

ART. XXIV. *The Appleby Charters.* BY W. HEWITSON,
Town Clerk of Appleby.

Read at that place, July 3, 1890.

“**A**PPLEBY hath been a Town Corporate of very ancient time.” Thus Nicolson and Burn in their *History and Antiquities of Cumberland and Westmorland, 1777*. How long we do not at this day know any more than did they, as the original charter of incorporation has been lost or destroyed, and no record of its date remains in the possession of the corporation. The same historians, referring further to Appleby, say:—“It is in fact evident that they were governed by a mayor and other corporation officers, perhaps as early as any other corporation in the kingdom.”

The statute 13 Edward I, c. 1 (1285), which relates to the acknowledgment of a statute merchant, runs in the original Norman French (the legal and parliamentary language of the period), that the merchant shall cause his debtor to come before the mayor of Appleby or some chief warden of a city or other good town “*Face venir sun dettur devaunt le meyre de Appelby.*” The English translation of the act however mentions the mayor of London and not the mayor of Appleby.

The earliest Royal Grant now in the possession of the corporation is a charter of Henry II. It is undated, but I am informed by Mr. Norcliffe, of Langton Hall, near Malton, Yorkshire (who has gone through the town chest and either copied or taken extracts from every document therein, and whose assistance I gladly acknowledge) that it was granted in 1179, as, he says, is certain from the pipe rolls, published by the Newcastle Society of Antiquaries in 1847. The burgesses paid 40 marks for it. By this charter
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the king granted and confirmed to his burgesses of Appleby, all the liberties and privileges which his burgesses of York had. I would point out that this is not a charter of incorporation, but a grant of privileges to an existing corporation.

I next come to a charter of king John, dated at York, the 26th day of March, in the first year of his reign (1200), and which cost the corporation 100 marks. This charter, like that of Henry, grants and confirms to the burgesses of Appleby, all the liberties and privileges which the burgesses of York had, and specifies those privileges as freedom from toll and stallage, and pontage and lastage throughout England except in the city of London, and goes on to state that if the burgesses of York should afterwards have that exemption in the city of London, the burgesses of Appleby should have the same. By the same charter king John granted to the burgesses the borough of Appleby, to hold in their hands, rendering to the sheriff of Westmorland the rent due for the same, one moiety at Michaelmas and the other at Easter.

The burgesses soon had occasion to test the validity of the charter of John, for we find them, in the 4th Edward I (1276), bringing a special writ against Roger de Clifford and Isabella his wife, and Roger de Laburne and Idonea his wife, alleging, amongst other things, that the aforesaid Roger and Roger did not permit the said burghers to take stall rent in all markets and fairs at the said town, nor customs of such merchants as did traffic there, as they and their ancestors, in time past, were accustomed to do; and did distrain them day by day, to compel them to do fealty to the said Roger and Roger, for their tenements in the town aforesaid, as if they were their homagers, of whom they did not hold anything at all, nor of any other but their lord the king; to the great damage of their lord the king and the aforesaid burghers. By the answer of the defendants it appeared that they laid claim to the borough, by
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virtue of a charter of King John, granting to Robert de Veteripont, great grandfather of the said Isabella and Idonea, "Appleby and Burgh with all their appendages, with the sheriffwick and rent of our county of Westmorland, and the services of all our tenants, who hold not by knights service." This charter was granted in the 4th year of the king's reign, and therefore subsequently to the grant to the burgesses. Issue being joined, inquiry was made by jurors of the counties of Northumberland, Durham, and York who were considered as less likely to be biassed than local jurors, and who found that neither Robert de Vetripont nor any that succeeded him as heir, ever had seizin of the borough of Appleby, in which the burghers dwelt; but that king John gave to the said Robert, "old Appilby where the bondmen dwell" (*Vetus Appilby ubi villani manent*), now Bongate, with the appurtenances, which lands the king had in his hands, by reason of the trespass committed by Hugh de Morville, who being attainted for the part he took in the death and beatification of that "rebellious prelate" of whom Henry II had wished to be rid, (Thomas a' Beckett), had forfeited the castles of Appleby and Brough held by him. Judgment was therefore given in favour of the burgesses.

The next charters in order of date, are those of 16 Henry III (1232), 14 Edward I (1286), and 5 Edward III (1332), confirming that of king John. The charter of Edward I, however, provided that the burgesses might if they thought fit, pay the rent for the borough into the exchequer by the hands of their own bailiffs, instead of through the sheriffs; probably in consequence of the defendants in the suit above mentioned having laid claim to the homage of the burgesses; at any rate the burgesses readily availed themselves of the privilege, as appears from the vouchers for subsequent payments of rent. That of Edward III having recited that the borough had been seized by Edward II for arrears of rent, and was then in
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the possession of the crown, re-granted the town to the burgesses, on the same terms as before.

Next are the charters of 20 Henry VIII (1528), 1 Mary (1553), and 4 James I (1607), and then that of 16 James I (1618), confirmatory of letters patent of Philip and Mary, reducing the annual rent from 20 marks to two marks on account of the devastation of the town by the Scots, and discharging the arrears.

In this connection I may state that there is a *quietus* in 7 Henry VIII, another in 25 Henry VIII, and a third in 2 and 3 Philip and Mary reducing the fee farm rent to two marks yearly, following Inquisitions which found that on St. Stephen's day in the year 1388, the town was burned by the Scots, and that the greatest part lay still in ruins.

I may also here mention an order (of which a copy in the writing of the period remains with the corporation muniments), of Henry (supposed to be Henry VII), dated the 27th of May, in the 7th year of his reign (1492), addressed to the sheriffs of Westmorland, which, after reciting that divers of his progenitors had granted to the inhabitants of Appleby, divers franchises, liberties, and freedoms as in the holding of fairs and keeping of markets with other liberties, such as the citizens of York had, continues as follows:—

We being credibly informed that the said towne hath been by the Scotts destroyed wasted and burned with their said charters of liberties by our said progenitours to thaim graunted afore this tyme whereby the people of the countrey thereabout have loste their resort and comyng to the said Towne whiche towne withoute we of our especial grace putte to thinhabitants of the same our hande of pitie and mercye is like to fall to thutrest ruyn and decaye We for this and other causes us moving will and charge you that ye in such places as ye thinke most expedient within the said countie do make proclamation that our plaisir is that the said inhabitaunts have and enjoye the said faires and marketts to bee holden upon the Monday or ells the Saturday onys in the week as it shal be thoughte moost best for the
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wele of the country With all other liberties fredomes and fraunchises as largely and in as ample wise as any of their predecessors had used and had in the daies of any of our progenitors of this tyme without any interruption hurt or hindering of us or any of our officers to the contrary.

We may estimate the population of the borough from the fee farm rent, which was paid at the rate of 2d. for each burgage. Taking the rent of 20 marks (£13 6s. 8d.), it gives 1600 burgages, and allowing a household of six persons for each burgage, which is probably a low computation, we get a population of about 10,000 which would mean a town of considerable importance, at the time in question. The reduced rent of two marks (£1 6s. 8d.), by the same calculation gives us a population of about one thousand, from which we may gather the extent of the devastation wrought by the Scots.

The privileges of the burgesses are further confirmed by charter of 3 Charles I (1628). This charter recites a charter of Elizabeth, which however I do not find with the records.

In the time of the Commonwealth, a charter would seem to have been granted to, or rather imposed upon the burgesses, for on the Restoration, according to the Rev. Thomas Machell, "the Mayor would not handle the staff of authority, nor suffer the oath of office to be administered unto him, until he had sent for Oliver's Charter, and in the face of the court, cut it in pieces with his own hands, and then looking about, he espied some taylors, and cast to them, saying, it should never be a measure unto him."

The burgesses appear to have surrendered all the powers franchises and authorities concerning the election of mayor, recorder, aldermen, town clerk, common councilmen, coroner, and other officers to James II, who by charter in the first year of his reign (1685), incorporated the borough by the name of "The mayor, aldermen and capital burgesses of the borough of Appleby," constituted the following

following offices *viz* :—Mayor, recorder, town clerk, 12 aldermen besides the mayor, 16 capital burgesses, sword bearer, serjeant at mace two chamberlains and two bailiffs, nominated the first mayor, recorder, aldermen, town clerk and capital burgesses to hold office during life, provided for future elections, and granted a fair and a court of *pie poudre*.

Shortly after the grant of this charter the king issued a *Quo warranto* against this and other corporations, and we find that by surrender dated the 4th of June, 1688, the corporation yielded up to him his heirs and successors, all the powers, franchises and liberties whatsoever, vested in them concerning the electing, nominating, and appointing of any persons into the offices of the said borough, and prayed his majesty to regrant the said liberties and franchises. It appears, however, from the proclamation issued by the king in 1688, that this surrender and the previous one in 1685, were never inrolled, by reason whereof the corporation got rid of the charter of James II the same being void, having been granted in consideration of a void surrender. The subsequent elections were in consequence governed by ancient usage.

Appleby was not included in the schedules to the Municipal Corporations Act, 1835, and the provisions of that act, did not affect its constitution.

In 1883 an act was passed which dissolved as from the 25th of March, 1885 all the corporations which were then unreformed, except those to which in the meantime, her majesty should be pleased to grant new charters, extending to them the provisions of the municipal corporations acts. Appleby was included in the schedule to this act, as one of the places to which it was considered by the commissioners, who had previously held inquiries on the subject, that the municipal corporations acts might properly be applied, if the inhabitants so wished. The inhabitants, therefore, not wishing that the ancient corporation

tion should become a thing of the past, petitioned her majesty for a new charter of incorporation, and her majesty being graciously pleased to accede to the prayer of the petition, a new charter was granted accordingly on the 20th day of July, 1885, extending to Appleby the provisions of the municipal corporation acts, and initiating a new era in the government of the town, by placing the same on a popular basis.

In conclusion it has not been my purpose to write a history of this ancient borough: I have simply endeavoured to place before you a bare account of the several royal charters and grants, from which I think you will glean that the town has a long past history, and has undergone vicissitudes. Its motto however has been, and I trust will continue to be "*Nec ferro Nec igni.*"
