

ART. VI.—*Cornage and Drengage*. By T. H. B. GRAHAM,
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CORNAGE.

GREAT estates, situate in Cumberland, are described in medieval records as held by cornage tenure. Its incidents were not grounded on feudal principles, but rooted in native custom. The chief incident of the tenure, and the ear-mark by which it is identified, was payment to the *king of England* of an ancient tribute called in native language noutgeld, or in Law Latin *cornagium*. That payment is sometimes associated with minor incidents of local military service, and suit of court. When the student finds tenants of estates in the neighbouring counties of Northumberland, Durham and Westmorland paying cornage, or performing minor services, like those incidental to the typical Cumbrian tenure, he suspects that the same archaic mode of holding land has, once upon a time, prevailed throughout the whole region covered by the four northern counties. The problem is complicated by the difficulty that those peculiar services were rendered by others than territorial magnates, but that difficulty is explained by the discovery that the tenant *in capite* habitually compelled his under-tenants to answer for a due proportion of the duty, which he himself owed to his sovereign lord the king.

Northumbrian landowners were anciently liable to payment of cornage, presumably identical with the Cumbrian noutgeld. For instance, in 1247, John de Hawelton, tenant *in capite* of the manors of Halton, Clarewood and Whittington,* continued to do "forinsec service of cornage

* In the parish of Corbridge, see *Northumb. County Hist.*, vol. x, p. 389.

and suit of county court, as his ancestors had done" (*Cal. Charter Rolls*, 31 Henry III, p. 321). His ancestors were tenants by thanage, as appears by the next-cited document.

The great inquisition of 1212 shows that feudal tenure by knight-service had supplanted native tenure by cornage throughout Northumberland, though the latter continued to flourish in many parts of Cumberland (*Testa de Nevill*, pp. 379 and 392; *Book of Fees*, 1920, pp. 197 and 200). Payment of cornage-rent was incompatible with knight-service. But it was still demanded in 1264-5, from under-tenants of many baronies and from holders of ancient tenements at Eslington, Callaley, Mousen, Little Ryle and elsewhere (*Red Book*, Rolls edition, vol. ii, p. 713). In some instances, perhaps in all, the contributor to cornage-rent was an under-tenant, who had in effect become tenant *in capite*, because his superior lord had cast upon him the duty of performing forinsec service to the king. Such, at any rate, was the case at Little Ryle (*Cal. Inq. p. m.*, 23 Edward I, p. 165; and *ibid.*, 25 Edward I, p. 263) and at Fenwick-Matfen and East Matfen (*Abbrev. Placit.*, p. 194).*

In Cumberland, tenure by cornage was regulated by custom. That is shown by Odo de Wigton's case, heard in 1238-9, when it was decided that a tenant, who marched in the vanguard and retired in the rearguard of the army against Scotland, and also paid horngeld, was a grand serjeant *by repute*, and therefore, at his death, wardship of his land remained to the king. The nature of his tenure was not decided by the bench, but by inquisition, in other words by verdict of a jury (*Bracton's Notebook*, edit. Maitland, vol. iii, p. 279). In that case, the jurors seem to have been forgetful of ancient tradition, and so the

* In Stamfordham parish, see *Northumb. County Hist.*, vol. xii, pp. 350 and 353.

archaic tenure was made to fit the rigid mould of the Norman lawyer.

In Northumberland, it was similarly regulated; for, on the death of Richard de Ryle in 1295, the barons of the exchequer, when making a return to a writ of *certiorari*, delivered the following *obiter dictum*:—"Wardship and marriage are due to the king from all tenants *in capite* by cornage in Cumberland and Westmorland; but it has not yet been ascertained whether they are likewise due in Northumberland"; which indicates that the point (which did not arise in that particular case) was one to be decided on the basis of local custom, and not feudal law. (*Cal. Inq. p. m.*, 23 Edward I, p. 165).

In Durham, cornage was due, not to the king, but to the bishop (Hodgson, *Northumberland*, part I, p. 259). The circumstance requires explanation. Durham, that is to say, the land belonging to the see, was, even at the date of the Domesday Survey, deemed parcel of Northumbria,* and doubtless, in olden times, owed, to the king of England, forinsec service, including the tribute paid in cattle, or a customary equivalent in money. The bishop, as was usual, transferred the burden *pro rata* to the shoulders of his territorial subordinates, many of whom were *not free men*. That was not a breach of custom, for, according to Bracton, forinsec service was due from the "tenement," and therefore in effect a charge upon the land (*De Legibus*, Rolls edon., vol. i, p. 282).

But soon after the Conquest, the bishop was invested with palatine power, stood *in loco regis* with regard to his domains, levied the ancient tribute, and retained it for his own benefit.† Suit of court was likewise due to the bishop. In 1130-1, the see was vacant and consequently in the king's hand, so Geoffrey Escolland, *custos* of the tempor-

* Surtees, *Hist. Durham*, i, p. xv, note.

† It is possible that from 1072 onward, Malcolm III enjoyed a like franchise in respect of the old "Land of Carlisle" (these *Transactions*, N.S., xxvi, p. 279).

alities, entered in the pipe roll an account of cornage due to the vacant see—*cornagium animalium episcopatus*, and, for the nonce, paid it into the royal treasury. An English translation of this earliest extant pipe roll (31 Henry I) to which there will again be occasion to refer, is contained in *Surtees Society's Publications*, vol. 25, appendix p. ii. In 1183, the *unfree* tenants of the vill of Boldon were accustomed to pay the tribute, partly in money, partly in kind, namely 17 shillings "for cornage," plus one live cow in milk (*una vacca de metride*) and the same custom prevailed in some thirty vills of the diocese (*Victoria Hist. Durham*, vol. i, pp. 273-4).

Cornagium is not an apt translation of the English term noutgeld, for in Old French *cornage* signified *droit qui se levait sur les bêtes à cornes* (Littré) in other words, a toll on cattle, and was sometimes used in England to express that meaning. For instance, Henry I confirmed to Durham Priory *cornagium de Bortona, quod Unspac tenet, scilicet, de unoquoque animali 2^d*, which Bishop Flambard had taken away and again restored (*Feodarium, Surtees Socy.*, vol. 58, p. 145, note). The words in Latin do not refer to *cornagium animalium* due from the vill of Burdon to the bishop, but to a toll on cattle due from that vill to the priory.

Many have been misled by an "explanation of ancient terms" contained in the *Registrum Primum* of the same priory:—*Horngeld. Hoc est quietum de consuetudine, exacta per talliam, per totam Angliam terram, scilicet, de omni bestia cornuta* (*Victoria Hist. Durham*, vol. i, p. 274, note). That explanation must have been added at a period when the original meaning of the word horngeld was clean forgotten, for it was used in Cumberland as a synonym for noutgeld, in 1238-9 (*Bracton's Notebook*, edit. Maitland, vol. iii, p. 279).

A futile attempt to define cornage was made in Fenwick's case heard in 1278, when a Northumberland jury

say that cornage is forinsec service, being payment of an annual sum "for cornage" to the king by suitors in the county court, hundred court and court baron, in order to be quit of a custom, namely, that if the defendant does not deny the plaint, word for word, he is forthwith convicted (*Abbrev. Placit.*, p. 194). That is nonsense, but it is interesting to notice the association of cornage and suit of court, two incidents of ancient freehold tenure in Cumberland.*

The cornage peculiar to the Border was distinct from the cornage of England generally. The former was tribute of cattle, commuted into a money payment and due to the crown. The latter was a toll, levied by one person, sole or aggregate, upon another person's cattle.

Obligation to pay noutgeld was the badge of native tenure, and the chief tenants of Cumberland and Westmorland were anxious to be rid of it, and to have their ancient mode of holding land converted into a normal feudal tenure. The confirmation, in 1158, of the barony of Gilsland by Henry II to Hubert de Vallibus, to hold by service of two knights, is expressly entitled "a charter of quittance from noutgeld" (*Victoria Hist. Cumberland*, i, p. 320). Again, on April 15th, 1190, Richard I, in consideration of a fine of 20 marks of silver, granted to Gilbert, son of Roger *fitz* Reinfred, quittance, throughout his great baronies of Westmorland and Kendal, from the annual sum, which he was accustomed to render for noutgeld; and quittance from shire, wapentake and trithing, which means suit of local courts, to hold the said quittance to him and his heirs by service of one knight, instead of the said noutgeld (Nicolson and Burn, i, p. 31). That interesting charter is one of the Levens Hall MSS. (*Historical Manuscripts Commission*, tenth report, appen-

* Fenwick's ancestor was an enfranchised dreng, who was bound by agreement to do the forinsec service due from his lord to the king (*Northumb. County Hist.*, vol. xii, p. 353).

dix iv, p. 325). And, in 1265-6, Walter de Wigton endeavoured, without success, to obtain quittance from horn geld in his manors of Wigton and Blackhale (*Vict. Hist. Cumb.*, i, p. 315).

Landowners of Northumbria (including Durham) were liable to a minor incident of tenure usually termed "utware," but in a particular instance, presently cited, "outward." For example, William Conyers gives land at Widmers, near Mitford, Northumberland, to Newminster Priory, to hold in free alms, quit of the *king's* service, which is called utware, and of all service to the lord of Morpeth (Newminster Chartulary, *Surtees Socy.*, vol. 66, p. 18). And Hugh Pudsey, bishop of Durham (1153-1195) grants to Gilbert Hansard land at Hook and Blacktoft (situate geographically in Yorkshire, but technically within the Palatinate of Durham) quit of aids and all other custom and service, except utware, which pertains to the king (Rievaulx Chartulary, *Surtees Socy.*, vol. 83, p. 215).

Bosworth and Toller, in their Anglo-Saxon Dictionary, explain *utwaru* as "defence away from home."

An old code of law, in force before the Norman Conquest, connects utware with a holding of five hides:—

If a ceorlish man so thrive, that he holds 5 hides of land for the king's utware, &c. If a thane so thrive that he serves the king, and moreover has, as his follower, another thane, who holds 5 hides for the king's utware, &c. (*Ancient Laws*, Record Commission, vol. i, pp. 189 and 191).

Domesday Book does not notice utware, but connects a holding of five hides with military service:—

When the king went on an expedition by land or sea, he used to receive from this borough (Malmesbury) either 20 shillings, for feeding his sailors, or to take with him one man as for a unit (honor) of five hides (Jones, *Domesday for Wiltshire*, p. 6).

It is therefore surmised that the Northumbrian utware originally entailed military service, on the occasion of a

royal expedition against Scotland, and was analogous to the Cumbrian obligation of accompanying the king's army from the Rerecross to the Solway and back again.

To sum up. Medieval documents indicate that landowners of such part of ancient Cumbria as was immediately subject to England owed a triple duty to the king, namely; 1. to pay the tribute called by natives noutgeld and by Normans cornage; 2. to guard the border, a duty for which there was not a specific name; 3. to do suit of court known to natives as endemót.

They further indicate that landowners of such part of ancient Northumbria as was immediately subject to England owed a like triple duty to the king, namely: 1, to pay the tribute, called by Normans cornage; 2. to guard the border, a duty styled by natives utware; 3. to do suit of county court.

The first-named province is practically represented by part of the modern counties of Cumberland and Westmorland, *i.e.* the old Land of Carlisle;* the second by the modern counties of Northumberland and Durham. Their duties were similar and seem to constitute a royal scheme of control and defence.

Both provinces were, for political reasons, excluded from the Domesday Survey of 1086. The said part of Cumberland and Westmorland had since 1072 been held for homage only and as a separate fee by the king of Scotland, and Dolfin, son of the late earl, Gospatric, was under-tenant of the same.

Northumberland was held for fealty only and as a separate fee by Robert de Mowbray, official earl, ap-

* The residue of modern Cumberland (Coupland) and the residue of modern Westmorland (the barony of Kendal) appear very imperfectly and confusedly in the Domesday Survey, and only so far as regards escheated land, which had in times past belonged to Tostig, earl of Northumbria, and his followers (*Vict. Hist. Lancs.*, vol. 1, p. 272) and which, for fiscal purposes, had already been treated as parcel of the county of York (*Vict. Hist. Yorks.*, vol. ii, p. 133).

pointed by the king and armed with plenary authority (Hodgson, *Northumb.*, part I, p. 247).

Durham was ruled by Bishop William de Karilepho, invested with palatine, or quasi-royal power.

At the moment, the two provinces were not producing anything to swell the royal revenue, and were therefore excluded from the Survey, which dealt with fiscal matters only (*Archæologia*, vol. 51, p. 147).

But it is obvious that the king retained in all the premises a suzerainty or overlordship, with inherent right to exact duties binding on the occupants since (it is suggested) the days of Cnut, creator of the frontier, and termed by lawyers forinsec service. He could, by virtue of his suzerainty, enforce, waive and reimpose such *extra* service as occasion required.

In the case of Durham, he waived all claim to cornage and suit of court, but even the all-powerful bishop, Hugh Pudsey, regarded utware "when laid upon the bishopric" as service pertaining to the king.

In the case of Northumberland and the Land of Carlisle, forinsec service was certainly revived, and tenants *in capite*, as usual, indemnified themselves by imposing a proportionate share of the liability upon their under-tenants.

Forinsec service was not a fiction invented by Norman lawyers. It was parcel of that continuity of custom, which is the essence of our Constitutional Law. It is based on the principle that the subject must co-operate with his sovereign lord in maintaining the security of the realm, in time of peace and war. Every free English landowner of the olden time was bound by a triad of obligations, termed by jurists *trinoda necessitas*, namely, to follow the king's host (*fyrd*) to mend bridges (*brycg-bót*) because they are part and parcel of the king's highway, and to repair fortresses (*burh-bót*). Those obligations seem to have been discharged by payment in money or kind.

Within the "Marches of Scotland" (using the term in its widest sense) forinsec service assumed distinctive features. Cornage was, in its origin, an arbitrary tribute imposed by an English king upon the conquered denizens of the Marches. The other incidents of tenure by cornage—*utware*, the act of accompanying the king of England's army in defence of the Marches, and *endemót*, the act of attending the king of England's courts of law, held within the Marches, and thus maintaining the integrity of the realm, represent the general obligation of the subject to his sovereign lord. International courts of law, held upon the very frontier (e.g., at Solwath) cannot have taken definite shape until after the codification in 1249 of the *leges marchiarum* (*Acts of the Parliaments of Scotland*, vol. i, appendix ii, p. 83). The king of Scotland had complained in the previous year that those laws were not observed (*Cal. Doc. Scot.*, i, pp. 323 and 559), but there is reason to suppose that the said codification is an antedated forgery of a later period (Nicolson and Burn, vol. i, p. ix). The local services of castlework and seawake, rendered by the inhabitants of Allerdale below Derwent in 1174 (see *Holmcultram Register*) were in theory due to the king, as proprietor of all castles and frontiers of the kingdom.

DRENGAGE.

"Gospatric's Charter," made about 1072, is in the form of letters patent, addressed to all his subjects free and dreng, dwelling in the lands which were Cumbrian, by which expression he indicates the district described, in later times as *Chaerleolium*, the Land of Carlisle.

Drengr in the Old Norse language means young man, lad, fellow; *dräng* in Swedish means man, servant, or someone's "man"; *dreng* in Danish means boy, lad, apprentice (*New English Dictionary*). In England, it occurs only in documents relating to the northern

counties. In Gospatric's Charter, it seems to indicate a landowner, who did not enjoy the full rights of a free man.

Henry I describes land at Gamblesby and Glassonby as "lately belonging to my drengs" and gives it to a new tenant, to hold "by payment to me of the gavel of animals, which other free men of Cumbria, who are my tenants *in capite*, pay." (*Abbrev. Placit.*, p. 67). There, the free tenant by cornage is distinguished from the dreng, who is evidently not a free man.

Two other instances of drengage occur in the Register of St. Bees:—

Roger, son of Gilbert, about 1140, gave to the monks, in free alms, the vill of Hensingham, which a certain Alan and his ancestors held of the donor and his ancestors in drengage (*Wilson, St. Bees*, p. 247); and, early in the thirteenth century, Alice de Romili, daughter of William *fitz* Duncan, in consideration of 20 marks of silver, quit-claimed to William de Ribton and his heirs the drengage in Ribton, lately in the tenure of the grantee's father, to hold by render of 20s. a year and such service as her other *free* men of Allerdale were accustomed to perform (*ibid.*, p. 481). Alice de Romili held Allerdale of the king by ancient service of cornage (*Testa de Nevill*, p. 379; *Book of Fees*, 1920, p. 197).

The Domesday Survey, completed in 1086, mentions drengs in one district only, namely, the hundreds of Newton and Warrington "between the rivers Ribble and Mersey":—

Newton hundred. In the time of King Edward (the Confessor) 15 men called "drenchs" held land in this manor for 15 manors, but they were *berewicks* (hamlets)* of the manor, and paid altogether 30 shillings. Now there are 6 drengs.

Warrington hundred. King Edward held Warrington. To this manor belonged 34 drengs, and they had as many manors (*Baines, Hist. Lancaster*, vol. i, p. 103, and *Vict. Hist. Lancs.*, vol. i, p. 286).

* Or outlying demesnes (*Vict. Hist. Yorks.*, ii, 134).

The term *manerium* is here used to denote both the royal estate and its sub-divisions, so, before the Norman Conquest, each of these Lancashire* drengs was in possession of a single unit of land.

Ranulf Flambard, bishop of Durham, in a charter made *circ.* 1100, addresses all his thanes and drengs of Islandshire and Norhamshire (Surtees, *Hist. Durham*, vol. I, part i, p. cxxv). Those districts, though ancient divisions of Northumberland, were technically parcel of the see of Durham. (*ibid.*, vol. I, part i, p. xv). For that reason, the *custos* of temporalities accounts in the earliest pipe roll (1130-31) for tallage due to the vacant see of Durham from the bishop's thanes, drengs and *smale-manni*, "between Tyne and Tweed" (*Surtees Socy.*, vol. 25, appendix, p. ii).

In 1176-7 (23 Hen. II) account is rendered by the sheriff of Northumberland of an aid due from boroughs, vills, drengs and thanes; and of the thanage of the king of Scotland in Tindale (*Pipe Roll Socy.*, vol. 26, pp. 83-4).

The sheriff of Westmorland accounts, in 1177-8, for a sum, in default of drengs' rent, which Hugh de Morvill, by the king's writ, had turned into free service (*ibid.*, vol. 27, p. 74) and, in the following year, for quittance, by the king's charter, of the land of Walter, son of Durand, from drengage (*ibid.*, vol. 28, p. 25).

Then comes the evidence of Boldon Book, a survey of the see of Durham, made in 1183, by order of Bishop Hugh Pudsey (*Surtees Socy.*, vol. 25):—

William holds *Oxenhall*, a carucate and two *culturæ* of the territory of Darlington. He does service of one-quarter of a drengage, that is to say, ploughs 4 acres, sows them with the bishop's seed and harrows them. He does four boon-days (*precationes*) in autumn, namely, three boon-days with all his men and all their household,

* The shire of Lancaster had not yet come into existence. Domesday Book treats the tract lying between Ribble and Mersey as a limb of Cheshire.

except the housewife; and one boon-day with a man from each house, except his own house, which shall be free. He takes care of a dog and a horse for a quarter of the year, and carts wine with 4 oxen. He does *utware*, when it shall be laid on the bishopric (pp. 17 and 55).

Robert, son of Meldred, holds a carucate at *Whessoe*, renders 10s. 8d., does four boon-days with all his people, except their housewives, and except his own house. He, or someone in his place, shall be over the boon-days. His men plough and harrow an acre and a half. Robert himself feeds a dog and a horse, and does *utware*, as much as pertains to one-quarter of a drengage, and finds 4 oxen to cart wine (pp. 20 and 57).

West Auckland. Elstan, a dreng, formerly held 4 bovates, rendered 10s., did three boon-days in autumn with all his men, except his own house, and ploughed and harrowed 2 acres. He used to go on the bishop's errands (*legationes*) between Tyne and Tees, at his own cost, and to find 4 oxen to cart wine. The land is now in the bishop's hand, until Elstan's son shall be grown up. The bishop has let 12 acres of that land to Elstan's wife, free of charge, to maintain her boys, and the residue of that land renders the farm rent and does the other service which Elstan used to do (pp. 26 and 61).

Great Usworth. The dreng feeds a dog and a horse, attends the great chase, with two greyhounds and five ropes, follows pleas and goes on errands (pp. 35 and 69).

Two parts of Herrington render 20s. cornage. The dreng feeds a dog and a horse, as much as belongs to the two-parts of land in drengage, attends the great chase, with two-parts of two greyhounds, and carts two-parts of a tun (*tonellum*) of wine, follows pleas and goes on errands (pp. 36 and 70).

The *custodes* of the temporalities of the see of Durham render account in 1196-7 (8 Rich. I), of issues arising from manors of the bishopric, while it was in the king's hand,

including tallage of drengs and *firmarii* (*Surtees Socy.*, vol. 25, appendix, p. vii).

The drengage of Gilbert the clerk in Stanhol (now Stainall) is mentioned in 1200-1 (Farrer, *Lancs. Pipe Rolls*, p. 130).

In 1200-1201 (2 John) a group of Westmorland drengs made a fine of 50 marks, *ut remaneant, ne transfretent, ad passagium domini regis*; and, in the following year, the same group, 18 in number, still owed that sum (Madox, *Hist. Exchequer*, 2nd edon., vol. i, p. 659). Those 18 men were certainly not liable to personal service beyond seas, or, as an alternative, to pay scutage, for the pipe rolls of the previous reigns do not contain a single instance of a dreng's payment of scutage (Hodgson, *Northumb.*, part I, p. 255). However, they came to terms with the king.

The Northumberland pipe roll of 1201-2 (3 John) states that William Briewere owed the king 60 marks and a palfrey, for having the drengage, which belonged to Gilbert de Calvely (now Callaley) and for the *marriage* of his son and heir, together with the whole drengage (Hodgson, *Northumb.*, part III, vol. iii, p. 76). A free man sometimes acquired land held by drengage. He remained free, but was answerable for the due performance of the servile duties.

King John, in 1204, extorted a sum of 20s. each "for drengage" from Richard de Ulvesby and Henry de Ulvesby, tenants of Ousby, Cumberland, as a contribution to the fifth scutage (*Pipe Roll*). The lists of serjeanties, arrented by Robert Passelew in Henry III's time, state that the same two tenants *in capite* "hold by drengage" (*Testa de Nevill*, pp. 380 and 381; *Book of Fees*, 1920, p. 350). Passelew's commutation of serjeanties was made between 1247 and 1250, so it is obvious that the said lists were compiled earlier than Passelew's time (see *Book of Fees*, 1920, p. 335). Richard and Henry had died long previously.

At the inquisition made, in 1212, concerning tenements in Northumberland held of the king *in capite*, it was found that:—

Stephen de Mulesfen (Mousen), holds one vill of the king in drengage, by service of 30s. a year, and he shall plough with his own plough for one day in Lent, the king providing food (*ad cibum domini regis*) and shall reap in autumn for three days with 12 men, the king providing food, and shall carry tree trunks (*truncae*) to Bamburgh Castle, and shall give merchet and aids and pannage of his pigs, and shall go with the king's bailiffs (*servientes*) to levy distress (*pro namis capiendis*) and to collect debts due to the king. All his ancestors have held by the same service, by virtue of ancient feoffment (*Testa de Nevill*, p. 393; *Book of Fees*, 1920, p. 205).

Early in the 13th century, Gilbert de Brougham held the manor of Brougham, Westmorland, of his superior lord, Robert de Veteripont, by service of drengage, and surrendered to the latter one-half of that manor, together with the advowson of the church, in order that the residue might be quit of that service (Nicolson and Burn, i, 391); and, at an inquisition held in 1309-10 (3 Edward II) concerning the king's tenants *in capite*, it was proved that Gilbert Engayne, Adam de Coupland and others held tenements at Cliburn, Clifton, Lowther and Melkinthorpe, Westmorland, by service of drengage (*Ibid.*, i, p. 417).

Bishop Hatfield's Survey of the bishopric of Durham, compiled in the latter half of the 14th century, records that dominus de Nevill, tenant of Oxenhall, did the *outward laid on the bishopric*, as far as it pertained to four parts (*sic*) of a drengage (*Surtees Socy.*, vol. 32, p. 9).

The earliest pipe roll, as already mentioned, classes the bishop's drengs "between Tyne and Tweed" with thanes. Who were these thanes?

The Domesday Survey gives a description of some thanes "between Ribble and Mersey":—

Derby hundred. King Edward had there a manor called Derby (West Derby). In this manor the thanes were accustomed to

pay two *orae* of pennies for each carucate of land, and by custom built the king's houses and their appurtenances *as the villans did* at the fisheries, hays and stands (*stabilituræ*) in the wood. Who-soever did not attend this service, when he ought, was fined two shillings, and afterwards was obliged to attend and to work till the business was completed. Every one of them, moreover, sent his reapers, for one day in August, to cut the king's corn, and, if he failed, he was amerced in two shillings (Baines, *Lancaster*, vol. i, p. 97, and *Vict. Hist. Lancs.*, vol. i, p. 285).

Thane (O.E. *thegn*) means "servant." The Anglo-Saxon king's "thanes"—his ministers and companions in arms—were sometimes persons of high social position, and of course free men; but here the term is applied to tenants, whose service was tainted by servility. Farrer has carefully distinguished (*Vict. Hist. Yorks.*, vol. ii, p. 146) an inferior class of thanes in Yorkshire, which was seemingly identical with that found in the land between Ribble and Mersey. One is tempted to suppose that the small thanes of the district excluded from the Domesday Survey were *privileged villans*, corresponding to the "tenants in ancient demesne" of the district covered by the Survey*—men who had enjoyed possession of their land ever since the day when King Edward the Confessor was alive and dead. Whatever their origin, the small thane of Northumbria and the dreng (who differed from him only in the *quantum* of his holding) were certainly prototypes of the "customary freeholder" peculiar to the excluded district. General liability to defend the frontier lay like an incubus upon every strip of common field and lord's demesne land. The particular liability of each individual occupant was doubtless regulated by ancient usage or, in Norman parlance, "according to the custom of the manor."

Here occurs an interesting point. The border service rendered by the customary freeholders of Westmorland in Tudor times was not an ingredient of their tenure,

* Scriven, 7th edition. p. 38.

but only a common liability. That appears very clearly from the judges' certificate furnished to the court of Star Chamber:—

Though it be true that these tenants did border service in former times, yet we are of opinion upon all that we have seen that the border service was no special part of their services reserved; or in respect of the tenure of their lands; but a duty and readiness required of them to tend those occasions, as the lords themselves and all other freeholders, great and small, of the whole country did and ought to do by virtue of their allegiance and subjection; not by order and direction of their lords, but of the lord warden of those parts. Neither was there ever any mention of their border service in their admittances or other entries touching the said estates (Nicolson and Burn, i, 58).

Here is an instance of a tenant *in capite* holding land in Northumberland, in 1212, by service of thanage:—

Gilbert de Calvey (Callaley) holds of the king *in capite* two villis, by service of 30 shillings a year and by thanage, for which he ought to give merchet and aid, and on every other day between the close of Pentecost and St. Peter's chains, find a cart and one tree trunk, take them to Bamburgh Castle and meanwhile do no other service. He owes suit of court. All his ancestors have held the said villis since the time of King William the Bastard (*Testa de Nevill*, p. 393; *Book of Fees*, 1920, p. 204).

Sometimes thanage was expressly converted into free tenure. Thus King John, by his charter dated 1200, granted to William Bardulf and Elizabeth, his wife, and their heirs all the land in Hepple and Coquetdale, Northumberland, for which Elizabeth's father and other ancestors were accustomed to render 50s. a year, *nomine thengagii*, to hold by service of one knight, for all service (*Rot. Chart.*, edit. Hardy, p. 51).

It may be gathered, from the above-cited examples, and from the great inquisition of 1212, that the thane differed from the dreng only in the fact that he owned *more than one vill*, whereas the latter owned one vill only; so, if a dreng became possessed of more than one vill, he was

styled a "thane." Both were alike liable to obligations of a servile nature (*Surtees Socy.*, vol. 25, p. lviii).

Again, the earliest pipe roll classes the bishop's drengs with *smalemanni*, while that of 1196-7, above quoted, classes them with *firmarii*. But Bishop Hatfield's Survey (*Surtees Socy.*, vol. 32) mentions *tenentes vocati malmen sive firmarii*, at Norton (p. 175) and Sedgefield (p. 187). Their holdings were comparatively small, comprising from 1 to 4 bovates. Their duties were servile, but, like the drengs, they found men to perform their agricultural service, which was far less onerous than that of the bishop's villans, who worked on the demesne for three days in every week, all the year round (*Surtees Socy.*, vol. 25, pp. 3 and appendix lxxi). The *smalemanni* (malmen) and *firmarii* belonged therefore to an inferior order of drengs.

In conclusion. The dreng enjoyed an estate of inheritance in his land, and if he died leaving an infant heir, his immediate lord had wardship and marriage during the heir's minority. He paid a pecuniary rent, and performed such forinsec service as had been imposed upon him by his immediate lord. But he was not a free man. Like the villan, he paid to his lord merchet, that is to say, a fine for liberty to give his daughter in marriage. Like the villan, he was bound to plough and reap his lord's demesne land, not continuously, but occasionally on specified days; not with his own hands, but by the hands of his villans. He and his family were exempt from agricultural labour (*Surtees Socy.*, vol. 25, p. lviii).

Tenure by cornage and tenure by drengage both survived upon the Border long after the Norman Conquest. They did not conform to the conventional scheme of feudal tenure. Their origin was forgotten and their nature was a puzzle even to those learned in the law.

TERMINAL NOTE.

The history of Ousby, Cumberland (see these *Trans-*

actions, N.S., xxii, p. 44) supplies an instance of the vexatious liabilities to answer for drengage service and cornage rent being merged in those of a normal feudal tenure. In 1204, the tenants *in capite* of both moieties of the manor held their land by drengage, a tenure which obliged them to perform (by deputy) certain servile service to the king. In 1250, or thereabout, those unfree tenants were, for convenience, treated as serjeants. Robert Passelew arrented their tenancy and changed it into free socage. Nevertheless the ancient obligation of paying cornage rent still lurked in the soil, because, after the transformation of the tenancy and somewhat before 1288, Juliana, part-owner of the Ulvesby moiety, had a free under-tenant, holding of her by service of cornage, that is to say, paying cornage rent to the king for her. Again, in 1294, William, owner of the Armstrong moiety, paid to the king not only 15s. free farm but also 10s. 8d. for cornage; and, in 1321, his son, Adam, paid to the king 14s. blanch farm and a sum of 10s. 8d., no longer denominated cornage, but simply "rent."