

ART. IV.—*Servile Tenures*. By T. H. B. GRAHAM,
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THE dreng seems to have been connected with the demesne land of the vill. In every common field a number of acre-strips had of old time been reserved for the lord of the vill, or group of vills, and they were cultivated for his benefit by the joint labour of the villans, or native inhabitants of the vill, who occupied the remaining acre-strips of the great field. But, before the Norman Conquest, the lord sometimes gave possession of the whole or part of his demesne land to an *unfree* farmer, in consideration of the payment of a fixed annual rent (*feorme*) the provision of a fixed number of extra labourers, for a fixed number of days, at busy seasons, to work on the demesne, and the performance of a specific duty, such as riding on errands.

That farmer or under-tenant, known in some localities as the "dreng," probably enjoyed as much service from the local villans as they were accustomed to render to the lord himself. Although of unfree status, he was treated in some respects as though he were a free man. Nicolson and Burn relate (i, 391) a vague story of the tenant by drengage of the manor of Brougham, Westmorland, who early in the 13th century "surrendered" to his superior lord, Robert de Veteripont, the advowson of the church (which, by the way, is an incorporeal hereditament) while the dreng of Mousen, Northumberland, in 1212, and all his ancestors had held the vill of the king by virtue of "ancient feoffment" (*Book of Fees*, edit. 1920, p. 205). The expression is a remarkable one. What was feoffment?

It was the feudal term for a gift of *freehold* land, expressed by word of mouth, or by a charter, in which the same gift was reduced to writing. In either case it was nothing but an empty promise to give. The donee's title arose only at the moment when he subsequently received from the donor, in the presence of witnesses, seisin, or corporal delivery, of that freehold land, by transfer of a clod of earth or stick of brushwood cut from the soil—a ceremony far older than the feudal system.

Let it be supposed, for the sake of argument, that, in the North of England, the lord of the manor sometimes performed an analogous ceremony of investing a *privileged villan* of some portion of his private demesne land, by handing to him a charter, which directed that his estate, however large or small, should be "according to the custom of the manor," and giving him the clod or bit of stick. Then such quasi-feoffment and livery could not possibly convey any freehold estate in the premises, but only a *customary* interest which, as such, demanded a record of the transaction upon the court rolls of the manor—in other words, admittance.

Again, let it be supposed that when that privileged villan wished to part with his holding and go elsewhere, as he was in general entitled to do, he by his own *privileged* charter gave to a purchaser the tenement to be holden, as before, "according to the custom of the manor," then his charter was little else than an expression of his intention to surrender, because (judging by modern practice in the case of conveyance by indenture of a customary freehold) the title of the purchaser would not be complete unless it appeared, by record of the customary court, that the vendor had handed his bit of stick to the lord's steward and the latter had again handed it to the purchaser, and that by such means surrender and admittance had been duly effected. One thing is certain, namely, that throughout the imaginary proceedings the lord of the manor

never for one moment parted with his absolute property in the land.

Those two suppositions are intended to suggest an explanation of the very few facts which are known concerning drengage, a tenure peculiar to the northern counties and not specifically mentioned by the old jurists.

To resume. In Durham, the dreng's land descended to his heir, and his lord had custody of that land during the heir's minority (*Boldon Book*, edit. Surtees Society, vol. xxv, p. 26). At Callaley, Northumberland, in 1201-2, the marriage of the dreng's infant heir was at the king's disposal (Hodgson, *Northumberland*, iii, part 3, p. 76).

The waste, adjacent to the vill, belonged to the lord, subject to ancient rights of common enjoyed by the villans, so it was a universal practice to enclose portions of it from time to time, in order to form an addition to the common field. On such occasions the lord would sometimes prefer to take his new share, not in dispersed acres but, in a block, which seems to have been known as a *cultura*, for example, at Oxenhall, Durham, in 1183, a dreng occupied a carucate (presumably the lord's scattered acres in the common field) *plus* two *culturae* (*Boldon Book*, p. 17). At Kirkoswald, Cumb., in 1245-6, the lord and lady of the manor had a *cultura*, called "Kirkmire," evidently demesne land (these *Transactions*, N.S. xxviii, p. 53).

When dreng and thane (a term unknown in Cumberland and Westmorland) are described, side by side, in the same document, for instance in Domesday Book (1086) *Boldon Book* (1183) or the Sheriff's Return for Northumberland (1212) the thane seems to have been one who held several drengages, or demesne farms. Both were of old standing. Domesday Book notes their existence between Ribble and Mersey in Edward the Confessor's time, and the Sheriff's Return, 1212, incidentally mentions that the thane of Callaley, Northumberland, and all his ancestors

had held two vills ever since the days of William the Bastard—the very beginning of the new regime (*Book of Fees*, edit. 1920, p. 204).

Blackstone mentions *privileged villans* belonging to the class of tenants in ancient demesne, and his description of them seems to fit the dreng or thane:—

Ancient demesne consists of lands, which, though now perhaps granted to private subjects, were actually in the hands of the crown, in the time of Edward the Confessor or William the Conqueror, and so appear to have been by Domesday Book. Some of the tenants continued pure villans, dependent on the will of the lord, others were in great measure enfranchised by royal favour, being only bound to perform some of the better sort of villan services, but those determinate and certain, as to plough the king's land, to supply his court with provisions, and the like, and in consideration thereof they had many privileges.* These tenants, though their tenure be absolutely copyhold, yet have an interest equivalent to a freehold, for though their services were of a base original, yet the tenants were esteemed in all other respects to be highly privileged villans, their services were fixed and determinate, they could not be compelled, like pure villans, to relinquish their tenements at the lord's will, or to hold them against their own, *et ideo*, says Bracton, *dicuntur liberi*† (*Commentaries*, first edition, Book ii, p. 99, abbreviated).

It will be observed that the privileged villan in ancient demesne could only establish his title by reference to the text of Domesday Book.

Now there were many manors, or pertinents of manors, in the southern portion of our Society's area of research, which owing (as it is surmised) to Earl Tostig's forfeiture for misconduct, were deemed to have fallen into the hand of the late king, Edward the Confessor, and were therefore included for future taxation within the scope of the Great Survey.

* Blackstone does not specify the use of a charter of feoffment as one of their privileges, but one suspects that, in the northern counties, it was such, because the customary freeholders conveyed their tenements by indenture, confirmed by admittance.

† Domesday Book describes the drengs, or thanes, of Blackburn and Leyland, Lancashire, as "free men" (*Vict. Hist. Lancs.*, vol. i, p. 286, note).

Such manors occur in the barony of Kendal, Westmorland, in Lancashire North-of-the-Sands, and in part of Cumberland, immediately adjacent to Lancashire. The late Dr. William Farrer has identified them in detail and regarded them as having belonged to followers of Tostig, holding as thanes under the Earl of Northumbria (*Vict. Hist. Lancs.*, vol. i, p. 272 *et seqq.*).

Within those territorial limits, one would naturally expect to meet with many privileged villans in ancient demesne, but that technical term was apparently unfamiliar in local speech, for one meets instead with servile tenants who were styled "customary freeholders," because they enjoyed a heritable interest, or tenant-right, in their land and who were possibly Blackstone's "highly privileged villans" in another guise.

It must not, however, be supposed that the privileged villan in ancient demesne was the only surviving example of the dreng and thane, or that the old kings of England were the sole creators of the latter species of tenant, for it is evident that the great owners of freehold land under those old kings had servile tenants of their own, enjoying like ancient customary privileges. Thus Gospatric in his charter speaks of "my" drengs, while, in later times, the Earl of Northumbria and the Bishop of Durham were lords of tenements in drengage and thanage, which certainly did not owe their origin to the then holders of those great franchises, or even to their more recent predecessors in title. Hence the wide dispersal of such tenements in the four northern counties.

William the Conqueror recognized the ancient tenure of drengage or (to use a synonymous term) thanage, and permitted it to continue in the territory afterwards included in the Domesday Survey. So did his powerful deputy, Malcolm, King of Scotland, in respect of his fee, the Land of Carlisle (not so included) for it survived in much later times at Gamblesby and Ousby and in the

barony of Appleby (these *Transactions*, N.S. xxviii, p. 87ff). So did his great vassals the Earl of Northumbria and the Bishop of Durham within their respective franchises (not included as aforesaid) because the records of those districts describe the tenure as still existing in the 12th and 13th centuries (*Ibid.*, p. 88ff).

The characteristic features of dreng, privileged villan in ancient demesne, and customary freeholder are so similar that all those persons appear to belong to one distinct and wide-spread type of servile tenant.

All three seem to have occupied land, which was, or had been fragment of their lord's demesne. All three held their land by a customary tenure, independently of their lord's will, and rendered fixed and certain service.

They are easily distinguishable from the unprivileged villan of the common field, who held his land by a customary tenure at the will of the lord, and rendered service uncertain both as to time and quantity.

The unprivileged villan was ubiquitous. He certainly existed in Cumberland and Westmorland, for his undoubted successor, the copyholder, has survived there until the present day. He was the old inhabitant of what Normans, for convenience, termed the vill or manor, the fair prey of every master who obtained possession of it. He was the agricultural labourer, whose whole time, except on Sunday and other holy seasons, was spent in cultivating, with the help of his fellow villans, the common field for the support of the inhabitants of the vill, and the private demesne, for the benefit of his lord. He, as a rule, occupied a number of acre-strips, scattered at intervals over the common field, but he had no heritable estate in them, because, in strict theory, he was incapable of holding any property at all, except at the will of the lord. He could not quit his native vill and go where he pleased, for he was rooted to the soil, like the wild heather which grew around him. But he was doubtless contented with his

lot, for he had never known, or hoped to know, a better one. He had plenty to eat and drink, and work in the field is always of a leisurely nature. The succinct account which Canon Greenwell has given of the condition of the villans of Durham, throws a side-light upon that of the villans of Cumberland and Westmorland:—

From *Boldon Buke* we learn that, in the Palatinate, the quantity of land, which they held, varied from 16 to 35 acres, with a house attached. Their services were onerous, about half the year being given up to working for the bishop, on his demesne land. The Villan of Boldon, for instance, held 30 acres, and for this he worked 144 days in the year for the lord, besides some extra work in ploughing, harrowing and reaping. He also paid in money 3s. 10d. and gave two hens and twenty eggs. This, or something not very different, seems to have been the amount of services rendered throughout the country by the villan. The other classes of cottars, bond-tenants, etc., rendered much in the same way, differing only in the quantity of land they held and in the amount of work they rendered. The work itself was of the same servile nature (*Surtees Socy.*, vol. xxv, p. lxxi).

But all the villan's duties (though they were of an uncertain nature) and all such rights as he possessed were subject to the ever-growing code of local regulations and bye-laws, which constituted the "custom," for the time being, of the particular manor in which he lived.

The great common field of a North Country manor was divided into a number of "ploughlands." Ploughland,* in native speech, signified an area of arable soil, which could conveniently be kept in tillage, during the year, by one of the heavy manorial ploughs. It was probably the unit of assessment for taxation, long before it was adopted as such by the Normans, who applied to it their own technical term *carucate*. The normal ploughland contained 120 reputed acres (*New English Dictionary*).

Boldon Book (1183) notices a carucate of 120 acres at Farnacres, Durham (*Surtees Society*, vol. xxv, pp. 34 and 68).

* *Hide* was the corresponding term in the south of England.

From time immemorial, the team assigned to each plough consisted of 8 oxen, and for that reason it was usual to sub-divide the ploughland into 8 oxgangs, each representing the labour, during the year, of a single ox in the standing team. That tradition survived in Scotland until much later times, for a statute, passed in 1426, provides that "through all the realm, every man tilling with a plough of eight oxen shall every year sow at least a ferlot of wheat" (*Acts of the Parliaments of Scotland*, vol. ii, p. 13); and *Fragments of ancient laws and customs of Scotland*, undated, but couched in the uncouth dialect of the 15th century, contain one relating to the "measuring of lands":—

In the first time that the law was made and ordained, they began at the freedom of holy church, and since, at the measuring of lands, they ordained the ploughland to contain eight oxgangs. The oxgang shall contain 13 acres (*Ibid.*, vol. i, appendix v, p. 387).

The normal oxgang, styled in Law Latin *bovata*, contained 15 reputed acres, being one-eighth of the normal ploughland. *Boldon Book* mentions bovates of 15 acres at Whickham, Durham (pp. 33 and 67).

But to every rule there is an exception, and in Cumberland 8 reputed acres made a bovate, and 8 bovates a carucate. For instance, the Register of Wetheral contains an instructive charter, made about the end of the 12th century, and conveying "one bovate of land in the vill of Warwick, namely, 5 acres in the West Croft, 2 acres in the Greystone Flat* and 1 acre adjoining the Holm," total 8 acres (Prescott; *Wetherhal*, p. 121) and the Register of Lanercost defines a carucate, on two occasions thus:—"a carucate of land, namely, 64 acres of land" (*MS.* ii, 8 and xiii, 6). Nevertheless, it will be observed that the local bovate bears the same ratio to the local carucate, as does the normal bovate to the normal carucate.

* A flat was a group of reputed acres in the common field called elsewhere a "furlong" (*N.E.D.*, Flat, 7).

Sometimes the carucate of eight bovates was divided into four equal shares called "husbandlands"* and committed to the care of four villans styled "husbandmen," each of whom received, as his equipment or outfit, two bovates of land (30 acres in all) and two plough-oxen. Both land and oxen were the property of the lord of the manor, but the husbandman was responsible for their condition and upkeep. For example, at an inquisition taken at Bolden, Roxburghshire, in 1327, concerning the bounds of a "carucate" lying in Prestfeld, it was found that the same had been "given to the tenure of four husbandmen" (*Book of Kelso*, Bannatyne Club, vol. ii, p. 361) and at Reveden, in the same county, *circ.* 1290, each "husbandman" received with his land an outfit (*stuht*) of two oxen (*Ibid.*, vol. ii, p. 456). To take an English example, at Stannington, Northumberland, *circa* 1250, eight bovates of land (i.e. a carucate) were divided into four equal portions, each containing two bovates, and lately in the respective occupation of the four villans named in the charter of conveyance (*Chartulary of Newminster*, Surtees Society, vol. 66, p. 57).

Sometimes the husbandman's holding in the common field was proportionate to the maintenance of only a single ox of the plough team. Thus at Selkirk, Scotland, *circa* 1290, there were 15 "husbandlands," which contained one bovat apiece—half the usual number (*Book of Kelso*, vol. ii, p. 462).

The term "husbandland" survived at Hayton, Cumberland, in 1485 (these *Transactions*, n.s. xxv, p. 313).

It has been already stated that, by a very general custom, founded on long experience, the portion of land allotted to each husbandman or villan ploughman charged with the upkeep of a yoke of oxen was 30 acres—not statute acres, and not lying contiguous to one another,

* *Yardland*, styled in Law Latin *Virgata*, was the corresponding term in the south of England.

but represented by an aggregate of carefully marked "dales" or shares, each reputed to contain a customary acre or some fraction thereof. The said dales were intentionally intermixed with those allotted to the other servile tenants and widely dispersed in the common field, or if there were two common fields, then in both, or if there were three, then in all of them (Seebohm, *English Village Community*, p. 27).

Consequently some items of the husbandman's portion of land were, at regular intervals of time, lying fallow and unproductive. The above remarks apply *mutatis mutandis* to every portion of land in the common field.

There were, of course, in every manor many servile tenants, whose allotted portion of land was much smaller than that of the typical husbandman, and their contribution (if any) to the tillage of the common field was regulated by the custom of the particular manor.

Such appears to have been the scheme of cultivation applicable to the North Country common field, but, in practice, it was not always possible to conform to it strictly.

Seebohm has shown (*op. cit.*, p. 128) by reference to Anglo-Saxon documents that, at the date of the Conquest and long previously, the internal economy of an English *tun* or *ham* greatly resembled that of a Norman manor, although the phraseology used to describe it was different, and that the English thane corresponded to the Norman *dominus* or lord of the manor. In Northumberland, Durham and the land between Ribble and Mersey, farmers (*firmarii*) of small groups of manors and outlying demesnes were sometimes designated "thanes" (these *Transactions*, N.S. xxviii, pp. 91ff). That misapplication of the term did not deceive anybody, for the service which they rendered marked them as belonging to the category of servile tenants.

A group of rustic labourers, tilling in common the belt

of soil which surrounded its *habitat*, was a familiar object in every ancient centre of population throughout the country. No conqueror ever attempted to destroy its complex mechanism. He set it going afresh, and it continued to supply him with the necessaries of life. It was the nucleus and heart of every English *tun* and Norman manor, in which it happened to be included, and yet (so persistent is the force of custom) the same group of labourers and their precious common field were alike branded throughout historic time, with unmistakable marks of servitude.
