

ART IV.—*Notes on Alston Manorial Records.* By W. NANSON, B.A., F.S.A.

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I MAKE no pretension in these notes to write the manorial history of Alston. In general outline it will be found in the county histories for Cumberland, and a fuller account is given in Hodgson's History of Northumberland, but these tell us more about the pedigree of the lords and how the manor passed by marriage from the Viponts to the Stapletons, and from the Stapletons to the Hiltons, than they do about the manor itself. We are, I believe, too apt to regard a manor simply from the lord's point of view, to look upon it as so much land over which the lord has certain rights and within which the game and the minerals are his property. As a matter of fact it is not at all easy to understand clearly what a manor is, and it is still less easy to give any satisfactory explanation of its origin. Sir Henry Maine speaks of a manor as a group of tenants, autocratically organised and governed, and held together by a variety of subordinate relations to a feudal chief, single or corporate, who is the lord. It is evident therefore that the idea of a manor is a complex one, while as to its origin those, who have discarded Blackstone and no longer believe that every manor was created by direct grant about the time of the Conquest, must be in some doubt as to which of the new guides to follow. It is generally acknowledged by modern writers on the subject that the manor grew out of the village community, but there is much uncertainty and much difference of opinion as to the actual process, and there is an equal difference of opinion as to the political status of the group of persons who composed the village community. Until recently it was

was a generally accepted theory that the English invaders of Britain settled themselves here and there throughout the country as small communities of freemen who dwelt together in their own village, which they called a *ham* or *tun*, and that each family cultivated its allotted share in the free allodial lands which were the common property of the community. Then it is said that the free village communities gradually underwent a process of feudalisation which resulted in the aggrandisement of the leading family and its chief, and the degradation of the other members of the society until they became the vassals of the lord, and in most cases his servile tenants. Quite recently however Mr. Frederick Seebohm, in his most interesting book on the English village community, has asserted that the village community was not introduced by our Teutonic ancestors, but was connected with a settled agriculture apparently dating earlier than the Roman invasion, and that the political condition of the cultivators of the land was not that of original freedom, but of settled serfdom under a lordship; and he further goes on to say that this serfdom was to the masses of the people not a degradation but a step upward out of a once more general slavery.

We see therefore that the history of a manor is likely to afford abundant scope for investigation. It should trace not merely the pedigree of the successive lords, but also the descent of the different tenements, it should treat of the mutual relations of the lord and the different classes of tenants, and of their respective rights and obligations, it should give an account of the manorial courts and their judicial and legislative powers, it should examine and explain the different customs shewing which of them are of general application and which are local, and it should state what officers there were, how they were elected, and what were their functions.

The first step towards a knowledge of these facts is to make a careful examination of the records of the manor, consisting for the most part of court rolls, surveys, rentals, and

and presentments as to customs and boundaries. Unfortunately many of these have perished, and what remain are in most cases stowed away with the lord's title deeds in the office of the steward. No less an authority than Kemble has said "it is deeply to be lamented that the *very early* customs found in copies of court rolls in England have not been collected and published. Such a step could not possibly affect the interests of lords of manors or their stewards; but the collection would furnish invaluable materials for law and history." It is much therefore to be wished that the influence of this Society might be exerted to procure the production of valuable manorial records which a private investigator would hardly venture to ask for, with a view to obtaining reports from members upon the different manors in Cumberland and Westmoreland. I ought to say for myself that as far as my very limited experience goes, I have invariably found that stewards of manors are ready to give every reasonable facility for archaeological research, but still there is a certain difficulty in asking to see documents which are regarded as private muniments, and therefore it might be well that the application should come from this Society in the form of a request that one of its members might be permitted to examine and report upon the records. In many cases the steward himself from his legal training and local knowledge would be most competent to undertake the work, and in other cases he might give valuable assistance.

These preliminary remarks have been in a great measure suggested to my mind by a perusal of three rolls forming part of the records of the manor of Alston Moor, and I ought to add, so far as they apply to stewards, by the kindness of Mr. Millican, the steward of the manor, in allowing me to examine them, and by the help which he has given me in explaining some puzzling entries.

Jefferson, in his history of Leath Ward, says that some of the court books for Alston are signed by the first Earl
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of Derwentwater, but the earliest book now forthcoming begins in 1799. Possibly the earlier books may be at Greenwich Hospital, as the commissioners are the present lords of the manor. The three rolls are not in themselves of great antiquity, but two of them at least are copied from much earlier documents. The first, which is called a "Paine Roll," was made in 1692, either from a roll of Elizabeth's reign made in 1597, which is stated to be "waxen and grown soe dimm that it was hard to be read;" or from a copy of the Elizabethan roll made in 1629, and the Elizabethan roll itself is described as "drawn forth of a roll made in king Henrye's the VIIth dayes." It is a list of pains and penalties to be imposed by the court leet or court baron on the commission of a variety of offences, some against the common or statute law of the land and some against the customs of the manor.

The second of the rolls is called a "Drift Roll," and it is a copy made in 1744 of an old roll also of the year 1597, which had likewise waxen and grown dim. It contains entries showing the drift roads or rights of ways which the tenants of the different tenements in the manor had over other tenant's lands for driving their sheep and cattle to the fell which was the common pasturage of the manor. It contains a great number of names, many of which are still to be found upon the ordnance map, and many more may remain in the recollection of Alston folk. Here is one entry as a specimen.

Item.—The Tenements at Nether Cragge shall drive over at the foot of Guddergill and so over Lortburne, and so to the Black Syke, and so to the ffell. And in Winter in ffrost and Snowe to drive over Tyne, through the head of Richard Renwick ffield and when he breaks the Dyke every year to pay fourpence.

In the times when the fields lay open and unenclosed, and each man's land consisted of small parcels lying scattered and intermixed, and being divided only by a green balk of turf, called in this part of the country by the
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German word *rain*, or by merestones. The field ways were necessarily very numerous, and being ill defined led to frequent disputes which came before the court baron for settlement, and it was no doubt with a view to obviate them that this drift roll was drawn up, for in the pain roll is this entry. "That every man drive his drift according to the drift road. Sub pena vi^d for every default."

The third roll is undated, but the writing is somewhat earlier than that of the drift roll. It is "the heads of severall articles proper, to be given in charge at the court leet and court baron, held in and for the manor of Alston Moor." It is very similar to the pain roll, inasmuch as it contains a list of those offences inquirable and punishable in the court leet, and those inquirable and punishable in the court baron, and it is simply the charge which was read by the steward to the jury after they were sworn, to let them know what they had to inquire into.

Taking this roll and the pain roll together, we get a pretty good idea of the way in which a self-governing community in the North of England conducted its own affairs in the days before state legislation had invented county police, highway boards, rural sanitary authorities, poor law guardians, enclosure commissioners, medical officers of health, and inspectors of nuisances, and certainly if the pains were enforced, and there is no reason to doubt they were, the system must have been both simple and effective. To a great extent the jurisdiction of the court leet still remains unabolished, and it has lost its importance chiefly because general legislation has provided other more complicated machinery for performing the same functions.

Many of the pains which at first sight look strange, are not due to any local custom, but are general enactments which by act of parliament the court leet was directed to enforce, and in examining court rolls this must be carefully

fully kept in view. The following entries which occur in these rolls are good instances.

If any shall take or destroy the spawn or frye of ffishe at the tayle of any mill wear or elsewhere with any trunks, arks, pitholes, netts, or other engines, or take trouts by angling with unlawful baits, as fish roues or such like when trouts are full of spawn ;

which has reference to 1 Elizabeth, cap. 17. "An act for preservation of spawn and fry of fish."

That none shall take cottagers under the payne of vi^s viii^d;

which relates to 31 Elizabeth, cap. 7. "An act against the erecting and maintaining of cottages."

That none kill any hares in the snowe. Sub pena xii^d;

which is forbidden by an Act of Henry VIII against the "tracing of hares."

That noe man play at cards or tables for money within the lordship, but within the xii dayes of Christemas. Sub pena vi^s viii^d ;

which is in accordance with the Act 33, Henry VIII, cap. 9.

Besides these pains relating to particular statutes, there are many relating to offences which at common law, or by the custom of most manors, were enquirable by the court leet, but even these have frequently a local colouring and contain obsolete or provincial words.

Thus the selling of unwholesome victuals, which was punishable in every court leet, appears in the charge roll in the following form :

If any shall kill, or expose at sale, the flesh of any beast that is not wholesome nourishment for man, as the fflesh of any beast that dyed of the murrain or any other disease, or swine's fflesh that is menconed (*manged* or *measled* probably), or any mutton that is rotten, or shall stuffe the ears of their veal or lamb with clouts, raggs, or paper to deceive the people.

The ears are the kidneys, with the enclosing fat, which was stuffed out to make them look larger, and I am told
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that unscrupulous butchers still do it, though they use fat for the purpose instead of clouts, raggs, or paper. Other entries of the usual sort prohibit forestalling, regrating, and ingrossing, all of which are clearly defined, the use of false weights, pound-breach, the keeping of inmates, and the obstruction of ways and watercourses, while others provide for the punishment of breakers of the peace and scolds, the repair of the stocks and pinfold, the yearly making of the butts for archery at Alston and at Garrigill before St. Hellen's day (18th August), and the ringing of swine.

Another class of pains relates to the rights of the lord of the manor, and provides for the preservation of game, fish, and swarms of bees, and prohibits the grinding of corn, except at the lord's mill, encroachment on the wastes, or trespass on the demesne, the taking of hawks, the suing of a tenant elsewhere than in the manor court, and the cutting of woods of warrant, which were oak, ash, holly, and crabtree, and were so called because they were not to be felled without the licence or warrant of the lord.

Other regulations seem to be taken from the border laws, and relate to the day and night watches that had to be kept by the tenants, as a precaution against Scottish raids and the visits of moss-troopers, and as every tenant had to keep a horse, and be ready to come armed and mounted to the fray and following, it would seem that they held what were called nag tenements. Alston does not appear to be mentioned in the "orders of the watches" made by Lord Wharton. It was certainly not included in the Western Marches like the rest of Cumberland, and though as part of Tindale, we should expect to find it in the Middle Marches, following after the watches at Lamly Ford and in Knaresdale, the name of Alston does not occur. It is clear from the rolls, however, that watches had to be kept within the manor.

Other

Other entries on the rolls relate to agricultural matters, and some of these are distinctly local. Thus we have:

If any shall remove mearstones or bound^r marks whereby the manor is distinguished from another, or one man's land from another, or plow any rains that are or perticon (*partition*) between one tenant's lands and another.

This shews that the manor was marked out where requisite with boundary marks, as I understand it still is, and that the cultivated lands lay partly at any rate in open fields, with fences to divide them from the common, but with only mearstones or rains between the different parcels. The commons were what is called unstinted, but the tenants were not to surcharge the common, and the rule was, according to the primitive practice, that each tenant might summer as many goods, *i.e.* cattle on the common, as he could winter at home. No man was to hound another's sheep upon the fell to secure better pasturage for his own: no man was "to drive any goodes over any head water one upon another," perhaps to prevent fouling the stream, and it was ordered "that every tenant that have used to goe to the sheales doe go to the same within one month after S^{nt} Helen day, and then to stay still S^{nt} Peter day upon payne of xii^d for every default." St. Helen's day is the 18th August, and St. Peter's day is the 29th June, therefore, I think the sheales, which were places on the fell, surrounded with ditches or walls, and with a cabin for the shepherd, must have been the winter quarters of the sheep. There are many names about Alston ending in sheilds, and in some places I am told the surrounding ditches can still be traced. Amongst these agricultural regulations are several which serve to shew the exclusive nature of the early manorial community and its jealousy of strangers. No man was to lodge any that dwelt below Glendew, without the licence of the lord or his officer, and no man was to take any goods (*cattle*) from beneath Glendew and Rendalford,
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the northern boundary of the manor, to "jeast" or to take any "geast" swine or geese within the lordship. I am indebted to the Rev. T. Lees for the meaning of the word "geast," which seems akin to the word guest, and is the same as agist or agistment, which Halliwell defines as "the feeding of cattle in a common pasture, for a stipulated price." It was also enjoined "that no tenant doe hire any to watch within this liberty that dwells beneath Gilderdale burne or Ale (the two burns bounding the manor on the north) sub pena vi^s viii^d soe often as they do the contrary."

Lastly, I may mention two pains which seem to belong to primitive times, and may be survivals from the early village community. The first is:

That no man shall mark any other man's marke but to marke and keep his own house marke upon payne of vi^s viii^d and not to marke two house marks.

This is clear evidence that the house marks which Williams has described in the *Archæologia* (vol. xxxvii, page 371) in his letter on the Land of Ditmarsh and the mark confederation, and which he observed in the old home of the English people between the Elbe and the Eider, were once to be seen at Alston. "In Ditmarsh and in Denmark," says Williams, "the owners mark was cut in stone over the principal door of the house; it designated not only his land and his cattle, but his stall in church, and his grave when he was no more." Perhaps a house mark could yet be met with at Alston, or it may be that the old devices, though no longer to be seen on houses, may still be used for marking cattle, or be found in the sheep books kept by the farmers.

The other pain, which I venture to think refers to a primitive usage is as follows:

That the tenants that joyne upon the mark close make up their part that joynes upon the same upon the payne of iii^s iiiii^d at the discretion of the fence men.

Mark

Mark Close is now the name of a farm on the left bank of the Tyne, nearly opposite Alston, and not far from the mound called Hall Hill, which overlooks the river, and is partly surrounded by a deep artificial ditch. Such a hill from its name can hardly be supposed to be anything else but the place where the folkmoot once met in the open air, and where probably, in later times, were also held the court leet and court baron, which Sir Henry Maine says there can be no reasonable doubt are descended from the assembly of the township. Hodgson, in his History of Northumberland, suggested this idea, but whether there was a tradition on the subject, or whether he was guided merely by the derivation of Hall Hill from the hill of the *aula* or *halla*, meaning a court baron, he does not tell us. The fact that Hall Hill is not far from the farm of Mark Close, and that it probably stood within the limits of a wide enclosure, now divided into smaller fields, which was known as the Mark Close, and gave its name to the modern farm, seems to support Hodgson's suggestion. Mr. Gomme, in his book on Primitive Folk-moots, cites instances of moots being held in open fields, and calls attention to the recurrence of such names as Hall Close, Mott-house Field, Mote Field, Mote Close, and Mote Thorne Field, to which we may add the Mark Close. It was probably a common pasture, which being public property, had to be fenced by those whose land adjoined it, and within which, upon the Hall Hill met the mark moot, the old assembly of the primitive mark or township, before the causes which transformed the mark into the manor had come into operation.

The manor courts are now held, not in the town of Alston, but at a place called Lowbyre, a little north of the town, and near the river. In the drift roll I find that Lowbyre is Lawbyare, and that is doubtless the original form of the word. Law-day is a term sometimes used instead of court leet, and Mr. Gomme, in his book on Folk-moots, gives an account of the Birlaw courts of Scotland,

Scotland, and of the Byerlaws into which the district called Bradfield, in Yorkshire was divided. He also extracts from Whitaker's History of Whalley, a code of byerlaws belonging to Extwistle, as containing the legislation of a primitive agricultural community, and the judgements of a primitive judicial court. We seem therefore to be warranted in concluding that Lawbyer is only an inversion of Byerlaw, and that the place gets its name from the courts which are held there.

Since the above paper was written, Mr. Millican, the steward of the manor, has discovered one of the old court books. It comprises the period from 1683 to 1694, and contains many interesting entries relating to americiaments or fines imposed by the court, for offences against the customary law of the manor as declared in the pain roll. Amongst them is the following :

We amorcy John Key, for not markeing with the marke }
 belonging to his house contra paine. } vi^s viii^d

The book also contains the records of the courts held at Keswick, for the manor of Castlerigg and Derwentwater, and a few entries relating to the manor of Thornthwaite, these manors, as well as Alston Moor, having belonged to the Radcliffe family. On one of the pages is to be found the signature "Darwentwater," being that of Francis the first Earl. At the beginning of the book he is described as Francis Radcliffe Baronet, but in 1687 he becomes Francis Earl of Derwentwater.