink the approach to maintaining the river above Ware, and the Trustees accepted their recommendations. In December 1752 the Trustees and the Borough of Hertford signed an agreement whereby the burgesses took over responsibility for maintaining the navigation between Hertford and Ware Mills, and this agreement lasted until 1767. The Trustees did retain a right to inspect and criticise the Borough's work, but there is no evidence that they ever did so.¹¹

Thus within only eleven or twelve years the pattern of administration introduced by the Act of 1739 had been quietly dropped. Maybe without proper authorisation, but without any particular complaint or challenge. The developments were a sensible concentration of responsibility, administratively more efficient and cheaper. Any continuing faults in the administration were not the result of these changes, but were inherent in the very nature of the reliance on unpaid gentry to supervise a matter which might not have been of great interest to the majority.

15.2 The Trustees: the discharge of their Trust

A problem which emerged after the first few years of activity was that of obtaining the necessary quorum of ten Trustees. The problem was first encountered in April 1741 when the first meeting of the year had to be adjourned until the following month. Then in August 1743 the annual meeting fixed by the Act of 1739 failed to attract sufficient interest and was likewise adjourned.

The problem only got worse. In 1744 seven of the eight meetings called failed to obtain a quorum, and in 1745 ten out of the eleven meetings called suffered a similar fate. For the rest of the decade the situation was somewhat better, but only just. Quorums were not obtained at six meetings out of twelve in 1746, eight out of ten in 1747, seven out of twelve in 1748, and six out of ten in 1749.

This pattern continued throughout the 1750s. Indeed between November 1753 and November 1757 only one meeting attracted a sufficient number of Trustees, an occurrence which so surprised everyone that the meeting was adjourned for lack of business to discuss. Not the only occasion that a quorate meeting was so ended.

In 1759 Parliament were informed that of the 201 meetings scheduled since 1739, 125 had been adjourned for lack of a quorum, and that this had meant that the bargemen had been frustrated in their efforts to submit complaints.¹² The Trustees tried to improve this. In November 1759 they ordered that if any meeting was so adjourned, then notice should be given of the postponed meeting in the Daily Advertiser, in addition to the notice placed in the London Gazette.

To little effect, the next six meetings all failed to attract sufficient Trustees. Indeed it was not until the Trustees began to discuss the proposals authorised by the Act of 1767 that sufficient interest was generated to ensure not just a quorum, but well attended meetings.

Such a state of affairs might well suggest some dereliction of duty on the part of the Trustees, but there were several factors which ameliorated this situation and which might rather suggest that the Trustees fulfilled their trust adequately if not enthusiastically.

Such factors included the use of small committees to handle specific problems or responsibilities, and the degree of initiative which was allowed the officials, particularly the surveyor, to conduct the routine business of the Trust in between meetings.

Committees of three or four members to consider a specific problem or pass the annual accounts of the clerk and surveyor were used from the very beginning; they were not a response to the problem of failing to obtain a quorum. However such committees did mean that business was not necessarily held up just because a scheduled meeting had to be adjourned. The Trustees always accepted the recommendations of these committees even though on occasions they suggested a complete reversal of previous policy, as was the case with Stanstead Turnpike in 1751 (see 16.4) and the control of the river above Ware in 1750-52 (see 15.1).

It should be noted that the Treasurer's accounts were never submitted to a committee, but always to a full meeting of the Trustees. The infrequency of such meetings in the 1750s seems to have benefitted the Treasurer(see 15.3), and the laxity of the Trustees towards the large surpluses left in the Treasurer's hands does seem to be the most important accusation of dereliction of duty that can be levelled.

Any assessment of the Trustees' performance must take account of the very limited nature of their trust. Once the initial problems of restoration and limited improvement had been accomplished, and accomplished adequately, there was little for them to do. They had insufficient money and power to implement further improvement.

The routine task of scouring and cleansing the navigation could be left to the surveyor, with whom the bargemen could deal directly without any need to approach the Trustees. With so few problems, the routine work of administration could be left to the clerk. The Trustees never found serious complaint with the work of either the surveyors or the clerks, with the exception of one clerk who was quickly replaced. Neither did the bargemen make serious complaint. The initiative allowed these officials sufficed.

The problems in obtaining a quorum could be expected from the nature of the persons appointed to be Trustees. Although many may have favoured the idea of an improved navigation, many must have been loathe to become actively involved, especially since they had to pay their own expenses. Nomination as a Trustee was only one of the duties foisted upon the local gentry or aldermen.

Many Trustees never attended at all, others turned up only occasionally, and some only if they had a particular property interest to protect. There was, however, a reliable core of active Trustees, who were prepared to attend, act on committees, and, presumably, dominate policy. Further research into this group is necessary, but Professor Matthias has

emphasised the role of those with interests in the London brewing or Hertford malting communities.¹³

15.3 The officials of the Trust

At their first meeting the Trustees appointed Bostock Toller of Hertford, gentleman, as their clerk, and the Commissioners of Sewers followed suit at their first meeting. Toller had long been associated with the navigation. He had sought legal advice for the bargemen in 1732, and had been employed by the Borough of Hertford as their agent to solicit the Act of 1739. In this capacity he had given evidence in favour of the bill in 1737, 1738 and 1739.¹⁴

Toller had been appointed Clerk of the Peace for Hertfordshire on his father's retirement in 1720, keeping the post until his death in September 1761. He also served as deputy sheriff on occasion. In 1728 he was made a freeman of the Borough of Hertford so that he could be appointed as Town Clerk later that month. In 1734, 1741 and 1751 he was chosen to serve as Mayor. Other duties included being clerk to the Cheshunt Turnpike and Wadesmill Turnpike Trusts, and being Court Steward for the manor of Hertford Priory.¹⁵

As clerk to the Trustees and Commissioners of Sewers for the Lea, Toller's duties included the keeping of minutes, the handling of paper work, and the publicising of all meetings and decisions. In return for these services, Toller was allowed, after some initial quibbling, the fee of £1 6s 8d for himself, his clerk, and their horses on any day that he attended a meeting of either body.¹⁶

16. *Trustees, 3 August 1741. When Toller first presented his accounts he charged £1 6s 8d for attending either a Trustees meeting or a Court of Sewers, but only £1 13s 4d if they both met on the same day. This was allowed, but he was restricted to £1 6s 8d a day for the future.*

When Toller died in 1761, he was replaced by James Windus, of Ware, gentleman, at a reduced fee of 1 guinea a day. For some undisclosed reason Windus was dismissed the following year, to be replaced by Henry Thorowgood of Hertford, gentleman, at the same reduced fee. He was to prove satisfactory, and was retained as one of the two clerks employed by the Trustees appointed by the Act of 1767, until his death in 1768.¹⁷

17. *Trustees, 28 September 1761, 11 October 1762, 1 July 1767. Thorowgood had replaced Toller as town clerk of Hertford in 1759 and as Clerk of the Peace for Hertfordshire in 1761: HRO, BHR Vol 21 fos.215,217; E. Stephens, editor, Clerks of the Counties, 102*

Some further idea of the clerk's duties can be gleaned from the Table below:

TABLE 7: THE CLERK'S ACCOUNTS ¹⁸

Period of account	Ordinary(A) expenditure	Extra-ordinary expenditure
to June 1741	£111 13 2	£ 33 10 8 (B)
27 Jun 1741-21 Apr 1742	£ 37 5 10	£ 2 19 -(C)
22 Apr 1742-14 Sep 1743	£137 13 11	
28 Sep 1743- 6 Aug 1744	£ 37 1 6	
7 Aug 1744- 29 Sep 1745	£ 38 9 3(D)	
30 Sep 1745-25 Apr 1748	£103 11 5	£49 19 4(E)
26 Apr 1748- 2 Oct 1749	£ 57 3 10	
3 Oct 1749- 6 Aug 1750	£ 30 11 6	£34 12 8(B)
7 Aug 1750-3 Aug 1752	£101 1 6	£18 8 4(F)
4 Aug 1752-27 Sep 1761	£1486 16 9(G)	
28 Sep 1761-11 Oct 1762	£ 45 5 11	
12 Oct 1762-	£2415 7 10(G)	

(A) Includes the costs of the clerk and his assistant in attending meetings, copying orders, keeping minutes, writing letters etc. Excludes payments on account to surveyor, which were then re-imbursed by the Treasurer.

(B) Cost of obtaining a new Commission of Sewers.

(C) Cost of serving orders on several persons.

(D) Estimated from surrounding accounts, as no accounts for this period minuted, even though presented.

(E) Admission fine for Trustees to enter copyhold property, Dobbs Weir.

(F) No further details available.

(G) These particular accounts only presented after 1767, details of type of expenditure not minuted.

One of Toller's first duties as clerk was to write to Thomas Martin of Clapham to enquire whether he would be treasurer to the Trust. He would. Martin was already a Trustee, he owned Cheshunt Mills and the Rectory manor at Cheshunt, and he was also a partner in a banking practice at the sign of the Grasshopper, later to become Martin's Bank.¹⁹

Martin's duties were to collect the rental payments from the New River Company, to make any payments ordered by the Trustees, including advances to the clerk and surveyor, and to provide separate annual accounts for the river between Hertford and Ware, and the river below Ware. This last could not be maintained, however, because of the infrequency of the Trustees' meetings.

The treasurer received no fees for his services, but he was able to use any surpluses that accrued for his own purposes, a not inconsiderable benefit, as can be seen from the Table below:

TABLE 8: SURPLUSES IN TREASURER'S ACCOUNTS ²⁰

Date of account	Hertford-Ware	below Ware
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Oct 1740	£ 15 19 -	£1350 - -
Sep 1741	£ 29 16 -	£1390 - -
Aug 1742	£ 41 4 10½	£ 790 - -
Aug 1743	£ 91 4 10½	£ 540 - -
Sep 1744	£ 31 4 10½	£ 416 17 5
Jun 1746	£106 4 10½	£ 825 7 6½
Aug 1750	£207 7 5½	£ 588 18 4½
Aug 1751	£ 57 7 5½	£ 803 13 10½
Sep 1752	£107 7 5½	£ 913 13 10½
Oct 1753	£111 4 2	£ 671 17 5
Sep 1760	£295 8 7	£ 415 8 10 (A)
Aug 1765	£393 19 2	£1479 13 4 (A)
Oct 1767	£501 2 6(B)	

(A) An additional £600 invested in India Bonds.

(B) Total in both accounts handed over to new Trustees in 1767, but further bills were still to be presented.

So great were these surpluses that in July 1758 the Trustees ordered Martin to purchase six India Bonds in their name, so that the Trust rather than Martin could benefit. However the surpluses continued to build up, but no further action was taken.²¹

Martin died in April 1765, and in August 1765 his accounts were presented by his nephew, Joseph Martin of Lombard Street. Joseph was immediately appointed as treasurer, a position he retained to the new Trustees appointed in 1767.²²

At their first meeting the Commissioners of Sewers appointed William Whittenbury of Hertford as their surveyor. There is no formal record that he was ever so appointed by the Trustees, although they acted as though he was their surveyor as well, long before the role of the commissioners became defunct, and had hired his services themselves before he was appointed by the commissioners.²³

As with Toller, Whittenbury's appointment can be seen as some reward for previous association with the navigation. In April 1726 he had obtained his freedom of the Borough of Hertford as a carpenter and joiner, after having served his apprenticeship with his father William, also a carpenter. In this role Whittenbury was hired by the burgesses to work on the sessions house and on stalls in the market place. In 1738 he made a plan of the Corporation Rentals, and in 1742 gave advice about the new town house. He also rebuilt a bridge over the small river Lea at Waltham in 1738.²⁴

He also surveyed local rivers. In 1732 he made a map of the river Beane between Waterford Mills and Cow Bridge when investigating a dispute between rival millers. The following year he prepared a plan of the Lea between Hertford and Ware for submission to Parliament (Figure 7), and also gave advice to the burgesses about the proposed new cut across Hartham Common (see 14.1).²⁵

Besides carrying out the instructions of the Trustees or commissioners, Whittenbury also had responsibility for ensuring that the routine work of maintenance was carried out, relying on his own initiative. He had to ensure that all the necessary equipment and labour were obtained, and that all costs were adequately accounted for to the Trustees. In March 1752 there is a reference to a Richard Allen who seems to have been his assistant.²⁶ The Trustees never minuted any criticism of Whittenbury's work except to reduce the expenses he claimed, and to express concern over his allowance of beer to the workmen he employed along the river.²⁷

27. *Initially Whittenbury claimed 16/- a day for attending a Court of Sewers or a meeting of the Trustees if he required a horse, but only 10/- a day if he did not. He claimed 15/9 a day when supervising work along the river. This was allowed, but he was instructed to charge only 12/6 a day in future whatever the purpose. These same accounts show that workmen earned 2/- a day, and horses were hired at 2/6 a day. In 1742 the Trustees queried Whittenbury's provision of beer to the workmen. Carpenters and workmen building the turnpike at Ware Mills earned 2/2 a day, but 3/- a day when working in the wet setting down the turnpike: Trustees, 3 August 1741, 26 May 1742.*

Besides the routine work of maintenance, he fulfilled other specific duties. He erected Broxbourne Turnpike, provided boats to carry away the material scoured from the river, appointed and paid the turnpike keepers employed by the Trust, and made a map of the navigation in 1741(see Map 1 in folder). On the two occasions during his lifetime that the Trustees put out jobs to contract, it was his tender that was accepted.

Whittenbury died in September 1757, and although two of his sons continued the carpentry business,²⁸

28. *PROB 11/833(291). He described himself as a carpenter in his will. He left much property, including houses in Hertford and Hertingfordbury, a butchers stall in Hertford market, two farms, and over £2000 invested in South Sea or Bank of England stock. His two sons, William and Henry, continued to run the carpentry business: W.J. Hardy, W. le Hardy, editors, Hertford County Records, viii.133,165,184,199.*

The Trustees appointed John Clerk of Little Amwell, carpenter, in his place. Clerk seems to have carried out his duties adequately and retained the post until 1767.²⁹

Unlike the other two officials however, he did not retain his post after 1767. His skills may have been sufficient to maintain the existing navigation, but they were not sufficient to plan and execute the improvements authorised by the Act of 1767.

For this task, the skills of leading engineers and surveyors, such as John Smeaton and Thomas Yeoman, were needed.³⁰ It can be noted that once these improvements had been introduced, and mere routine maintenance once more the skill required, that local carpenters could again be appointed to the post of surveyor, John Glynn of Bishop Stortford in 1784 for instance.³¹

There are some difficulties in presenting the accounts of the surveyor. Whittenbury changed his practice of recording expenditure between accounts and made minor errors in his arithmetic, whilst inadequate minuting means that his accounts for September 1744 to

September 1745 were not recorded. Furthermore the lack of quorate meetings meant that no proper accounts were presented after 1752, until his death in September 1757 necessitated some settlement. Nevertheless the material available is presented below in Table 9.

After Whittenbury's death the position is impossible. Clark was appointed surveyor in November 1757, but it was not until August 1765 that he was required to present an account, and the subsequent committee report is not minuted. After 1765 it is likely that either nothing or very little was spent by the surveyor, as the Trustees concentrated instead on the improvement plans enacted in 1767.

TABLE 9: WHITTENBURY'S ACCOUNTS ³²

Attendance and supervision: Includes Whittenbury's charges for attending Courts of Sewers and meetings of Trustees, and his charges for supervising the work force and looking to the necessary equipment and materials. Until August 1741 he charged 16/- a day for attending meetings if he required a horse and 10/- if he did not, and 15/9 a day for supervising work along the river. Thereafter he accepted that he could charge only 12/6 a day whatever the reason. On occasion some costs of purchasing tools and materials seem to be included in this item.

Production costs: Includes expenditure on hiring workmen, horses and barges to scour the river, to repair banks, locks and weirs. Sometimes costs of tolls and materials recorded in this item rather than the above, and often these costs were presented differently by Whittenbury, as shown below.

N.B. The titles above have been adopted for clarity, they were not used by Whittenbury or Toller in the minutes.

HERTFORD-WARE ACCOUNT

Construction of Portobello Turnpike and associated surveying work, by contract

	£276	3	-
11 June 1740-6 June 1741 total expenditure, no details	£ 1	15	6
8 June 1741-17 August 1742		NONE	
17 April 1742-1 October 1743			
scouring river, production & supervision	£44	9	½
2 October 1743-6 October 1749			
attendance and supervision	£ 7	17	6
production costs	£ 71	10	10½
7 October 1749-11 August 1750			
attendance and supervision	£ 1	7	6
production costs	£ 9	14	10
12 August 1750-22 August 1752			
attendance and supervision		1	10
production costs	£ 11	5	11 ½

After this date the Borough of Hertford took over the responsibility, the surveyor presented no more accounts to the Trustees for this section.

Total expenditure Hertford-Ware:- £425 13 4½

WARE-NEW CUT ACCOUNT

11 June 1740-6 June 1741

scouring river,including labour	£248	1	5
tools,utensils,barges used	£ 25	17	11½
attendance and supervision	£ 85	11	1
Map of River	<u>£ 25</u>	-	-
	<u>£384</u>	10	5½(A)

8 June 1741-17 April 1742

costs of Broxbourne Turnpike(B)	£633	6	10½
attendance and supervision	£ 36	12	-½
production costs	<u>£ 88</u>	8	8
	£758	6	7 (sic)

17 April 1742-1 October 1743

scouring river from Ware weir to Stanstead Bridge,production and supervision	£105	1	6
scouring river,cutting weeds,several places,production and supervision	£ 71	18	-
attendance costs(exc supervision)	£ 23	1	6
cost of Stanstead Turnpike(C)	£460	-	-
provision of two boats	£ 18	10	-
wharfing Broxbourne Turnpike, production and supervision	<u>£ 66</u>	7	2
	£744	18	2(D)

13 October 1743-1 September 1744

total costs, no further details	<u>£ 86</u>	12	8
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2 September 1744-29 September 1745

total costs,estimated	<u>£ 45</u>	2	6(E)
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30 September 1745-10 June 1748

attendance and supervision	£ 65	-	-
production costs	<u>£306</u>	5	7½
	£371	5	7½

20 June 1748-6 October 1749

attendance and supervision	£ 45	1	6
production costs	<u>£148</u>	16	3 ½
	£193-	17	9½

9 October 1749-19 September 1750

attendance and supervision	£ 16	8	6
production costs	<u>£ 75</u>	9	6
	£ 91	18	-

20 September 1750-21 August 1752			
attendance and supervision	£ 61	-	-
production costs(inc a new boat)	£226	6	5
	£287	6	5
22 August 1752-26 November 1757			
total costs, no further details	£472	19	5(F)
Total expenditure Ware-New Cut:-	£3435	2	1½

(A) This sum includes £1 15 6 which is also recorded in the accounts for Hertford-Ware, but excludes £30 which Whittenbury paid to the clerk on the instructions of the Trustees.

(B) Built by direct labour system.

(C) Built by contract.

(D) Error of 6d in this account.

(E) No accounts for this period minuted, estimate based on minutes of surrounding accounts.

(F) Presented by executors of Whittenbury's estate soon after his death.

15.4 The accounts of the Trust

A variety of reasons means that no accurate accounts can be presented, either to the satisfaction of an accountant, or for the purpose of presenting a detailed picture of the income and expenditure of the Trust. For such reasons, all that will be attempted in Table 10 below is a list of that income and expenditure that is known, with some indication of that which is not known, and some indication of the balances left in the hands of the Trustees at the end of their Trust in 1767.

Various reasons explain this inability to obtain a properly prepared account. There was some laxity in requiring the officials to present regular reports of their financial dealings, especially from the 1750s onwards. In addition inadequate minuting meant that on three occasions such reports are not recorded, and other reports were merely noted without greater detail.

A practice also developed whereby the clerk made advances to the surveyor or other persons, and was then himself recompensed by the Treasurer. When proper accounts were submitted in the 1740s, such items can be determined and allowed for, but from 1752 onwards this cannot be done. Sometimes it is noted in the minutes that the clerk is to make such and such a payment, often it is not, and the lack of detail in the clerk's and treasurer's accounts means that there must be a large element of double counting in the balance of the clerks' accounts reported in 1767. Another problem is that whereas the treasurer was required to submit separate accounts for the river between Hertford and Ware and between Ware and the mouth of the new cut, this practice was not followed in 1767 when a final surplus of £501 2s 6d was reported on the accounts of the 1739 Trust. This surplus was then handed over to the new body of Trustees appointed by the act of 1767.³³

HERTFORD-WARE ACCOUNT

Income

Initial lump sum from New River Company	£ 750	-	-
Rental payments from Company, Lady Day 1740 to Lady Day 1767 (£50 a year)	£1375	-	-(A)
Toll income at Constants Weir from 3 November 1750 onwards	£ 96	12	-
	£2131	12	-

Expenditure

Paid to inhabitants of Hertford for work prior to 1739	£ 302	12	-
Paid to Bostock Toller, soliciting Act of 1739	£ 96	9	-
Paid to Whittenbury for construction of Portobello Turnpike, and surveying	£ 276	3	-
Paid to James Fordham, scouring river below Portobello Turnpike	£ 120	-	-
Paid to James Fordham, unsolicited scouring in 1741 and 1749	£ 26	19	11
Paid Borough of Hertford, rebuilding Hertford Upper Turnpike in 1743	£100	-	-
Paid Borough of Hertford, building Constants Weir Turnpike	£195		
Paid Whittenbury, maintenance work	£149	10	4½(B)
Expenditure Borough of Hertford on weir keeper at Constants Weir between 3 Nov 1750 and 9 Dec 1752 (8/- a week)	£ 43	4	-(C)
Expenditure Borough of Hertford on maintenance 1752-1757	£106	-	7 (C)
Expenditure Borough of Hertford on maintenance 1757-1767	£505	11	7 (CD)
Clerk's expenses attributed to this account 1750-1752	£ 14	13	10 (E)
Clerk's expenses attributed to this account 1760-1761	£ 6	9	5 (E)
Clerk's expenses attributed to this account 1752-1760	NOT		KNOWN(F)
Clerk's expenses attributed to this account 1761-1767	NOT	KNOWN	(F)
	£1932	12	11+

(A) Although the act of 1739 stated that the rental payments should be made from Michaelmas 1739 onwards, the first payment to be received was for Lady Day 1740, and from then on at Michaelmas and Lady Day every year

(B) Based on expenditure reported in Table 9, excluding expenditure on Portobello Turnpike.

(C) Only the balance on these items paid by Trustees, after deducting income received by Borough from tolls at Constants Weir Turnpike

(D) In fact the accounts in the Borough Records record this expenditure as £507 9 7.

(E) According to decision of Trustees one-seventh of clerk's expenses after 1750 were to be attributed to this account.

(F) The final bills submitted in 1767 include much double accounting, much expenditure which definitely should not be attributed to this account, therefore no estimate can even be attempted.

A balance of £198 19 1 is shown, but this should be reduced to allow for clerk's expenses 1752-1760 and 1761-1767. Nevertheless a surplus seems to be implied on this account.

WARE-NEW CUT ACCOUNT

Income

Initial lump sum from New River Company	£2500	-	-
Rental payments from Company, Lady Day 1740 to Lady Day 1767 (£300 a year)	£4050	-	-(A)
Received from William Plumer for arrears of quit rent after purchase of Dobbs Weir in 1746	£ 12	4	8
Profit from India Bonds purchased 1758	£172	-	6(B)
Toll income at Dobbs Weir Michaelmas 1746-Michaelmas 1747	£48	13	5(C)
Toll income at Dobbs Weir Michaelmas 1747-10 June 1748	£ 23	3	7(C)
Toll income at Dobbs Weir 10 June 1748-24 June 1749	£6	10	-(C)(D)
Toll income at Dobbs Weir 25 June 1749-5 June 1750	£18	12	-
Toll income at Dobbs Weir 6 June 1750-27 June 1752	£ 35	10	-
Toll income at Dobbs Weir 28 June 1752-7 Sep 1757	£ 39	11	6(C)
Toll income at Dobbs Weir 7 Sep 1757-end of Trust			
	<u>£6954</u>	4	<u>6+(E)</u>

(A) See note (A) Hertford-Ware accounts.

(B) Total profits after deducting costs of purchase and sale from interest received.

(C) Reported as 'neat income', thus allowances made to the weir-keeper were deducted from toll income reported. Level of these allowances not known.

(D) Sharp fall in 'neat income' due to reduction of toll from 1/6 downwards and 1/- upwards to 6d.

(E) This total should be increased by income from Dobbs Weir after 1757, and that element not included when such income reported as 'neat income' not gross.

Expenditure

Paid to Ware inhabitants for work prior to 1739	£1000	-	-
Paid to Thomas Pettit, bargemaster, for bringing witnesses to a Court Of Sewers in 1742	£ 30	-	-
Paid to William Pigbourne, damage to his land when scouring river 1742	£ 3	5	-(A)
Paid for purchase of Dobbs Weir 1746	£ 600	-	-
Paid, entry fines for Dobbs Weir	£ 49	19	4
Paid, building turnpike at Dobbs Weir, 1758	£ 500	-	-
Paid, dwelling house at Dobbs Weir, 1758	£ 110	-	-
Paid, building Broxbourne Turnpike, 1741	£ 633	6	10½
Paid, wharfing Broxbourne Turnpike, 1742-43	£ 66	7	2
Paid, building Stanstead Turnpike, 1743	£ 460	-	-
Paid, to Feild damages and costs after legal action over Stanstead Turnpike	£337	-	-(A)
Trustees legal expenses in dispute with Feild			NOT KNOWN
Paid, to bargemasters in 1759, expenses of their application to Parliament	£ 51	18	-(A)
Paid, to Meredith Bishop, cost of providing a boat for Trustees use	£ 65	9	-(A)(B)
Paid, to Whittenbury, maintenance and other items	£2275	8	1(C)
Paid, to Clerk, work as surveyor after 1757			NOT KNOWN
Paid, to Toller, clerical expenses, before August 1750	£ 556	9	5(D)
Paid, to Toller, total expenses attributed this account 1750-1752	£ 104	16	-(E)
Paid, to Toller, total expenses attributed this account, 1752-1761			NOT KNOWN(F)
Paid, to Windus, total expenses attributed this account, 1761-1762	£ 38	16	6 (E)
Paid, to Thoroughgood, total expenses attributed this account, 1761-1767			<u>NOT KNOWN(G)</u>
	£6862	15	4½(H)

(A) Items known to be paid out by the clerk, and thus included in his accounts

(B) Originally the Trustees had stipulated a maximum cost of £60.

(C) Based on Table 9, after deducting costs associated with building the Turnpikes.

(D) Based on Table 7, after deducting costs of obtaining the Commissions of Sewers and paying the entry fine to Dobbs Weir.

(E) After a decision of Trustees six-sevenths of the clerk's expenses to be attributed to Ware - New Cut account.

(F) In 1767 the executors of Toller's estate presented bills for £1486 16s 9d, most of which had already been met from advances to Toller. The total bill must include many items of double accounting, besides those noted in (A) above. Thus not put down in Table.

(G) In 1767 Thorowgood presented bills for £2415 7 10, most of which had already been met from advances. This bill must include many items of double counting, and has not been included in the Table.

(H) This sum should of course be higher, to include those costs shown as not known.

The fact that neither the total income nor the total expenditure can be calculated for the Ware-New Cut account does preclude any estimate of the balance being made. However it can be stated that a surplus must have been recorded in 1767. This is shown by the fact that a total surplus of £501 was recorded, whilst the surplus on the Hertford-Ware account, which can be estimated, was less than £200.

One point to note is that there was a sharp decline in the surpluses recorded between August 1765 when it was £1873 and October 1767 when it was £501(see Table 8). This is explained by the heavy expenditure necessitated by planning the ambitious improvement schemes enacted in 1767. It may be questioned whether such expenditure was justified under the terms and conditions of the Trust, but in fact such questions were never raised by contemporaries.

Otherwise the low level of expenditure shown in the accounts suggests just how possible it was to maintain the navigation during the seventeenth century, first by rating riparian landowners, then by voluntary contributions from the bargemen. Such experience enabled the bargemen to accurately calculate just how much money was needed from the New River Company if a deal was to be struck. Such income was necessary to enable the Trustees to fulfil their duty to maintain the existing navigation, and confirms just how well the bargemen understood the task at hand.

NOTES TO CHAPTER FIFTEEN

1. Trustees, 6 August 1739.
2. Ibid, 5 September 1739; PRO, C191/2 no.151.
3. PRO, C231/10 fo.294.
4. PRO, RAIL 845/53, Court of Sewers, 11 June 1740.
5. PRO, D.L. 17/90; PRO, C191/3 no.40; Trustees, 5 June 1750.
6. Trustees, 22 October 1740, 4 May 1741.
7. Ibid, 5 June 1750; PRO-,,C191/3 no.40; C231/11 PRO, D.L. 17/90.

8. PRO, RAIL 845/53,-Court of Sewers, 28 December 1750, 11 January 1751, 25 January 1751, 13 November 1751, 11 February 1752. On all these occasions business was minuted and obviously transacted, in the expectation that the afternoon meeting of the Trustees would be adjourned as inquorate. At other meetings similar business was minuted at the morning meeting of the commissioners and the afternoon meeting of the Trustees.
9. Trustees, 5 August 1751.
10. PRO, RAIL 845/53, Court of Sewers, 11 February,1752.
11. HRO, BHR Vol 38 fos.510-11; Trustees, 26 September 1750, 18 December 1752.
12. CJ, xxviii.436.
13. P. Mathias-, Brewing Industry-in-England, 443-44.
14. Trustees, 6 August 1739, 9 April 1740; PRO, RAIL 845/53, Court of Sewers, 11 June 1740; CJ, xxii.825; *ibid*, xxiii.98,293; BL, L.R. 33 d 27, Extracts ...relating to ... the River Lee between Hertford andWare, 25-28
15. HRO, BHR Vol 21 fos.120,121; HRO, D/E 3685; HRO, T/P 1/1, 1 May 1725; HRO, T/P 7/1, 25 June 1733; W.J. Hardy, W. le Hardy,editors, Hertford County Records, vii.148,228,232,237,243,268; R. Clutterbuck, The History and Antiquities of the County of Hertford, 3 vols London 1821, ii. 148, 161; E. Stephens,editor, The Clerks of the Counties 1360-1960(Newport,Mon, 1961), 102
16. Trustees, 3 August 1741. When Toller first presented his accounts he charged £1 6s 8d for attending either a Trustees meeting or a Court of Sewers, but only £1 13s 4d if they both met on the same day. This was allowed, but he was restricted to £1 6s 8d a day for the future.
17. Trustees, 28 September 1761, 11 October 1762, 1 July 1767. Thorowgood had replaced Toller as town clerk of Hertford in 1759 and as Clerk of the Peace for Hertfordshire in 1761: HRO, BHR Vol 21 fos.215,217; E. Stephens,editor, Clerks of the Counties,102
18. Trustees, 3 August 1741, 26 May 1742, 13 December 1743, 3 September 1744, 30 September 1745, 1 August 1748, 16 October 1749, 26 September 1750, 25 September 1752, 9 November 1762, 12 October 1767, 2 November 1767.
19. Trustees, 6 August 1739, 5 September 1739; HRO, 10980; J.B. Martin, The Grasshopper in Lombard Street(London, 1892),43-47,268; G. Chandler, Four Centuries of Banking (2 vols,London,1964-68), i.107

20. Trustees, 22 October 1740, 22 September 1741, 2 August 1742, 29 August 1743, 3 September 1744, 6 June 1746, 6 August 1750, 5 August 1751, 25 September 1752, 10 October 1753, 1 September 1760, 5 August 1765, 12 October 1767.
21. Trustees, 3 July 1758.
22. Ibid, 5 August 1765, 1 July 1767; Gentleman's Magazine, xxxv(1765),199.
23. RAIL 845/53, Court of Sewers, 11 June 1740; Trustees, 3 October 1739, 2 January 1740, 21 April 1742, 6 July 1743, 30 April 1746.
24. HRO, BHR Vol 21 fos.63,108; Vol 49 fos.33,136,154, 186,207,228,354; W.J. Hardy, W. le Hardy, editors, Hertford County Records, vii.270.
25. HRO, Vol 39 fo.62; HRO, D/P 22 29/1; Bodl., Gough, Hertford Papers, 1(12); Trustees, 3 October 1739.
26. Trustees, 10 March 1752.
27. Initially Whittenbury claimed 16/- a day for attending a Court of Sewers or a meeting of the Trustees if he required a horse, but only 10/- a day if he did not. He claimed 15/9 a day when supervising work along the river. This was allowed, but he was instructed to charge only 12/6 a day in future whatever the purpose. These same accounts show that workmen earned 2/- a day, and horses were hired at 2/6 a day. In 1742 the Trustees queried Whittenbury's provision of beer to the workmen. Carpenters and workmen building the turnpike at Ware Mills earned 2/2 a day, but 3/- a day when working in the wet setting down the turnpike: Trustees, 3 August 1741, 26 May 1742.
28. PROB 11/833(291). He described himself as a carpenter in his will. He left much property, including houses in Hertford and Hertingfordbury, a butchers stall in Hertford market, two farms, and over £2000 invested in South Sea or Bank of England stock. His two sons, William and Henry, continued to run the carpentry business: W.J. Hardy, W. le Hardy, editors, Hertford County Records, viii.133,165,184,199.
29. Trustees, 21 November 1757.
30. For details of Smeaton and Yeoman: A.W. Skempton, E.C. Wright, 'Early Members of the Smeatonian Society of Civil Engineers', Transactions of the Newcomen Society, xlv(1971),23-42; A.W. Skempton, editor, John Smeaton, FRS (London,1981); E. Robinson, 'The Profession of Civil Engineer in the Eighteenth Century: A Portrait of Thomas Yeoman,FRS,1704(?) -1781', Annals of Science, xviii(1962),195-215.
31. PRO, RAIL 845/6, Trustees, 10 September 1784.

32. Trustees, 4 December 1739, 2 January 1740, 9 April 1740, 28 May 1740, 22 October 1740, 3 August 1741, 22 September 1741, 11 November 1741, 2 August 1742, 22 June 1743, 29 August 1743, 3 September 1744, 6 June 1746, 16 October 1749, 14 November 1749, 3 July 1750, 26 September 1750, 5 August 1741, 25 September 1752, 18 December 1752, 10 October 1753, 11 January 1758, 1 September 1760.
33. Trustees, 12 October 1767.
34. Trustees, minutes 1739-1767, passim; HRO, BHR Vol 39 fos.80-84,86-87.