

## Original Documents.

### SELECTIONS FROM THE MUNIMENTS OF LORD SCARSDALE.

By the kind permission of the Lord Scarsdale we are enabled to publish some of his ancient deeds. A brief statement of the early history of the family seems necessary for the purpose of explaining who were the parties to those deeds, and also to correct some errors which occur in Collins' Peerage. The annexed Pedigree, with the numbers affixed to each name, will assist the following statement.

Giraline de Curzon or Curson (I.), the ancestor of this noble family, came into England with the Conqueror, and had the manor of Lockinge, and divers other lands in Berkshire and Oxfordshire, granted to him. He had three sons; Stephen, the eldest, succeeded to the estates in Berkshire and Oxfordshire, and had the manor of Fauld in Staffordshire granted to him by William Earl Ferrars. He died without issue male, and so did Giraline, the third son.

Richard (II.), the second son, held four knights' fees in Croxhall, Kedleston, Twyford, and Edinhale, in the reign of Henry I. (1100—1135). He was succeeded by his son Robert (III.), who lived in the reign of Henry II. (1154—1189), and had a son Richard (IV.), who had issue Robert (V.), whose line terminated in an heir female, Mary, who married Edward Sackville, Earl of Dorset.

Richard (II.) had a second son Thomas (VI.), and he had a son Thomas (VII.), who had issue Richard (VIII.), living in the reign of Henry III. (1216—1272), and he had issue another Richard (IX.), who, according to Collins, held the fourth part of a knight's fee in Kedleston in 25 Edw. I. (1297). His son Ralph (X.) was the father of Richard (XI.), who held three parts of a knight's fee in Kedleston in 4 Edward III. (1331), and from him the present Lord Scarsdale is lineally descended as heir male.

As the first deed here given was made in the 10th Richard I., and is a grant by Richard de Curzon to Thomas, the son of Thomas de Curzon, it is plain that the Richard here mentioned was Richard (IV.), and that Thomas (VII.), the son of Thomas (VI.), was the grantee of that deed, and that the grantor and grantee were first cousins. Croxhall, Kedleston, Twyford, and Edinhale were held by Earl Ferrars in the time of Domesday, and the second deed shows that Kedleston had been granted by one of the Earls Ferrars to one of the Curzons; for it shows that Richard, the releasor of that deed, held immediately from the then Earl Ferrars; and as Richard (II.), his grandfather, held Croxhall, Kedleston, Twyford, and Edinhale, the inference is that that Richard was the grantee of those manors from the then Earl Ferrars.



The parish and manor of Kedleston now contain about 1,000 acres, of which 580 are in the Park ; but it may, perhaps, admit of doubt whether the vill of Kedleston did not contain a greater quantity of land when the first deed was executed.

As far as any deeds exist, and as far as is known, the estate granted by the first deed has never been divided ; and consequently the statements of Collins that Richard (IX.) held the fourth part of a knight's fee, and that Richard (XI.) held three parts of a knight's fee, would appear to be incorrect.

Several things in the first deed, which was executed in 1198 or 1199, are worthy of notice. "*Villa*," in our law and in our ancient deeds, has two different meanings. Among the Saxons it denoted an estate in the country, with suitable buildings, into which the produce of the estate might be carried ; the word being formed from "*vehilla*, quod in eam convehantur fructus." This is, no doubt, the original meaning of the word, and hence came the name *villanus*, a villain, which originally denoted a person living in a vill, and had no degrading meaning ; but in course of time was applied to designate the bondsmen of the lord of a manor, and, as they were of a low and vile condition, it ultimately came to be applied to any low, degraded, or vicious person. *Villa*, in the sense we have described, is common in our old deeds, and is frequently used as equivalent to a manor. Thus, in a grant by Queen Elizabeth, Sir Henry Curwen is styled "*dominus villæ et manerii de Workington*." And there can be no doubt that in this deed *villa* has the meaning referred to. A subsequent deed in 1410 grants "*manerium nostrum de Ketilstone cum omnibus pertinentiis suis, simul cum advocacione ecclesiæ ejusdem villæ* ;" where *villa* and *manerium* are plainly used as denoting the same thing. And in the Domesday Survey Kedleston is described as a manor.

The more modern meaning of *villa*, according to Spelman, is "*plurium mansionum connectio*," and, according to others, it must consist "*de pluribus mansionibus et vicinis*." We have a deed, in which the terms "*in villâ et campis de Leek*" are used ; where *villa* is plainly used as applied to the part of Leek covered with buildings, in contradistinction to the country part. The terms village or town best represent *villa* in this sense.

The solemnity of the execution of the first deed here given is remarkable. First we have four judges, Hugh Bardolf (a judge in the time of Henry II., Richard I., and John), Roger Arundel (a justice itinerant in the time of Richard I. and John), Philip Fitz Robert (a justice itinerant in the time of Richard I), and Geoffry Haket, alias Ilaget (a judge in the time of Richard I.). Then come other barons and lieges of the king then present, and as we understand this deed, none of these are named ; for if this description had been intended to apply to the persons afterwards named, it would have followed after them, in the same way as "*Justices of our Lord the King*" follows after the judges previously named. Then come certain persons who are named, and lastly many others unnamed.

The deed is really undated, the time mentioned referring to the time when the judges were at Nottingham, which is the 10th Rich. I. This year extended from July 6, 1198, to April 6, 1199, and the deed may have been executed at any time between those dates. We have

tried in vain to find any account of such an assembly at Nottingham as the deed implies. In Burke's *Extinct Peerage* it is stated that the sixth Earl Ferrars, on the return of Richard I. to England, assisted at the siege of Nottingham, and sat with the rest of the peers in the great Council held at the Castle of Nottingham in the following March. This shows that Parliaments were held there, and we should infer that the deed was executed at a Parliament, and, as the king is not mentioned as witnessing the deed, the inference is that he was not present. We believe Richard was not in England at any time during the last year of his reign.

The second deed, which probably was executed not long after the first, as the parties to it are the same, affords a good illustration of the ancient tenure of lands by knight service. To make a tenure by that service a certain quantity of land was necessary, and this was called a knight's fee, and the first deed is an instance of the grant of such a fee; for Kedleston was to be held "*per servitium unius militis*." The tenure of knight service drew after it (amongst other things) Aids. Now aids were originally merely benevolences voluntarily given by the tenant to his lord in times of difficulty and distress; but in course of time they grew into a matter of right. They were of three kinds—1st, to ransom the lord, if taken prisoner; 2nd, to make the lord's eldest son a knight; and 3rd, to marry the lord's eldest daughter by providing her a suitable portion. Now this deed shows that Earl Ferrars was entitled to an aid from Richard de Curzon to make his son a knight and to marry his eldest daughter, and that, in like manner, Richard de Curzon was entitled to a precisely similar aid from Thomas. These are clearly treated as matters of right arising from the tenure. But the deed further shows that Thomas had previously furnished an aid to Richard when Richard was called upon to furnish an aid to the Earl. Now this was clearly a voluntary act on the part of Thomas; for his tenure only bound him to furnish an aid to Richard to make his son a knight, and to marry his daughter, and in no way bound him so to do to the Earl. This deed, therefore, is an instance of aids rendered both as a matter of right and voluntarily.

The third deed, which is dated in 1313, also is well worthy of notice. A lord of a manor may lawfully enclose so much of the waste in the manor as he pleases for tillage or wood ground, provided he leave sufficient common for those who are entitled to it. This is called *approvement*, which is an old word, signifying improvement.<sup>1</sup> And instead of enclosing the waste himself, the lord may grant so many acres of the waste as he thinks fit to another, and then the latter may enclose them.<sup>2</sup> This deed recites a grant of forty acres of waste by Henry de Irton, Lord of Irton, to William de Irton, with the intention that William should enclose them. But if the lord, or his grantee, enclose so much as to leave insufficient common in the residue, any commoner may break down the whole inclosure;<sup>3</sup> and hence it is that this deed provides that, if any one having right of common prevents William de Irton from enclosing or keeping enclosed the land granted to him, Henry de Irton will be bound in a bond for fifty marks to William de Irton, in order to indemnify him against any such interruption.

<sup>1</sup> 2 Bl. Com. 34.

<sup>2</sup> 2 Coke Inst. 88.

<sup>3</sup> 2 Coke Inst. 87.

The feoffment recited in this deed still remains in Lord Scarsdale's possession ; but it is of thirty-four, and not of forty, acres of land, and they are set out by metes and bounds, and instead of "ex dimissione," it is "ex dono et feoffamento, Ade de Meygnill," and the land is to be held "ad fossandum claudendum et omnibus temporibus anni inclusas tenendum." This shows that the inclosure was to be made by William de Irton.

The last deed, which was executed between 1100 and 1135, may interest some persons, as it is, perhaps, the oldest deed in existence that was executed by a Byron.

Its form is remarkable. The deed shows that Henry, the son of Fulcher, held a fief or parcel of land in Weston of Roger de Buron by fealty and a certain rent, and that Roger released Henry from five shillings a year of that rent, so that (ut) he shall pay these five shillings to the Canons of Derby. Whether these words created a condition, so that Henry would not be released from the payment to Roger unless he paid the rent to the Canons, may well be doubted ; for it is expressly laid down that the conjunction *ut*, with a verb following, is not a condition.<sup>4</sup>

Again, the deed says that Henry shall do fealty to the Canons ; but the Canons had no interest in the fief or the rent issuing out of it, for there is no grant of either to them, and therefore fealty could not be due to them.

The "Cestria" here mentioned was probably a manor close to Derby, now called Little Chester, where there was a Roman camp. It may be inferred from the direction of this deed that it was executed at a time when a Great Council was held at Nottingham. At the time of the Domesday Survey, Ralph de Buron held the manor of Weston and four other manors in Derbyshire, and he was probably the father of the Roger who executed this deed ; but Collins gives the name of Hugh to the son and grandson of Ralph :<sup>5</sup>

Collins' statement is that to the Ralph of Domesday "succeeded Hugh de Buron, who in the 9th of Stephen, together with Hugh his son and heir, gave to Lenton Abbey the church of Oscinton, about which there was a dispute in the 7th Richard I. with the prior of the Hospital of St. John of Jerusalem, when the prior of Lenton produced the grant of the said Hugh, and the prior of the Hospital of St. John that of Roger de Buron, by which he gave to that house the town of Oscinton, with the appurtenances, whereupon no judgment was given, because the prior of Lenton's attorney knew not whether he should put his case to an issue before he had his client's direction."

Now I observe, 1. That the deed of Hugh is after *our* deed, and after the time of Hen. I.

2. The deed of Roger could be no answer to that deed, unless it was executed before the deed of Hugh, and whilst Hugh owned the estate. It, therefore, shows that Roger was seised in fee *before* Hugh, and the only way that could be would be that he succeeded as heir to Ralph, and was either the elder brother or the father of Hugh.

It seems, however, that the record on which Collins relies, as stated by himself, proves the contrary. He says there was a dispute between the

<sup>4</sup> Dyer, 138 (b).

<sup>5</sup> See Placita apud Westm. A. 7 R. 1.

Rot. xi., Prior of St. John of Jerusalem's case.

prior of Lenton and the prior of the Hospital of St. John of Jerusalem, in the 7th Richard I., about the church of Oscinton, and that the prior of Lenton produced the grant of that church by Hugh de Buron in the 9th Stephen, and that the prior of St. John produced the grant of Roger de Buron, by which he gave to that house the town of Oscinton. No judgment was given; but it is clear that the grant of Roger was produced as a defence, and it could only have been a defence if the grant was made by Roger, whilst he owned the estate, and before the grant of Hugh. The inference, therefore, is, that Roger owned the estate before Hugh; and, as the estate no doubt descended from Ralph, the inference is, that Roger was the son of Ralph, and either the father or elder brother of Hugh. And the grant we have given by Roger in the time of Henry I. quite coincides with this view; as it shows that at that time Roger owned some (and probably the whole) of the estates, and therefore might have owned Oscinton and made the grant of it before 9th Stephen.

C. S. G.

#### No. 1.

Ricardus de Curzun omnibus hominibus et amicis suis salutem. Sciatis me reddisse<sup>6</sup> et concessisse et recognovisse Thome, filio Thome de Curzun, totam villam de Ketelestune, cum advocacione ecclesie, et cum molendino, et cum omnibus aliis pertinentiis, que pertinent ad predictam villam de Ketelestune, tenendam de me et heredibus meis, ille et heredes sui<sup>7</sup> libere et quiete ab omni servitio per servitium unius militis; salvo forinseco servitio, et inde homagium suum mihi fecit. Hiis testibus, Hugone Bardolf, magistro Rogero Arundel, Philippo filio Roberti, Galfrido Haket, Justiciariis Domini Regis apud Nottingham, anno decimo regni Regis Ricardi, et aliis Baronibus et fidelibus Domini Regis ibidem tunc presentibus, Willielmo filio Walkeline, Johanne de Boscherville, Willielmo de Rideware, Symone de Tuschet, Roberto filio Walkeline, Willielmo de Godintone, Philippo de Derbi, Henrico Decano, et pluribus aliis.

Appended is a fragment of a large seal, on which is the imperfect figure of the upper part of a man with a helmet on, and portion of the legend "Sigillum." The deed is in a very good state of preservation.

#### No. 2.

Notum sit omnibus Christi fidelibus, ad quos presens scriptum pervenerit, quod ego Ricardus de Curzun condonavi et quietum clamavi Thome de Curzun de Kettlestone, auxilium quod mihi debuit ad filium meum primogenitum militem faciendum, que ad primogenitam filiam meam maritandam, de tenemento quod de me tenet; scilicet propter auxilium, quod fecit mihi ad primogenitum filium domini Comitiss de Ferrariis militem faciendum, que ad primogenitam filiam suam maritandam. Ut autem litere iste rate et inconcusse permaneant, sigilli mei impressione eas coroboravi. Hiis testibus, Radulpho filio Nicholai,

<sup>6</sup> Sic, pro reddidisse.

<sup>7</sup> Sic, pro sibi et heredibus suis.



Senescaldo<sup>s</sup> Domini Comitis tunc temporis, Radulpho de Bakepuz, Nicholao de Chambris, Thoma persona de Croxhale, Roberto Forestario, Galfrido Albo, Thoma Bussun et multis aliis.

The seal of this deed is gone, but the deed is in very good preservation.

## No. 3.

Memorandum quod die Dominica proxima post festum sancti Nicholai Episcopi, anno regni Regis Edwardi, filii regis Edwardi, sexto, ita convenit inter Henricum de Irtone, dominum de Irtone, ex parte una, et Willielmum de Irtone, fratrem dicti Henrici, ex parte altera, videlicet, quod predictus Henricus feoffavit dictum Willielmum et Philippam, uxorem ejus, de quadraginta acris terre vasti sui de Westone, in excambium omnium terrarum et tenementorum reddituum, cum suis pertinentiis, que idem Willielmus habuit ex dimissione Ade de Meygnill, clerici, in villa de Totinleye, sine aliquo retenemento; tali sensu, videlicet, quod si contingat dictos Willielmum et Philippam, uxorem ejus, per aliquem communem pasture in predicto vasto habentem a die confectionis presentium infra duodecim annos proximo sequentes per rigorem legis impediri, quo predictas quadraginta acras vasti in culturam redigere non poterunt, nec eas tenere approviatas, extunc concessit dictus Henricus pro se et heredibus suis teneri dictis Willielmo de Irtone et Philippe, uxori sue, et eorum heredibus, in quinquaginta marcis argenti, de quibus dictus Henricus fecit dictis Willielmo et Philippe, uxori sue, scriptum suum obligatorium, quod quidem scriptum traditur Willielmo Morel de Falde, in equali manu custodiendum sub hac forma, quod statim post hujusmodi impedimentum dictis Willielmo et Philippe, uxori sue, de predictis quadraginta acris vasti in forma predicta factum, dictum scriptum obligatorium sibi vel heredibus suis liberetur, et in omnibus teneat robur suum. Et si predicti Willielmus et Philippa, uxor ejus, infra duodecim annos predictos de approviamento predictarum quadraginta acrarum vasti non impediantur, vel dictus Henricus communicantibus in predicto vasto prius pro predictis quadraginta acris in culturam tenendis satisfecerit, extunc dictum scriptum obligatorium sit nullius (*sic*) momenti vel valoris, et predicto Henrico vel heredibus suis liberetur et omnino adnihiletur. In cujus rei testimonium parti istius scripti penes alterum residenti uterque parcium (*sic*) sigillum suum apposuit. Datum apud Irtone die et anno supra dictis.

The seal to this deed is gone, but the deed is in a good state of preservation.

## No. 4.

Benedicto Regi Anglorum Henrico et omnibus hominibus castellarie de Notingham, et omnibus hominibus suis, Francis et Anglis, Rogerus de Buron salutem. Sciatis me clamasse quietum Henricum filium Fulcheri et heredes suos a me et ab heredibus meis de quinque solidis singulis annis de redditu meo de Westona, ut ipse persolvat et heredes sui hos quinque solidos singulis annis Canonicis de Derbi. Et sicuti

<sup>s</sup> Sic, pro senescallo.

debet esse fidelis mihi de feodo meo, ita Canonicis sancte Marie de Derbi sit fidelis et fidem faciat de his quinque solidis singulis annis solvendis. Testibus Alano et Henrico decanis, et Rogero de Cestria, et Radulpho de Breideshale, Petro de Sandiacre, et Patricio Rosel, et Alberto de Orsele, et David de Stantune, et Willielmo filio Colling, et Walchele monetario.

A seal is still appended, but the impression is gone. The deed is in excellent preservation, and not a letter imperfect.