

Who was Thos Ellerby of Barton, in 1809?

Was He Churchwarden or Parish Constable? Overseer or Parochial Officer?

I have before me a publication, at least 190 years old. The book is entitled "The New and Complete Parish Officer;" or 'A Perfect Guide to Churchwardens, Overseers, Constables, Headboroughs, Tithingmen, Sidesmen, Borsholders, Beadles, and Other Parochial Officers Of Every Denomination'. It states that it is 'A Complete Library of Parish Law down to Easter, 1808'. The Author, was, Henry Clavering, Barrister-at-Law, it is the 8th Edition and cost 4 shillings, there is a good Index. The Preface says "Every Parishioner of Respectability usually becomes a House-holder, and every House-holder must naturally expect to be called forth successively to undertake the Offices of Constable, &c. as well as to be afterwards elevated to the superior parochial Dignities". The various Sections are arranged alphabetically, going from Affray and Assault, via Apprentices, Arrest, Bastards, Churchwardens, to Constables at p.52. To Nuisance, Overseers, Riot, and Rout, Unlawful Assembly and Vagrants and finally a Supplement on the 'Offices of Parson, Vicar, Curate and Parish Clerk'.

A Judicial Decision of the Kings Bench is appended, this last emphasising the need for All Parish Officers to know their duties and the Law, and, by implication, to possess this most excellent publication!

On the very first page, the original wrapper, is the name, 'W.Ellerby'. On the next, 'Thos. Ellerby' and 'Barton, 1809'. If this handbook belonged to Thos. Ellerby, 1809, I have made the assumption, (because I want to) that the Ellerbys acquired it because one or both had been selected as a Parish Constable by the local Justices, no doubt with the approval of the Minister and other Church officials.

The Ellerbys, Parishioners and Churchgoers no doubt, could have been Churchwardens, perhaps held some other office within the community. Thomas Ellerby must have been a St. Peters parishioner because his marriage in 1807 is recorded in the Parish registers. This publication was a major purchase, acquired by someone determined to know the Law insofar as it affected the Office to which he had been appointed. I choose to think he was a Parish Constable!

Churchwardens, chosen by the Minister and Parishioners, were specifically Guardians and Keepers of the Church entrusted with the care and management of the goods and personal property of the Church. They ensured the Parish Registers were kept by the Minister, could arrest unlicensed hawkers and pedlars, receive fines levied on persons for gaming, drunkenness and had duties respecting the Poor Laws.

But they were not Parish Constables.

This textbook is clear in the explanation of a Churchwardens duties, powers and responsibilities in carrying out their parochial Duty. Henry VIII ordered that collections should be made in Parishes for the Poor of that Parish, Elizabeth I went further and ordered that Justices should appoint Overseers with wide powers to deal with, among other things, setting the Poor to work, compelling Masters to accept Apprentices, e.g. to Chimney Sweeps, to serve in HM Ships or at sea generally, also over, inter alia, Rating, Family matters, Property, sending any pauper from another Parish back to his/her own parish. This last power being most rigorously enforced. A substantial householder appointed Overseer by the Justices could not refuse the Office.

A very important section of the textbook is devoted to the powers, including Arrest both with and without Warrant, and the duties of Constables, both High and Petty, within the Community at Large. I quote "the general duty of constables is to preserve the King's Peace in their several districts, for which purpose they are armed as well by the Common Law as by the Legislature, with the very

large and serious powers of arresting and imprisoning their fellow subjects, forcibly entering their dwellings and other extensive Authorities, which is highly their duty to exercise with becoming moderation and humanity."

It also provides a clear exposition of the current law regarding Apprentices, Billeting of the Militia, Bastardy (in respect of the directions of the Justices) and, of course, mainly and most importantly, the Duty of a Constable to maintain the Peace. His powers, under the supervision of the Justices, are set out in a very clear manner. It might be apposite to reflect upon the rate of change in Society generally over the 17th, 18th and 19th Centuries and the tremendous impact that the advent of printed information had on Society.

One has only to look at Ellerby's Handbook to recognise how the ease of dissemination of legislation, of news by newspapers and much other informative material was changing the Country. (The small print and the need to substitute the letter 's' for the letter 'f' demands the readers full and undivided attention. E.g. Affeffments for the fupport of etc.)

Not until 1839 was The Lincolnshire Constabulary established, (by the County Police Act of 1839). Barton Police Station was built in 1847. Before 1839 Lincolnshire was 'policed' by Parish Constables appointed annually by the Magistrates. These Parish Constables could select and call upon suitable men within the community to act as Special Constables, should the necessity arise, they would assist in the maintenance of Public Order. To put into effect the age old system of 'Hue and Cry'. Form a 'Posse Comitatus' (I hardly think it would be in the accepted Hollywood 'Western' style. but that's where that came from, I think!) In 1807, a Thomas Ellerby of Barton married Betty Pinder, by Licence, at St. Peters Church, Barton. Is it not reasonable to think that he had become a Substantial Householder and eligible to be selected as a Parish Constable? I don't know if he did.

The Census of 1801, & those of 1811, 21, 31 give only population counts. It is not until 1841 that names and addresses become available. Generally speaking every Housekeeper, Inhabitant of the Parish and being of Full Age was liable to fill the office of Constable but by virtue 3 Co.42 it was held that he should be of the 'abler sort of Parishioner'. Being more 'likely to perform his duty with probity and discretion'. Some Authorities suggest that Yeomen, small Farmers and others who had some means and could afford the time and some expense were selected. There were many exceptions, lawyers, surgeons, the Militia and others. It is interesting to note that almost 200 years ago two authorities are cited as to the lawfulness of a Woman being required to fill the Office in her turn but she would be allowed to appoint a deputy or procure one to serve for her and that person would be considered a proper Officer.

The law required that every person appointed to the Office of Constable should have:

First, the Honesty to Execute his office truly, without Malice, Affection or Partiality.

Second, he should have a sufficient knowledge of the law enabling him to understand what he ought to do, where his Duty lay. (Is this Clavering giving his textbook sales a nudge)?

Third, 'ability as well as in substance, or estate, or in body, that so he may intend and execute his Office diligently, and not through impotency of body, or want, neglect his duty'.

Not a lot different to the standards set by Chief Constables in the 1930's. Or today come to that! I seem to remember that in 1949 I swore to carry out my Office as a Constable without Malice, Favour, Affection or Ill-Will.

There is much else whereby Henry Clavering Esq., Barrister at Law, extols the Virtues of the various Offices, particularly that of Parish Constable, and, of course, the necessity of having such an Assistant as this his Guide to enable Office Holders to perform their duties Adequately.

To enter into a full discussion of the development of the British Judicial System from the time of Saxon Frankpledge, via Tithings, Hundreds, Hue and Cry, the Statute of Winchester and, very importantly, the creation of Justices of the Peace, by the Justice of the Peace Act, 1361, not within the scope or intention of this article.

When Henry VIII broke with Rome, during the time of the Reformation, the Parish System was retained under the supervision of the Justices of the Peace. In this way was the basic Administrative Unit of this Country formed. The Reigns of Henry VIII and Elizabeth I encompassed much Political and Social change and it is held by some that the stability of this Country during the Age of Revolution in Europe was due in no small part to the democratic framework so created and then supervised by the Justice of the Peace system. It is a fact that "most people comply with the laws because they believe them right and perceive that in the long run it is in everybody's interest to observe them". Is this still a true statement?

The duties and powers of modern day Justices of the Peace who preside in Magistrates Courts in England and Wales evolved from the duties and powers first bestowed on them by the Justice of the Peace Act, 1361.

Why then, should Thos. Ellerby of Barton, 1809, interest me?

When I was a small boy in the 1920's-30's, a Mr. Ellerby had a small shop in Junction Square, Barton, he pedalled a carrier cycle about the town and district, selling a great deal of yeast, as I remember. Was he a descendant of the above mentioned Ellerbys? I want to think Thos. Ellerby was a Barton Parish Constable. Why? Because being a native of Barton and newly Sworn -in as a

Lincolnshire Constable stationed in Barton in the years, 1949 to 1953, I find myself drawing a comparison between this text book, I will call it 'Clavering', and my text book of 1949, 'Moriarty', which was the Vade Mecum of all newly sworn Constables of the Lincolnshire and other Forces when at Police Training Centres and, of course, a very useful source of reference subsequently. Moriarty was a complete Guide not only to Arrest, with and without Warrant, but also to Offences Against the Person, Sex Offences, Traffic, Epizootics, (Diseases of Animals) and any other matters that might call for action by a Beat Officer.. Like Ellerby's 'Clavering' it was a full clear, sound common sense exposition of his 'law' and, in my case, of the then prevailing practical application of my 'Law' and Regulations. Back to Ellerby. Was he a paid servant of the Parish deriving his powers and the nature of his duties from the Justices who appointed him? Did he have a distinctive form of dress, was he armed, carry a lantern? Perhaps he had handcuffs and a baton because these items are listed in the Lincolnshire Police Day Books of the 19th and early 20th Century as a charge on and a responsibility of the Officers in charge of Divisions such as Barton, Winterton etc. Surely he had to work nights? Had he too, patrolled the Barton Streets, the Butchery, Burgate, Sowtergate, Houndgate, Sheepdyke, checking his lockfast properties? Did he wonder if Sowtergate was indeed the site of the Cuckstool dike where scolding wives were dipped? If there had been a cock fighting pit at the rear of the White Lion?

The Statute of Winchester decreed that parish constables kept 'watch and ward'. Ward applied to the daytime but Watch was properly applicable to the time between Sunset and Sunrise. Did his presence deter Night Walkers, Rogues and Vagabonds? Parish Constables, too, had to attend upon Coroners, Judges of Assize and Justices at Quarter and General Sessions. There was remarkably little basic difference in Parish Constable's powers and those I exercised in the course of my Service in respect of Arrest for the commission of offences, on suspicion of having committed arrestable offences, for the execution of warrants of

arrest and other matters. This says much for the good sound common sense of the people of this country over the Centuries. But as one of the characters in a TV programme, Z Cars, was wont to say to his superior. "Think On, Charlie Barlow" and anyone reading this should 'Think On'.

1806 was slapbang in the middle of the Napoleonic Wars, threat of invasion had been in the air, Nelson had put paid to that by defeating the French at Trafalgar. Later British Goods were blockaded. Napoleon continued to rampage around the Continent until he submitted and was sent into Exile from which he returned to be finally defeated at Waterloo. I wonder if the Press Gangs were active on the Humber Waterways? Some prime seamen there! Did the Parish Constable have to assist when Andrew Called? These were difficult times and it is to the lasting credit of the Justices, the Parish system of Administration, the Constables and other officers that the Country weathered the Storm. Students of the Law and History should look at the Vagrancy Act, 1824, the Town Police Clauses Act, 1847 and recognise that this Consolidation of many Offences, of the classification of Offenders and the Penalties came about largely to deal with the aftermath of these wars, the Sturdy Beggars, those exhibiting War Wounds and Deformities to gather Alms, crime committed by persons armed and desperate. Three strikes and you're out applied then, first time up to 1 month impt., second time and the classification moved up to Rogue and Vagabond and 3 mos. Next time, Incurable Rogue and 'Up the Steps' to Sessions. Any person could arrest any person for many offences under these two Acts (under which a power of Arrest still obtains!) This is a wonderful textbook, taking me back to my duties on the dark streets of Barton and other Lincolnshire towns, to the exercise of the powers escribed therein, both on the Streets and in Courts. Today there are still many valid powers of Arrest and the power to Bind Over to keep the Peace is a very handy provision, used by myself when a Sub-divisional and Divisional Prosecutions officer. Nowadays I wonder why the Police do not now appear to make their own decisions as to what shall be done

to maintain order on the streets. And do it! I had better not go any further along this road.

article by Mr C Watkinson