

THE CARLISLE CULLERY TENURE.¹

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To those who have had to do with the conveyance of land in the city of Carlisle the existence of the peculiar customary tenure called cullery is doubtless well known, but to others the word "cullery" must have a strange sound. In the proof sheets of our programme it appeared at first as "cutlery," and I am told that some one ingeniously conjectured that the subject of this paper had something to do with a *scullery*. It is not surprising that little or nothing should be known about it, for the usual sources of information do not help the inquirer. Neither in Hutchinson, nor in Burn and Nicholson, nor in Lysons is the word "cullery" to be found, and in Jefferson's "History of Carlisle" it is just mentioned and no more. The particulars which I have been able to obtain I have collected from the records of the Corporation, but even from these authentic sources, though they explain to us what cullery tenure is, we can derive but little enlightenment as to its origin, and still less as to the derivation of the word. As far back as I have been to trace it, the word is practically the same. It is spelt now with a final y, and was spelt in the same way 100 years ago. A few years earlier the y becomes ie, and in 1597, which is the earliest date under which I have as yet met with the word, it is spelt with a final e. These minute variations of termination hardly amount to a difference in spelling, and only once have I found the word in another form, and then it appears as "coulerie."

But whatever may be its origin, cullery is the name which for nearly 300 years has been applied to customary property within the city, and is also used in speaking of the tenure by which such property is held, and the rent which is payable in respect thereof. Without therefore attempting to speculate upon its derivation (though I hope the clue may yet be found), we may say generally that the word cullery has the same meaning as the word customary has when applied to tenure. That this is so, is shewn by the admittances to cullery tenements recorded in the Cullery Admittance Books of the Corporation, where the usual form of admittance speaks of the tenement as being held "according to the custom anciently used within the city of Carlisle called cullery tenure" by the payment of a rent described in the admittances as a "yearly customary or cullery rent."

It is rather difficult without going into legal technicalities to explain what this customary tenure is. The tenant, as lawyers say, is seised of a customary estate of inheritance commonly called tenant right, descendible

¹ Read in the Section of Antiquities at the Carlisle Meeting, August 3rd, 1882.

as at common law, save only that (as was recently held, though I know of no previous instance) when a customary tenant dies intestate, leaving no heir male of his body, his customary tenement descends to the eldest of his daughters, instead as in the case of freehold to all his daughters as co-heiresses. This estate of the tenant which he holds of the mayor, aldermen, and citizens as the Lords of the City is subject to a fixed annual rent, a certain fine on death or alienation, and other manorial incidents common to copyhold and customary property, which at the present day are not exacted, and are of little or no practical importance.

In order to understand the nature of this tenure, let us suppose that a man has bought a house in Carlisle, which is of cullery tenure, and having paid his purchase money, has received from the vendor a conveyance of the house duly executed and attested, whereupon he enters into possession of the property. Now if the property were freehold nothing more would be required to perfect his title, but as it is of cullery tenure it is necessary that he should be admitted to the property, and, therefore, he has to come to the Corporation, as the lords of whom the vendor held the property, and asked to be admitted to it. Formerly, no doubt, both the seller and the buyer had to appear personally before the mayor, as the representative of the Corporation, when the seller surrendered the property to the mayor, either verbally or by some symbolic act, and the mayor thereupon admitted the buyer. A record of the proceeding was then entered in a book kept for that purpose, and signed by the mayor. A copy of such entry was made at the same time; and to authenticate it, it was signed by the mayor and sealed with his official seal. The copy was handed to the purchaser to keep with his conveyance as one of his title deeds, and he then paid a fine fixed at three times the amount of the cullery rent, and took an oath of fealty. At the present day the admittance is carried out much more simply, for the personal attendance before the mayor of neither party is required and no oath of fealty is exacted. The conveyance is considered sufficient evidence of the sale, and from it the admittance is prepared. On other respects the same formalities are still kept up. The admittance is entered in the Cullery Admittance Book, and is signed by the mayor. The copy is made for the tenant, which the mayor signs and seals, and the tenant has to pay the fine and the fees of the town clerk as steward for making out the admittance and copy. After a tenant is once admitted he has at the present day nothing further to do in respect of the tenure of his property, except to pay to the city treasurer the yearly cullery rent, which in many cases does not exceed a shilling, and in no case is more than 12s., so that the tenure is nearly equal to freehold. It should be mentioned here that upon the death of a cullery tenant, his heir or devisee had to be admitted to the cullery tenement in the same manner as a purchaser, except that whereas the fine payable on alienation, either by deed or will, is treble the amount of the rent, it is only double in the case of an heir.

The Cullery Admittance Books unfortunately do not form a continuous series nor go farther back than the seventeenth century. The first book commences in 1673, which is the date of the first enrolled admittance, and in the beginning of the first book are the words "*Liber admissionum customariorum tenentium in Carlile*," the book of the admissions of the customary tenants in Carlisle. The book is not quite full, and it only goes as far as the year 1680, whereas the next book which is to be found

commences in 1782, so that the admittances for upwards of 100 years are missing. From 1782, the series is complete up to the present time.

The form of the admittances varies very little, but those in the first book are in Latin, the subsequent ones being in English. I will read one of the latter as an example.

There is not much that is interesting to be extracted from such records, but here and there perhaps some useful information may be found, and for a hundred years back, at any rate, they form a complete registry of title for all the cullery property.

It is only in certain parts of the city that cullery tenure is met with, and there is no evidence that it ever existed in other parts. We have in the first book a list of the names of the cullery tenants for 1673 under the head of "*Tenentes customarii secundum consuetudinem vocatam Coulerie infra dictam civitatem,*" but the situation of the tenements is not given, and only a few of the names occur in the subsequent admittances. At the end, however, of one of the audit books there is "A Rentall of the Rentes belonging to the Corporation of Carlisle called Cullerie Rentes as they are collected in the year one thousand seven hundred and eight," and in this list the names of tenants are arranged according to the situation of their tenements. The property included in the list consists of "The County Gaol and Garden and the ground adjoining," one house in Botchardgate, twelve tenements in "Alnetwell Lane," and one house in Fishergate. Then follow "Redness Hall in the Tenure of the eight Guilds," and "Shoppes under the Redness Hall," four in number. Then we have the names of five tenants in Baxter Row, after which come six "shoppes under Motehall," followed by nine "shoppes under the Hall," and lastly fourteen shambles. Mixed up with these are certain other small rents, and amongst them two in respect of Kingmoor, so that it is clear either that the term cullery rents in its widest signification included any small annual rents due to the Corporation besides the rents of customary tenements in the city, or that these other rents were irregularly included merely for convenience. In a subsequent list for the year 1782 no such confusion exists. There we have under the head of "Rents due Lammas in every year," the county gaol and garden, and the house in Botchardgate, which were not cullery tenements, and then follow the Cullery Rents, under the heads of "Annetwell Street," "Finkle Lane," "Redness Hall," "Shops under the Hall," and "Shambles." It is to be observed that there is no mention of Baxter Row, which must be an accidental omission. To the last-named places with Baxter Row, I believe, what we now call cullery tenure was restricted, although, as we have seen, the term cullery rents had sometimes a wider signification than rents of cullery property, and in one of the audit books under the year 1600 appears this entry—"Item the rent of the cullerie or pettye farmes of the cittye." This and other similar expressions have led me to suppose that the word may have originally had reference to the collecting of the rents, and be derived from or be akin to the French verb *cueillir* to gather. This, however, is merely a supposition of my own.

The situation of the different cullery tenements affords, I think, a possible clue to the origin of this tenure, for it must be noticed that they are all grouped in or about the Market Place, with the exception of those in Annetwell Street and Finkle Street. The old "flesh shambles," as

they were called, stood in the Market Place, beyond the Cross, and about the year 1783 were bought up by the Corporation with a view to their being pulled down, which was subsequently done and new shambles were erected between Fisher Street and Scotch Street, where they now are. Baxter's Row is also in the Market Place, and was once a good deal longer than it is now, as may be seen by looking at any old map of Carlisle. Redness Hall, which is made up of cullery tenements, where the eight guilds have, or at any rate had their different rooms on the first and second floors, with shops underneath, adjoins the Green Market on one side, and was probably always looked upon as a sort of public building. The shops under the Moothall or Guildhall, now generally called the Town Hall, are also part of a public building, which has always been the common property of the whole body of citizens. How exactly it came to pass that the ground floor was ever divided into as many as fifteen shops, which seems an extraordinary number when we consider the area covered by the present Town Hall, and how it was that these shops were held by tenants who as long as they paid their rent were virtually owners, whom the Corporation had no power to turn out, and whose heirs or assigns they were obliged to admit, is a thing which has never yet been fully explained. There is every reason to believe that the shops have been held by cullery tenure for a very long period, possibly for several centuries. We know from the list of the different cullery rents in 1708 that there were cullery shops under the old Town Hall as there are under the present one, and the fact that the Corporation had no power to oust the tenants seems to have occasioned some difficulty when it was decided to pull down the old Hall and rebuild it. On the 25th May, 1717, the Council, I find, ordered "that Mr. Mayor, and two Aldermen, and two of Counsellmen are hereby authorized to provide a shop for Mrs. Haddock, during the time the Town Hall is in building, and if she refuse to accept thereof, that then the workmen be directed to pull down the said Hall and rebuild it on the Corporation ground, and to acquaint her therewith," from which entry it would seem that the difficulty was got over by finding temporary shops for the tenants, and building them new shops under the new Hall, an arrangement which may have been convenient and economical at the time, but which perpetuated a most undesirable state of things, which the Corporation are now trying to put an end to by buying up the shops as opportunity offers.

The only place, so far as I know, besides the centre of the town where cullery tenures existed was Annetwell Street and Finkle Street, and it is to be observed that all the cullery tenements were on the north side of those streets. The houses fronted to the streets and the gardens, which afterwards became the wretched courts, now happily swept away by the late improvements, ran back as far as the Castle orchard, so that these tenements must have occupied what is believed to have been the site of the vallum of the Roman Wall, and which seems at one time to have formed the boundary between the city and the area occupied by the Castle, known as the Castle-ward. All the cullery property was therefore on public ground forming originally part of the great open space in the centre of the city, or on the site of the Roman foss which ran along the north side of Annetwell Street and Finkle Street, across the narrow end of the city separating it from the castle. I can only suppose that the cullery tenements in the centre of the city must have originated in grants

of small plots of public land made by the general body of the citizens to individual burgesses. At first the tenant held his plot merely for life, or a term of years, or even at will, and on the payment of the yearly ground rent which was originally no doubt the full annual value of the ground, but as time went on the tenant who had built his own house on the public land, and who had quietly and regularly paid his rent came to be regarded almost as an owner, and the rent having been once fixed remained the same though the value of money decreased, just as the fee farm rent of the city has remained at £40 ever since the reign of Edward IV. The shops under the Town Hall, and the different rooms and shops in Redness Hall were originally, I suppose, let out in the same way, and what was once merely a tenancy, grew by degrees into tenant-right. Our records tell us what I believe was the commencement of this process, for the charter of Edward II. (1316) says, "We have also granted to them (the citizens) and by this our Charter confirmed for us and our heirs our void places (*vacuas placeas*) within the aforesaid city and the suburbs of the same and that they and their heirs and successors may build upon those places or demise them to others in fee or in any other manner, and that they may make their profit thereof at their will in aid of the farm aforesaid." At the date of the charter, therefore, there must have been a certain amount of void or waste land within the compass of the city walls. The greater part of the space within the walls was doubtless occupied, as the first settlers from the south increased in numbers and in wealth, by the free burgages of the citizens, which they held as tenants in chief under the Crown, but there was other land not covered by buildings or inclosed as gardens, which consisted partly of streets, partly of the open market place in the centre of the city, and partly of the old Roman foss, uneven and perhaps marshy ground, which no builder would chose to build upon, until what would now be spoken of as the more eligible building sites were taken up. When therefore at the date of the charter of Edward II the unappropriated portions of the city area became by virtue of that charter the common property of the citizens, I conjecture that the site of the old foss was still vacant ground. We may assume that having got a grant of the open places, the "*vacuas placeas*" of the city, the citizens proceeded to do what their charter contemplated, and granted out to those who wanted them plots of land to build upon. Some of those plots may have been granted in fee, but most of them I think it probable were demised to tenants, and became in time, by the process I have alluded to, cullery property. There is actual evidence that this was done, though on a very small scale, as lately as the beginning of the last century; but in Edward II's time it would be done on a much larger scale, as it would be to the interest of the citizens to make as much as they could out of their waste land, in order to pay the fee-farm rent of £80 which they found no slight burden. It would seem, indeed, that within a few years most of the vacant spaces not required for streets or markets had been disposed of. I think this was the case, because the next charter, viz., that of Edward III in 1353, makes no mention of vacant places in the city. In it, however, we find for the first time the expression "*minutas firmas*," the small rents which had been found by inquisition to belong to the citizens, and were by this charter granted and confirmed to them. Unless it can be shown that these small rents were something else, it seems reasonable to suppose that

they were for the most part the cullery rents, at which the plots of vacant ground had been let out, especially when, as I have mentioned before, in 1600, we come across the expression "the rent of the Cullerie or pettye farms of the Cittye."

Whether this conjecture is right or not, it is clear that in a limited area like the city of Carlisle, with an increasing population, all the vacant ground would soon be appropriated for houses and gardens, but even in comparatively modern times grants by the Corporation of small pieces of the public street were made to persons who in rebuilding or otherwise had encroached upon the public ground. In these cases it is certainly remarkable that the encroachment is always spoken of as being made on "the City waste," as if the street was still regarded as a part of the "vacuas placeas" of the charter of Edward II. The following entries, which I have taken from the recently recovered Order Book of the Corporation, relate to this matter, and seem worth reading:—

ORDER BOOK 2.

Nov. 14, 1709.

"Whereas, Mr. William Tate paid formerly two shillings per annum cullerie rent for his house and shop, and having made an encroachment into the City Waste by building thereon, it is hereby ordered that the said encroachment be charged with an additional rent of 3d. per annum, payable at the usual times the said Cullerie rent was payable, and that he take an admittance for the same.

"Whereas, also, John Sewell having in like manner made an encroachment upon the said City Waste by building thereon, it was also ordered that the rent of three shillings and fourpence formerly charged out of his house at Baxter Row be increased from three shillings and fourpence to three shillings and sevenpence, and that he be admitted to the same.

"Whereas, also, Jeremiah Jackson having likewise made an encroachment on the said City Waste by building thereon, it was hereby also ordered that the rent of 1s. 4d. be charged on the said encroachment, and that he be admitted to the same.

"And whereas, also, Wm. Young taylor made an encroachment lately on the Waste of the said City by building thereon, it was therefore ordered that the said Wm. Young's cullerie rent issuing out of the house at Baxter Row be increased from ten shillings to twelve shillings, and that he be admitted thereto.

"Ordered that an Indictment be preferred at the Quarter Sessions of the City against all such persons as have encroached any on the Waste of the said City and have not compounded with the Mayor for the time being, and taken a title thereto.

"Dec. 12, 1709.

"Ordered that the said Gill and Railton be desired to measure the ground which the Fraternitys of Smiths and Glovers have added to their respective Chambers, and that the said Fraternitys be called upon for the money by them agreed to be paid to the Corporation for the same, and for non-payment thereof that they be sued in the Court of the City.

"March 27, 1710.

"Whereas, the Fraternity of Smiths have seised and possessed themselves of a parcell of waste land under Reddness Hall to which they have no right, it was therefore hereby ordered that, unless the said

Fraternity of Smiths do at their next Quarter day or sooner agree with this Corporation for the Waste ground, so inclosed and taken up by them, that Mr. Rook do hereby sue the said Fraternity in such manner as he shall be advised.

“January 8, 1711.

“Mr. Crosby acknowledging his barn to stand partly on the City's waste ground, and that the same was an encroachment, and being willing to submit to the Corporation, and to pay yearly such rent for the said encroachment as the said Corporation shall set thereupon, it was therefore hereby ordered that a penny rent be charged upon the said Mr. Crosby for the said encroachment, to be put in the Cullery Rental or amongst the free rents.

“March 25, 1713.

“Ordered that three yards of the waste ground to be set out for Jas. Robinson, at the end of his house in Rickardgate, near the City walls, to be granted to him by lease for 99 years, under the yearly reserved rent of 1s. at Lady Day yearly.”

Assuming my idea of the origin of cullery tenure to be the true one, there is no reason to suppose that the tenants ever formed a distinct class of citizens in an inferior, social, or political position, and though to a certain extent a feudal relation subsisted between them and the general body of the citizens of which they held their tenements, it is more likely that the feudal incidents of the tenure, the fealty and the suit of Court, were annexed to it, when the citizens in imitation of other Lords of Manors began to hold Manorial Courts. There is nothing now to show whether the cullery tenants ever had a Customary Court separate from the Court Baron of the city; but as in many manors the Customary Court of the Copyholders has been merged in the Court Baron of the freeholders, or rather by common usage the name of Court Baron is given to what is really the Customary Court, it is possible that in early times the city of Carlisle had its Customary Court, at which the cullery tenants were bound to appear in person, pay their rents, and do homage to the Mayor, and at which new tenants were admitted in open court.

But into the nature and constitution of the Manorial Courts of the city time forbids that I should enter now. Little has been heard of them since they were discontinued, shortly after the reformed Corporation commenced its reign, and people seem almost to have forgotten that the city of Carlisle is a manor of which the Corporation are the Lords, being described in old deeds of freehold property as the capital lords of the fee. The manorial history of the city has, however, owing to a recent claim put forward on behalf of the Crown, become a matter of practical importance, and will soon have to be thoroughly investigated. In such a history the incidents and the origin of the customary tenure of the city will form an important chapter; and for this reason, and because cullery tenure is fast passing away, I have ventured to call attention to it. Its extinction is now merely a question of time, for when a cullery tenement is purchased by the Corporation and surrendered to them, the customary estate of the tenant merges by operation of law in the freehold estate which has all along been vested in the Corporation as the Lords. This is a process which is being rapidly accomplished. The old Shambles were bought up in the last century, and now the improvement of Annetwell Street has extinguished the

cullery tenants there. The Corporation already own nearly the whole of Baxter Row, and are bent on acquiring all the shops under the Town Hall. Redness Hall, which, though much modernized, still remains as a solitary example within the secular part of the city of mediæval domestic architecture, owes as I believe its preservation to this, that being composed entirely of cullery tenements the owners could never combine to pull it down. But even Redness Hall will some day have to give place to a less quaint but more commodious building, and then supposing the contemplated widening of Finkle Street to have been carried out, the last of the cullery tenements will have been swept away. For its own sake cullery tenure is certainly not worth preserving, and we may see it vanish without regret, but as it has lasted so long as a peculiar institution of the city, and as the records of its history are stored up amongst the Corporation Muniments, I think it may claim, in spite of the somewhat legal and technical nature of the subject, at least a passing notice from those who are interested in our legal archæology.

NOTE.

Since the above paper was written I have found amongst the Corporation Muniments documentary proof of the existence of a ditch near the castle, the site of which was the property of the mayor and citizens. Such a ditch could only be on the north side of what is now Annetwell Street, where there were several cullery tenements of the annual rent of one shilling, and there seems no reason to doubt that in the document given below we have the origin of one of these cullery tenements. The document is a small parchment indenture to which the seal of Alan Blennerhasset is attached, and forms the counterpart of a grant to him from the mayor and citizens of a piece of waste ground lying within the city in the ditch of the castle, at the yearly rent of twelvecence. The grant would have attached to it the common seal of the city, and would be retained by Blenerhasset. The original is in abbreviated Latin, of which the following is the full text :—

“*Sciant presentes et futuri nos maior et tota communitas civitatis Carlioli dedimus concessimus et hac presente carta nostra indentata confirmavimus Alano de Blenerhayset civi ejusdam civitatis unam placeam vasti sicut jacet infra dictam civitatem in fossato Carlioli juxta tenementa Amiote Moffyt ex una parte et quamdam placeam Thome del Sandes quam habet ex dono et concessione predictorum maioris et Communitatis ex altera parte habendum et tenendum predictam placeam vasti predicto Alano heredibus et assignatis suis reddendo inde nobis et successoribus nostris duodecim denarios annuatim ad festa Pasche et sancti Michaelis per equales porciones et husgabulum domino Regi sicut pro libero tenemento suo et si contingat quod predictus redditus duodecem denariorum aretro fuerit ad aliquem terminum supradictum quod bene liceat nobis maiori et communitati et successoribus nostris in predicta placea vasti pro predicto reddito distringere et districciones retinere quousque de predicto reddito nobis plenarie fuerit satisfactum Et nos vero predictus maior et communitas et successores nostri predictam placeam vasti predicto Alano heredibus et assignatis suis contra omnes gentes warrantizabimus et defendemus imperpetuum In cujus rei testimonium huic parti carte indentate penes predictum maiorem et communitatem remanenti ego predictus Alanus sigillum meum apposui. Datum apud Carliolum in die*

mercurii proxima post Pentecosti Anno regni regis Ricardi secundi post conquestum Angliæ tercio decimo.

"[Endorsed]

"Alanus Blenerhaysett in fossa versus castrum"

It is a curious fact that in the body of the deed the plot of waste ground is described as being "in fossato *Carlioli*," which would seem to mean the city ditch outside and immediately below the walls. The endorsement, however, shews that the ditch referred to was over against the castle, and a close examination has convinced me that the word "*Carlioli*" in the body of the deed has been written over an erasure of the word "*castri*."

The seal of Alan Blenerhasset appended to the deed is in good preservation and bears his arms.



The legend is—

"*sígillum halani de bleneray...*"