

BAKING IN DURHAM.¹

IN THE CHANCERY OF DURHAM. Between HENRY LAMBTON, Esq., Attorney-General of Nathaniel Lord Bishop of Durham, on the relation of MARY BLAKISTON, widow, FRANCIS BLAKISTON, clerk, and DOROTHY BLAKISTON, spinster, *Plaintiffs*, and EDWARD NICHOLSON and CHRISTOPHER MANN, *Defendants*.

1694. April 4. Upon the original hearing, the matter appeared to be for the establishing of the suit and service of the defendants, being Common Bakers of bread for sale inhabiting within the City and Borough of Durham and Framwellgate, to bake all their bread for sale at the oven of the ancient common bakehouse, called the Bishop's Bakehouse, in the parish of Saint Nicholas, which is, and time out of mind hath been, the ancient common bakehouse of the Bishop of Durham and his predecessors, and parcell of the possession of the Bishoprick, and anciently demisable and demised by such bishoppes for one and twenty yeares under ancient rents, and which is now held by the relators by lease from the present Bishop under the ancient rents. Whereunto all common bakers, victuallers, and regrators, living within the City and Borough, are bound by ancient custome to bake all there bread for sale at the said bakehouse ovens, after reasonable rates anciently used for such baking; to wit, 2*d.* for every bushell of corne of Durham old measure,² so made into bread and baked, and soe proportionably for greater or lesser quantities, which is after the rate of five pence for foure bushells of Winchester measure, since the late Act of Parliament made for reducing all the measures of corne to that standard. Upon which custom the Attorney-Generall prayed the aid and releife of this court, as it is the ancient Court of Exchequer of the Bishopp of Durham for the time being, and hath cognizance of the revenue of the Bishoprick.

The defendants denied the custom, and issue joined thereupon.

The court upon hearing of all the proofes on both sides was fully satisfied of the custome and right of the said ancient common bakehouse of the Bishopp, who is alsoe Lord of the City and Borough in right of the Bishopricke, and confirmed the same. But upon the defendants objecting the bakehouse or ovens not to be capable to perform all such bakeings, and for satisfaccion of the court in that particular, it was ordered that a triall at law should be therein before Mr. Chancellor in the Court of Pleas of this county palatine, at the sitting following, upon a feigned wager.

¹ Office copy decree in Mr. Trueman's Collections. In one of the order-books of the Durham Chancery, there is an earlier decree concerning the Bishop's bakehouse. At Durham, after an issue at law, it confirmed the verdict, ascertaining the custom. Gowland quotes Liber EE. (1604 to 1609) fo. 38.

² "Each score consisting of one and twenty corves [of coals] and every corve consisting of eleven pecks and a half of Durham usuall old measure, one halfe heaped, the other halfe streaked."—*Lease of Coal in Low Wood, Great Lumley, from Tho. Fatherly to Alderman John Duck, 1676.*

Which trial, directed att the first sitting after, by reason of a mistake in omitting Mister Chancellor's name in the commission of pleas was had afterwards.

[The issue was upon the old set form. The defendants were represented as holding a conversation with the plaintiff Henry Lambton touching the bakehouse. The plaintiff alleged that it was sufficient, the defendant denied it. Then in consideration of 5s. the defendant promised to pay the plaintiff 100s. if it was sufficient.]

EVIDENCE FOR THE PLAINTIFF.—There are about 12 publique bakers of rye bread, and about 16 bakers of white bread and penny pies, and such like, within the City and Borough. All which by computation doe usually bake every weeke about 112 bushells of rye bread, and about 112 bushells of white bread, and other small wares. The two ovens belonging to the bakehouse can with ease baikē 140 bushells of rye bread, and as much white bread, weekly. They can take in over and above the bound custome doubly every day of the white bread, and about 30 bushells of rye bread every day more then the bound custome.³ For want of bread from those that are bound to bake they take in every day of such as are not bound, and alsoe great numbers of pyes, puddings, and other things from private houses, which they need not take in unlesse they pleased; and if they did not take them in they would want a great deale of employment, and often times wee have one oven full of bread, and not above two or three dayes in the weeke they have bread in both ovens. *Robert Clarke, John Cogdon, Jane Kempe, Elizabeth Lee, [Mrs. Carr erased] Margaret Cartar, John Haire, Anne Peart, Eleanor Hall.*

OBJECTION.—At the bakehouse they order them to bring their bread at a certaine hour betwixt 11 and 12 of the clocke of the day, and sett it not into the ovens till 2 a clock, and keep their stuffe till 11 or 12 at night and have it often burnt o'th outside and paist only within, and if they bring all their bread on one day it would be impossible for the Bishop's two ovens to dispatch them.

ANSWER.—They usually appoint 2 of the clock in the afternoone, and if any will bring their bread soone it is their own fault. And as to the burneing the bread, others baked at the same time in the same oven, and had their bread well baked; and those that had not, it was their own fault in not fetching their bread away in time, as particularly Whitfeild's wife, who left her bread and went to harvest work. And as to bringing all in of one day, that is not usuall. But some bakes one day and some another. (*Idem. Sarah Etherington.*)

If there be any default in the bakehouse man he is answerable to the party, and makes them satisfaccion, as particularly Mrs. Bell had two pyes and [they] run out, and the bakehouse man paid 5s. for the pyes. (*Robert Clarke.*)

³ I cannot reconcile this evidence with the former. In one copy of the brief "a considerable quantity" is written above the "140 bushells."

1695. Aprill 1. Upon evidence given on both sides att the sitting holden heare, the verdict was given for the defendents that the bakehouse was not sufficient to bake all the sale bread. Whereupon this court having taken time to consider thereof untill

1695. Aug. 14. At this sitting it was moved by Mister Attorney Generall, in the presence of Mister Davison and other counsell for the defendents, to have judgment that the said custome may be preserved. The whole matter was debated on both sides, and some presidents in this court touching the custome of grinding at the Bishop's Mills, and divers affidavits on the defendants' parts were heard.

The court considered that the custome was allowed upon the hearing before the verdict at law, as well by records of antient trials and verdicts at law and orders or decrees of this court, as by the new proofes in this cause, which would be all defeated or frustrated by setting the bound customes at a generall liberty, who will have sufficient benefit of their verdict by liberty to bake elsewhere if the Lord's antient bakehouse cannot perform the bakeing brought thither in a reasonable time, or upon timely notice given over night. Therefore

DECREED by the Right Worshipfull Robert Dormer, Esqr., Chancellor of the County Palatine of Durham and Sadberge, that the custome and duty and service of baking all the sale bread and other things used or to be used by the Common Bakers of bread for sale, and other Common Victuallers, living within the City of Durham and the Borough of Framwellgate, shalbe hereby confirmed and continued. All the defendants subject or bound to the custome shall give notice or sett steven⁴ with the bakehouse man, farmer or occupier of the relators' Common Bakehouse over night before hand, of the quantity and time of bakeing, or else they shall carry or cause to be carryed to the bakehouse all their bread or things to be baked and their to attend and expect the making of the oven ready for bakinge thereof by the space of halfe an houre if needfull, and, if it be not ready in that time, they shall then be at liberty to carry away all such their bread and other bakeing to bee baked elsewhere att their respective wills and pleasure. And soe the duty and service shall bee observed untill the nixt sitting of this court. And then if occasion bee both sides may resort back to bee further heard therein, or if any further or better expedient be founde out in the meane time, the same shall then alsoe be considered.

⁴ *Steven*, a time of performing any action previously agreed upon. "They setten steven," they appointed a time.—*Morte d' Arthur*, i., 266.

* * * The following is a fragment of the interrogatories in the foregoing case: "Can defendant Edward carry or send his bread to be baked att the Bishopp's bakehouse in rayny weather or wett and stormy weather without hazarding the loss of the same or without apparent damage or prejudice to his stuff or bread? Doth the other defendant Christopher Mann live nearer to Gilligate bakehouse than to the Bishopp's bakehouse?"