

# THE RISBRIDGER STORY



being  
the story behind the  
**RISBRIDGER MONUMENT**  
in the  
**OLD PARISH CHURCH, ALBURY, SURREY**  
and  
including a  
**PLAN of the JOHN EVELYN GARDENS**

## THE RISBRIDGER STORY

High up on the west wall of the nave in the Old Parish Church at Albury, Surrey there is a large marble tablet, the Risbridger Monument, which records:-

"Near this place are intombed the body of Angel Risbridger, widow of William Risbridger, late of Cooks Place in this Parish Gentleman deceased, who departed this life the 4th November 1734, in the 85th year of her age. Also the body of William Risbridger Gentleman their eldest son, who died possessed thereof on the 12th day of April 1757, in the 74th year of his age.. Which place thro' many ages had been the residence of his ancestors. - - - - Also the body of John Risbridger the only brother of the said William Risbridger who died 5th August 1757. Aged 64 years."

Apart from the arresting phrase, "Which place thro' many ages had been the residence of his ancestors", there is nothing in the monument's bald recital of names and dates to suggest that there might be some story behind its erection. There is such a story, however, and an unusual one. It is about a supply of water to the John Evelyn Gardens which form part of the grounds of the Albury Park mansion standing close to the Old Church. The story is also one of litigation, spanning more than half a century, between two families.

Cooks Place, referred to in the monument, still forms part of today's scene, being a fifteenth century house lying less than a quarter of a mile west of the Old Church, and known now as Cookes Place.

This house and the previous houses on the same site, together with various fields, had for centuries comprised an enclave of freehold land within the manorial lands of Albury. Even in respect of freehold land it was not uncommon for some "free rent" to be paid: the free rent for Cookes Place, payable to the lord of the manor, was "five broad arrows with barbed heads called Broad Arrow Heads, worth and so received one shilling and eight pence"; and this rent of twenty pence was paid for hundreds of years. There had been Cooks at Albury back to the thirteenth century; and late in the fourteenth century a Christine Cook had married a John Risbridger. Thus it was that "Cook's place" passed into the hands of the Risbridger family, and it so remained up to the end of this story.

The last few generations of the Risbridgers of Cookes Place had all been christened William. It will cause less confusion therefore if we call the William Risbridger who died in 1757 "William R", and if we call his father "Father R", and his grandfather "Grandfather R".

The present story really began in or about 1655, a hundred years or so before the Risbridger monument was installed in what was then the parish

church of Albury. John Evelyn, the diarist, noted on 10th August 1655 "I went to Alburie to visit Mr. Howard who had begun to build, and alter the gardens much". This Mr. Howard was a Mr. Henry Howard, later Earl of Arundel and sixth Duke of Norfolk, who two years earlier had bought the manor house and estate at Albury from his elder brother Thomas, grandson of the fourth Duke. In 1655 Howard was a young man of 27 who had spent much of his life abroad. The Albury estate which he had taken over was heavily mortgaged, but he had embarked with enthusiasm on his responsibilities and opportunities as a landowner. He repaid to the Duncombe family the outstanding mortgage moneys, he continued the enlargement of the manor house which his brother had already put in hand, and he brought in his neighbour John Evelyn to help him with the landscaping of the gardens.

Evelyn's garden design at Albury Park included provision for two parallel terraces along the hillside, opposite the mansion and well above the level of the Tillingbourne stream, each terrace about 400 yards in length. At the back of the upper terrace a broad and high tunnel (or "crypta") was to be driven 160 yards through the adjoining sandstone hill. At the centre of the upper terrace a semi-circular basin with a fountain was planned. On a south-facing slope below the two terraces, there were to be vineyards planted. And, as a dominant feature, the Tillingbourne stream was to be widened to form two canals each 200 yards long and 80 feet wide.

All these improvements were carried out over the next fifteen to twenty years; but before the Half Moon Pond and the fountain could be usefully constructed, and before the vineyards could be safely planted, there was a crucial difficulty to be overcome, namely the lack of any water supply for filling the pond and priming the fountain and irrigating the vines. Water was available, in ample volume and at a sufficiently high contour, less than half a mile away at the Sherbourne ponds, which were owned by Henry Howard as part of his manorial lands and which were served by a strong spring. Intervening between Sherbourne and Howard's planned new garden, however, there lay certain fields which were in Risbridger ownership being part of the lands held with Cookes Place, as shown on the plan at the end of this Paper. The owner of Cookes Place in 1655 was Grandfather R., and it would appear that he proved unresponsive when invited to give permission for a watercourse to be constructed across the Cookes Place fields in order to help in the creation of a pleasure garden for the manor house. At any rate no progress was made to this end during Grandfather R's lifetime. He died in 1661, leaving a widow Joan and a young son, aged 9. Within a very short time Henry Howard had persuaded widow Joan to lease him a strip of the Risbridger land in order that water could be brought from Sherbourne Pond (now called the Silent Pool), to the upper level of the Albury Park gardens. A stipulation was made by widow Joan, however, that the lease should run

from 1662 for 11 years only, so that when her son came of age the grant would not be binding on him. Having secured this lease Howard proceeded to construct his watercourse as marked on the attached plan. The line taken had to be a tortuous one because of the necessity to follow very closely the contours of the land. Much of the watercourse remains to this day, but it is now only a dry channel.

By 1670 the construction of the Albury Park garden was well-advanced. John Evelyn's diary for 23rd September 1670 records "to Alburie to see how that garden proceeded, which I found exactly done according to the Designe and Plot I had made, with the Crypta through the mountaine in the park - - - -; the Canals were now digging, & vineyards planted". So far, so good.

But three years later, in 1673, Father R came of age. The lease of the watercourse thereupon elapsed, and it was never renewed. Father R was firmly of the opinion that from 1673 onwards the owner of the mansion no longer had any title to the strip of land forming the bed of the watercourse. To make his viewpoint quite clear he began to interrupt the flow of water from time to time. On such occasions Henry Howard would make a request for the supply to be restored, and would pay some suitable acknowledgement therefor which, though of small value, was accepted by Father R. as sufficient evidence of his own right to stop the water whenever he wished. It would seem that Howard and Father R. were on reasonably good terms, or at least that Father R. did not wish to cause unnecessary anxiety to a neighbour who already had other troubles. It is recorded that Henry Howard had fallen into a deep melancholy on the death of his first wife.

Four years after Father R. had come of age, Howard succeeded as sixth Duke of Norfolk on the death of his elder brother; and in the following year, 1678, he married his mistress, Jane daughter of Robert Bickerton gentleman of the wine-cellar to Charles II. The duke and his second wife moved thereafter to Arundel where he died in 1684. Two years before his death the Duke of Norfolk had sold his Albury estate to the Hon. Heneage Finch. For the next thirteen years from 1682, during Father R's lifetime, although there may well have been friction between him and the new owner of the manor house, there was no open confrontation: Finch was wont to carry out any necessary repairs to the watercourse, and Father R. continued to draw water therefrom for supplying a cistern in his house and for watering his higher fields and for filling a horsepond.

In 1695, however, Father R. died and (as had happened with his own father), he left a widow and a young son. The widow was called Angel, née Burningham, and her son was our William R. then aged 10. Angel Risbridger, who is commemorated in the tablet in the Old Church, was a strong-minded lady who had evidently nursed her own opinion about the rights and wrongs of this

water matter. On her husband's death she lost no time in cutting off the supply of water to the pond and the fountain and the vineyard in the John Evelyn Gardens. Finch took swift legal action. In Trinity Term 1696 he exhibited a Bill in the Chancery Court claiming his right and title for the enjoyment of the watercourse, and asking for an injunction to prevent any interruption of the water supply. On behalf of the infant William R., an Answer to this Bill was filed by his uncle Henry Burningham. In due course, in April 1698, a joint Commission was appointed and many witnesses were examined on both sides. The case was then brought to a hearing on 20th May 1699 before the Lord Chancellor, Lord Somers, who ordered that there should be a trial at law as to whether there had been any agreement for the making or continuing of the watercourse. This decision did not suit Finch at all, and he successfully petitioned the then Lord Keeper of the Great Seal for a re-hearing. The rehearing took place in the High Court of Chancery on 24th November 1700, and judgement was given in his favour, but the injunction granted him was not to be binding on "the infant, after his age of 21 years, in case he shall within six months after such age show good cause to the contrary."

The official report of the Finch v Risbridger case, covering this 1696-1700 litigation, is commendably brief. In full it reads as follows:

"The Bill was to quiet the plaintiff in the enjoyment of a watercourse to his house and garden, through the ground of the defendant. It appeared upon the proof that there had been a long enjoyment of this watercourse, particularly by the Earl of Arundel and after him by the Duke of Norfolk, and that the plaintiff had scoured and repaired it when there was occasion, and that the Duke was in the quiet enjoyment of it when he sold it to the plaintiff.

For the defendant it was insisted that the Earl of Arundel in 1662, took a long lease of the lands, now the defendant's, and that while he held those lands as lessee he made the watercourse in question; and that after the expiration of the lease he was many times denied liberty to scour or amend the watercourse, and several witnesses deposed to that effect; and the defendant insisted it was only upon sufferance and not founded upon any agreement or consideration.

This cause being first heard before the Lord Chancellor Somers, he directed an issue to be tried at law, whether there was any agreement made between any of the owners of the plaintiff's and defendant's estates respectively, for the making or continuing of the watercourse in question.

Upon a rehearing before the Lord Keeper Wright, he decreed for the plaintiff, declaring a quiet enjoyment was the best evidence of right, and would presume an agreement, and the proof ought to come on the other side to show the special license, or that it was to be restrained or limited in point of time."

It is strange indeed that what could have been a vital document, the original lease for 11 years from 1662, was never at any time produced: the presumption must be that Joan Risbridger's agreement with Henry Howard had been on a verbal basis only. Be this as it may, widow Angel and her brother

did not lie down under the judgement of Lord Keeper Wright. Within a month, on 13th December 1700, Henry Burningham on behalf of William R. entered a Caveat to prevent the signing and enrolling of the decree, and he exhibited a Bill in Chancery running to some 10,000 words seeking leave to re-open the whole issue. The Answer thereto by Heneage Finch, sworn on 14th May 1701, ran to some 5,000 words. The case came up for hearing afresh on 7th July 1701, when the Lord Keeper ruled that the former Decree should stand confirmed. Nothing more could now be done by the Risbridger family until William R. came of age five years later. Within the stipulated six months he then duly presented his petition to the Lord Chancellor, but it was unsuccessful, and the ruling was again made that the previous Decree should stand. A direction was given, however, that the said watercourse should be kept within the bounds of three or four feet and that Finch should be obliged at seasonable times upon request to scour it and amend the banks, and that William R. should at seasonable times enjoy the benefit of the water for watering his grounds as previously.

That was the end of the first stage of this litigation, with nothing gained by the Risbridger family, and considerable expense incurred. It is difficult not to feel that the Risbridgers had started at some disadvantage. They were up against a formidable opponent in Heneage Finch, who was a national figure. In 1678 he had been appointed solicitor-general to Charles II, albeit he had been subsequently removed from that position by James II in 1686. In 1688, six years after his purchase of the Albury Estate, Finch had achieved fame by successfully pleading as leading counsel on the side of the seven bishops whom James II was suing for the publication of a seditious libel, namely a petition against a Declaration of Indulgence for Catholics which James had commanded to be read in all churches. The outcome of that trial was to prove a mortal blow to James's desired restoration of Catholicism in this country. For a period from 1673 Finch had also himself been Lord Chancellor. It is hardly surprising therefore that, given any scintilla of doubt about the merits of the Risbridger case, the Chancery Court (which is the Lord Chancellor's own court), should have come down in the favour of Finch.

Time went on. In 1714 Heneage Finch was advanced in the peerage, taking the title of Earl of Aylesford. In 1719 he died and the Dowager Countess of Aylesford became Lady of the Manor of Albury. On the Risbridger side, the redoubtable Angel Risbridger died in 1734 at the age of 84. Then in 1743 Lady Aylesford died, and her son the second Earl of Aylesford came into possession.

There had been a period of comparative calm since 1707, but after 1743 litigation flared again, sparked off this time by Lord Aylesford and relating to a different watercourse.

Running southwards from the lower Sherbourne pond there had always been and there still is a running stream, the Sherbourne Watercourse, as shown on the attached plan. This watercourse served the lower-lying fields held with Cookes Place, and it had been granted in the fifteenth century to a John Risbridger by the then Lord of the Manor Sir John Norbury. The Deed of Grant, dated 10th October 1480, records that Sir John did "give, grant and confirm to one John Risbridger, son and heir of Henry Risbridger - - - one small watercourse in breadth four feet, rendering to the Lord of the Manor one red rose on the feast of St. John the Baptist if demanded". It appears that between the upper and the lower ponds at Sherbourne there used to be a board which was readily raised or lowered to regulate the flow of water. But in 1745 this board was replaced by a penstock, or sluice-gate, which Lord Aylesford kept locked, thus cutting off the supply of water to the lower pond and to the Sherbourne Watercourse; incidentally also causing the water from the upper pond to run to waste, and inviting retaliatory action on the Howard Watercourse.

In 1746 William R. filed a Bill in the Court of Chancery, to which the Earl put in an Answer. The Earl afterwards filed a Cross-Bill, to which William R. put in his Answer. Legal proceedings dragged on for another three years without coming to a hearing. Not only was this litigation lengthy, it was also very costly. By 1749 William R. decided he had had enough. This was understandable on his part because he had reached the age of 65: he was still a bachelor: there was no succeeding generation to follow him at Cookes Place; and he had responsibility for a younger unmarried brother John, then aged 56, who was an invalid.

What happened was that in October 1749 William R. in consideration of the sum of £3,000, sold to Lord Aylesford his freehold properties, and at the same time he also surrendered to the Earl about 30 acres of land which he had been holding as a Copyhold Tenant of the Manor. As part of the bargain it was agreed:-

"- - - that all proceedings be stayed in the two causes now depending in the Court of Chancery in one of which the said William Risbridger is plaintiff and the said Heneage Earl of Aylesford defendant and in the other the said Heneage Earl of Aylesford is plaintiff and the said William Risbridger defendant and each party to pay his own costs and for that purpose either party shall at the request of the other consent that the several Bills filed in the said causes may be dismissed without costs".

It was on this basis that the litigation which had started in 1696 was concluded in 1749. But the story would not be complete if this Paper ended here.

In 1754 William R. made his Will. Money was left in trust for his brother John, the interest on which was to be applied:

"for the better support and maintenance of my brother, it being my will that the utmost care be taken of him - - - and that he may not be removed to any place but his own house or where he shall like best. And if a person extraordinary to attend him constantly be necessary, that such person is provided to take care of him there and that no expense be spared that may be conducive to his happiness and quiet".

Under the Will a substantial sum of £400 was to be placed at interest to bring in twelve pounds and twelve shillings for perpetuating William R's usual charities. The manner in which this total annual sum was to be distributed is carved on the monument in the Old Church, viz:-

- 1l. 1s. to the Minister of Albury, for preaching a sermon on the first of May in every year.
- 1s. to the Clerk for performing his office.
- 15s. to 30 such poor people thereof as shall not have received alms therefrom, as will attend that service equally.
- 15s. to be that day laid out in a dinner for such poor people.
- 5l. annually to be laid out in bread, and equally distributed in the said Parish Church, on every Sunday, immediately after Divine Service and Sermon, amongst such poor people of this Parish as shall not have received alms thereof.
- 5l. yearly to be applied in putting to School poor men's sons of this Parish.

In April 1757 William R. died. It will be recollected that the Risbridger Monument, after referring to "Angel Risbridger, widow of William Risbridger, late of Cooks Place," goes on to say:-

"Also the body of William Risbridger, Gentleman their eldest son, who died possessed thereof - - -. Which place thro' many ages had been the residence of his ancestors."

Whilst the closing phrase above is arresting; the opening phrase is something of a riddle because William R. had sold his freehold lands to the Earl of Aylesford eight years previously. In order to discover the answer to this riddle it is necessary to look at a document which had been entered into between William R. and Lord Aylesford earlier in 1749, entitled Articles of Agreement for Purchase. In addition to setting out the arrangements which have already been described, this earlier Deed of 20th June 1749 contains two unusual provisions. One relates to Cookes Place, and it runs:-

"EXCEPT and to be reserved out of such conveyance unto the said William Risbridger - - - for and during the term of his natural life ALL the said messuage or tenement called Cooks Place in the occupation of the said William Risbridger with all the gardens thereto belonging - - - the Hogstye, the vine by the Hogstye, the horsepond to keep the fish in and take out at his free will and pleasure by drawing the pond or otherwise, the lead cistern and pipes and sufficient water to run thereto, the fourteen apple trees standing nearest the said pond etc., etc. - - -".

It is in the light of the above provision that the declaration in the monument, that William Risbridger had "died possessed of Cooks Place" is seen



to be poignantly accurate.

The second unusual provision in this Deed of June 1749, and a strange clause indeed to find among "Articles of Purchase", has a similar poignancy. It runs:-

"WITH liberty for him the said William Risbridger and his brother John Risbridger to be buried in the same vault in Albury Church where their mother was buried."

The year 1757 marks the end of the story. William R. had died in the April. His invalid younger brother John was to die in the August. And meanwhile, in June of that same year, there was to come the death of the new owner of Cookes Place, the second Earl of Aylesford.

When next you study the tablet in the Old Church, or when you next look at the heavy iron railings above the Risbridger vault by the north porch - give a thought to the story behind the monument.

#### ACKNOWLEDGEMENT

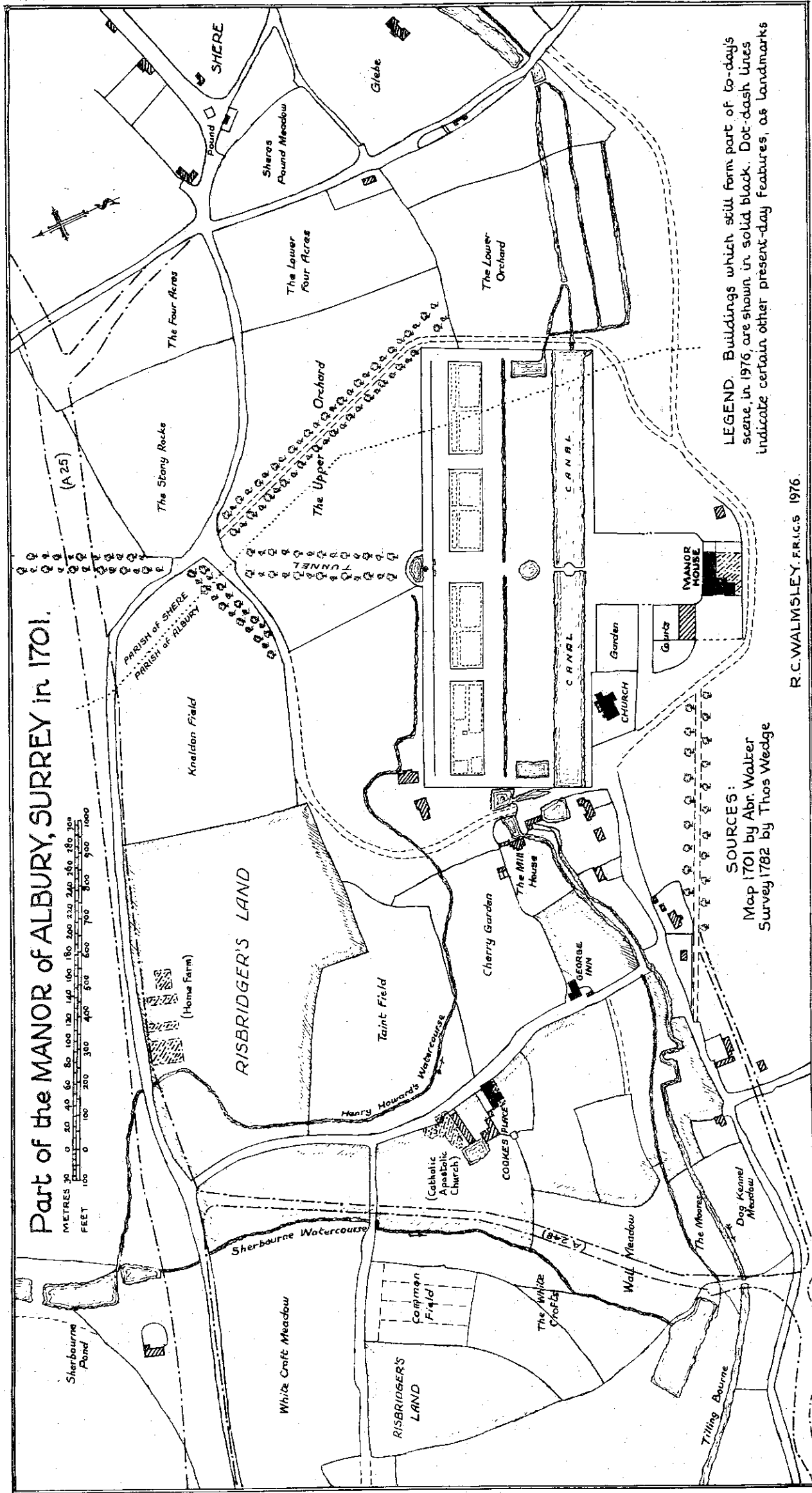
(by R. Charles Walmsley, F.R.I.C.S.)

The compiler of this Paper acknowledges, with gratitude, assistance derived from many sources, and in particular from:-

1. Typescript entitled "The Risbridger Family of Cookes Place, Albury", undated and unsigned but undoubtedly attributable to the late Miss O.M. Heath. Held by Mr. Ernest Risbridger of Albury.
2. Manuscripts left by the late Miss O.M. Heath. Held in the library of the Surrey Archaeological Society, Guildford. (Box 93/1).
3. The Dictionary of National Biography. 22 vols. O.U.P.
4. "The Diary of John Evelyn". Edited by E.S. de Beer. (O.U.P. 1959).
5. Bills and Answers relating to the Finch v Risbridger litigation 1696-1701. Held in the Public Record Office, London. (Bundle C9. 163/87).
6. The judgment in the case of Finch v Risbridger. High Court of Chancery, 24 November 1700. Held in the library of Lincoln's Inn. (Vernon's Reports 1828. Vol.11. p.390).
7. Plan of the Manor of Albury, drawn by Abr. Walter and dated 1701. Held in the Estates Office, Albury.
8. Articles of Agreement of Purchase of freehold lands at Albury by the Rt. Hon. Heneage Earl of Aylesford from Wm. Risbridger, 20 June 1749. Also Deed of Surrender of Copyhold Lands by Wm. Risbridger to the said Earl, 6 October 1749. Held in the muniment room, Syon House. (Bundle D.XXII. 1. C(2)).

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The drawing of the Old Parish Church of Albury on the front of this Paper is by Mr. John L. Baker and is now in the ownership of Dr. Maurice Burton.



*ALBURY PARK, SURREY some thirty years after the making of the JOHN EVELYN GARDENS.*