

# Extracts from the Assize and Plea Rolls

OF THE THIRTEENTH CENTURY,

ABOUT

## NORWICH THIEVES, &c.

COMMUNICATED BY

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IN the course of a recent search through the early Assize and Plea Rolls at the Record Office, I found my attention not unfrequently withdrawn from the matter in hand by lighting upon names and events with which in my early archæological investigations I was familiar. The result was the accumulation of a number of notes of matters recorded in these Rolls, a good many of which relate to Norfolk and Norwich.

Among the earliest, I find full details of the abduction of the son of Benedict, the physician, by the Jews, in the 18th Henry III., and how he became "Jurnepin."<sup>1</sup>

Numerous particulars of the disputes between the Priory and City, anterior to the burning of the Cathedral and Priory in 1272, which give a clearer insight into the causes of that catastrophe than elsewhere appear, are also to be found on these Rolls.

But some entries on the Assize Rolls, of special interest to

<sup>1</sup> Blomefield, vol. iii. p. 44.

me, related to the events recorded in the Norwich Coroner's Roll, from which I published a number of extracts in the second volume of the *Norfolk Archaeology* (p. 253), and I have thus learned the termination of cases of which the Coroner's Roll only furnished the commencement.

For instance, there was on the Coroner's Roll (p. 257) the case of Katherine Justice, in whose house a burglary had been committed, and the dead body of her husband, lying in the hall of it, burnt. The facts then ascertained are there recorded, and eight persons are named as the culprits. The Assize Roll of the 52nd Henry III. gives the conclusion: three were found guilty; one of them named Ralph, the son of Robert, being a clerk, was handed over to the Bishop to be dealt with; the two named Nicholas were hung, and the rest acquitted.

The case to which I particularly wish to direct attention, is that of the man resuscitated after being hung, (p. 275). Recorded instances of such recovery are extremely rare; but I was not aware when I extracted this case from the Coroner's Roll that it had been of such importance to the city as it appears from the Assize Rolls it was. The Record states that—

On Monday, in the first week of Lent, 13 Edward I., Roger de Wylby, Adam le Clerk, James Nade, and William de Burwode, being bailiffs, one Walter Eghe was taken for stealing cloth from the house of Richard de la Ho, and for other thefts, and on the Wednesday following was taken before the bailiffs and whole community of the city in the Tolbooth, and was there required to put himself upon the country. And the bailiffs and community caused inquisition to be made if he were guilty or not, by which inquisition it was found that he was. Wherefore, they adjudged him to be hung, and he was hung accordingly. And he was taken down from the gallows, and carried to St. George's church to be buried, when he was found to be living.

And the jury, at the following assizes, being required to say by whom he was taken from the gallows, said that William, son of Thomas Stanhard, came and acknowledged it, and he was committed to gaol; and they found that four marks, the chattels of the felon, were in the hands of the sheriff.

And they further found that he remained in that church for fifteen days, and was there watched by the parishes of St. Peter of Hundegate, St. Mary the Less, St. Simon and Jude, and St. George before the gates of the church of the Holy Trinity, and that after fifteen days he escaped from their custody;—and there was judgment against the four parishes for allowing the escape.

They further found that he then placed himself in the Church of the Holy Trinity, and there remained until the King at his suit pardoned him.

And at this assize, he came before the court and exhibited the charter of the King, which is dated at Burgh the 24th of March, 13th year, and this charter is set out in full upon the Roll.

And thereupon the bailiffs and community were required to say by what authority they adjudged him to be hung, and hung him, without suit of any one, or having taken him in the fact. They say that the King came at Easter into these parts, and was informed how it happened, upon which he sent John de Lovetot into the city to inquire further, and who, for the same matter, seized the liberties of the city into the King's hands, and the same liberties remained in the King's hands until the succeeding parliament. And that afterwards, at such parliament, the King restored them by his charter, which is also given verbatim on the Roll.<sup>2</sup>

This charter does not, as Blomefield states,<sup>3</sup> recite and confirm all previous charters: it recites that on account of

<sup>2</sup> Assize Roll, City of Norwich, 14 Edward I.

<sup>3</sup> Blomefield, vol. iii. p. 63.

the burning of the Church of the Holy Trinity, King Henry, his father, had seized the city liberties into his hands, and that after his death he had restored them to hold at his will; and that they had now again been seized by reason of a certain transgression by them committed in taking thieves and other malefactors in the city, for crimes committed out of it, and doing execution upon them; but he now entirely relieved the citizens and restored their liberties, they paying annually the old rent of £108, and 40s. increased rent to the Exchequer. And this is dated at Westminster, the 27th May, 13th year, (and not the 7th as Blomefield states.)

This Record has several claims for special notice; first, as being one of the very few authentic records of a return to life after execution, and as containing a charter of pardon on account of the same, and also on account of the severe penalty upon the city in consequence of it.

It also brings prominently to notice what is frequently forgotten in discussing the right of Sanctuary—the enormous cost it must have been upon a town;—people constantly flying to the churches for all sorts of offences, immediately casting the burden of a strict watch on the four adjoining parishes while they remained there.

Another “Sanctuary” record will be, I think, of interest. It is on the Assize Roll for Norwich, of the 14th Edward I.

“The jury present that William de Lodne (Loddon) clerk, and Hugh Maydenelove, (of whom it appears by the Humilyard Roll that he abjured the realm<sup>4</sup>) were taken for stealing sheep, and other thefts, and imprisoned in the Tolhouse of the city,

<sup>4</sup> *Abjuring the realm.* The following oath is from the Red Book of Colchester, p. 49. “This hear ye, Sir Coroner of our Lord the King, that I, N. S. of B, in the shire of E, am a felon, and feloniously hath robbed or slain, (after his confession hath been to the coroner afore), wherefore I forswear the King’s land of England, and I shall haste me to the port I am assigned to which ye have given me, and I shall not go out of the highway, and if I do I will that I be taken again as a felon of our Lord the King, and to the same place I shall diligently take my way, and that I shall not abide there but an ebb and a flood

(now the Guildhall) in the custody of Roger de Tudenham, Paul de Paggrave, William de Refham, and Walter Knotte, bailiffs of the city, and which same Hugh broke prison, and carried the said William with him upon his back to the Church of St. John of Ber Street, whose foot had rotted from his long imprisonment; and there having left the same William, himself immediately fled, (as appears by the before-mentioned Humilyard Roll) and on the morrow when the bailiffs found the same William, he went out of sanctuary and rendered himself to the King's peace. And he was afterwards led before the bailiffs and community; and there came one Christiana Startup of Lodne, who accused him of stealing the twenty-two sheep found with him when first taken, and which sheep were in the charge of William de Refham, the bailiff. And when the same William was asked how he wished to be tried, he said he was a clerk and unable to answer them, whereupon he was remitted to gaol. And afterwards on a certain other day, in the absence of the prosecutrix, he was again brought before them, and, placing himself on the country, was acquitted. And at the assizes, the bailiffs had judgment against them, for permitting his acquittal and allowing the escape."

The terrible condition of the prisons of those days is forcibly presented to us in the preceding extract. The loss of a limb from the state of the prison would probably not have been remarked on at all if it had not been necessary to explain the circumstances of the escape; and the negligent

if I may have my passage in so short a time; I shall go every day into sea up to my knees assaying for to pass. And if it be so I may not have passage within the time of 40 days, I shall yield me again to church, so help me God and holy Doom."—*Report on Colchester Records*, 1865, p. 32. What happened if the undertaking was not carried out may be seen by the following extract. "Roger Tril, who abjured the realm before the coroner of the city of Norwich, being arrested, acknowledged his abjuration, &c.; and the coroner produced the Record. Therefore hung; chattels none."—*Gaol Delivery, Norwich Castle*, 23 Edward I.

watch kept on a prison in the middle of the city, when a man could break it, and (though doubtless cumbered with fetters) could carry another man on his back half across the city, is also remarkable.

Another of my extracts has reference to the "Trial by Duel," of which Selden says in his "De Duello" that "the least plural number doubled comprehended all the recorded cases." But that is contrary to my experience: the Assize Rolls of this date afford numerous instances. I have a note of a case at Exeter,<sup>5</sup> where a prisoner charged no less than seven different persons with being his associates in various murders and robberies. In five of these cases, duel was struck, in one of which he withdrew his charge upon the field, in two others he was the conquerer, and his opponents were forthwith hung. In two the result is not given, and in the other cases the accused preferred a trial by jury, and were convicted and hung.

In the Norfolk case, which is on the Gaol Delivery Roll for Norwich of the 23rd Edward I., it is stated that John, son of Alexander Sparrow of West Winch, a prisoner, accused Nicholas de Belton as well of being his companion in robberies at Erlham, as of being concerned with him in divers burglaries there. And this he offered to prove by his body. And Belton defended himself, denying every charge, and offered to support his denial by his body; therefore duel was ordered. Afterwards they came arrayed to the place of duel, and duel was therefore struck between them, and Nicholas de Belton, the accused, acknowledged his guilt, and was forthwith hung, and the accuser was remitted to gaol.

There is a case on the Rolls of Henry III's time, which Madox quotes in his "History of the Exchequer," and he gives an engraving from the drawing at the head of the original Roll. In this case Walter Blewberme, a prisoner,

<sup>5</sup> Haverberg's Case, *Assize Roll, Ivelchester*. 9 Henry III.

was accuser, and Hamon le Stare, defendant. The duel was struck, and Hamon vanquished and hung: the accuser returned to prison. In the picture, the combat is shown to the right, the names of the parties being written above. In the centre is a distant view of the gallows, the name Hamon le Stare again appearing above the suspended body.

I found an entry in the Red Book of Colchester of a duel there at a much later period, (49 Edward III.) which is more minute in the details. It states that the sheriff prepared clothing and arms for the combatants, and brought them on the day appointed before the justices, to the place of duel on the north side of Colchester Castle. They were clothed in leather coats, and had staves piked with horn, and targets in their hands, and license being given and silence proclaimed they fought, and the accused being vanquished was hung, and the approver led back to prison.<sup>6</sup>

There was also the fight between the armourer and his man in the 24th Henry VI., in Smithfield, at which the armourer's friends, fearing his courage might fail him, so plied him with drink before he entered the lists, that when he did he was instantly overcome.

The duel, however, was not confined to criminal cases. I have a note of a trial in the 44th Henry III., from the Plea Roll, where in a Hampshire case, one Adam de Spineto sued William Fitzbald for a knight's fee at Cnyvington, whereof Robert his father was seized in the time of King Richard, to whom he succeeded as his heir, and he offered proof by the body of his freeman Roger Bene. And William came and defended his right and that of his father, and offered proof by the body of his freeman Florence de Chilton. And thereupon duel was accorded them. Afterwards the duel was placed before the King at Westminster, the Monday after Michaelmas, in his 44th year, by the King's order.

<sup>6</sup> *Report on the Records of the Corporation of Colchester*, 1865, p. 30.

And being on the field, Adam gave half a mark for a license to arrange the dispute; the arrangement being that William was to retain the land till Adam paid him one hundred marks, for which payment two terms named, a moiety being payable on each.

Several curious cases are recorded in the *Placitorum Abbrevatio*: "Duellum."

Many of us have done suit and service at the Court Baron of a Norfolk Manor, and have formed perhaps no very exalted notion of such a court; few of us are prepared for the view of the powers and responsibilities of the steward and suitors shown on the Assize Roll for the 14th Edward I.

"Robert Gavel and Richard Fitzwilliam, both of Bukenheim, fighting in the town of New Bukenheim, the latter was struck by the former on the head with a staff, from which he died the day after. Thereupon, Robert Gavel was taken to the court of Robert de Tateshal, who was Lord of Bukenheim, and delivered to Nigel Fitzwilliam, bailiff of the Lord, who detained him in custody at the toll-house of New Bukenheim.

"And the jury at assizes say that Robert Gavel wounded one Simon de Spalding, in that town, and immediately fled to his own house, and there remained; and when this was known the said Nigel, together with his brother the aforesaid Richard Fitzwilliam, Richard Brun, and Roger de Bukenheim went to the house of the same Robert Gavel to take him into custody, which he would not allow them to do, but struck the same Richard, who died from the said blow as aforesaid.

"And they say that the said Nigel immediately after that act took the same Robert, and on the morrow caused the suitors of the court of Bukenheim to assemble before him the said Nigel, charging him, the said Robert, with having stolen a cloak, and caused a certain woman to appear against



him concerning the same cloak, and there by the judgment of the same court he was adjudged to be hung, and he hung him at the gallows of the aforesaid Robert de Tateshal.

“And it being asked of the said jury if the aforesaid Robert had stolen the said cloak, they say he did not, but they say the said Nigel, out of malice to the said Robert, because he had killed his brother, caused him to be charged with that theft, to hang him by means of his Lord’s Court.

“And because it appeared to the jury that the aforesaid Nigel through malice, together with the suitors of the court, without suit, or being taken in the fact, adjudged the said Robert in that court to be hung, and hung him at the lord’s gallows, when they ought to have sent the same Robert to the gaol of the Lord the King; the sheriff is ordered to cause the same Robert de Tateshal, Nigel, and the suitors to come before this court.

“And afterwards Nigel and the suitors appeared; and Nigel said that Robert Gavel was brought before him in full court on the suit of a certain woman, who charged him with stealing a cloak, and Robert endeavoured to prove that it belonged to him, and because he failed to do so, he was adjudged to be hung on the suit of the said woman.

“And because they proceeded to judgment when they ought to have sent the prisoner to the King’s gaol, as the enquiry into the death of the same Richard was out of the power of the aforesaid court, as well the said Nigel as the suitors of the court are remanded to prison. Afterwards the suitors came and were fined as appears below.”

The entry to which the last paragraph appears to refer, occurs shortly after, but it is singular that the Robert Gavel named in it does not appear to be the man named above, and I find nothing relating to Nigel Fitzwilliam.

“The jury present that one Nicholas, a thief unknown, was taken at New Buckenhan with five ells of russet cloth of the value of 4s. 6*d.* And Geoffrey le Botyller, bailiff of

Robert de Tateshal, assembled a court of the same Robert for the manor of New Buckenham, and in full court, without suit of any one, adjudged the same Nicholas to be hung, and hung him at the gallows of the said Robert de Tateshal. And also one Gilbert de Crostweyt went to the same town of New Buckenham, carrying two carpets and two towels, and was taken by the same Geoffrey, and acknowledged in the same court that he had stolen them, and on his confession they hung him. And in like manner, William Miller was taken with ten ells of blue cloth, and led before the court, and on confession was hung without suit of any one. And Robert Gavel also was taken for stealing corn in autumn, and by the same Geoffrey and the suitors, without suit of any one, or without being taken in the fact, was hung.

“Therefore the sheriff is ordered to cause the aforesaid Geoffrey and the suitors of the same court and the aforesaid Robert de Tateshal to come before this court.

“And afterwards Robert de Tateshal and Geoffrey and the suitors came.

“And Robert de Tateshal said that he had the town of New Buckenham, and held the town and court aforesaid at fee farm, and that he had bailiffs of his own election. And that if any trespass had been committed in that behalf, he was not bound to answer it, as it was altogether the act of others.

“And Geoffrey and the court suitors are present, and are unable to say why they hung the said thieves without suit of any one as aforesaid; therefore they are remanded to gaol.

“Afterwards Geoffrey and the suitors were find 10s. each for such trespass, and found pledges: Adam de Modelond, Richard de Walsingham, Nicholas de Cressingham, and Goscelin de Depham.”

Although New Buckenham was a large manor, there were hundreds of others of equal and greater importance where

the lord had right of gallows; and if this may be taken as a specimen of what was going on in other places, the sacrifice of life must have been appalling.

The efforts of the Superior Courts to restrict the jurisdiction of these Courts Baron do not seem to have been very effective.

Another case in the same Roll is remarkable for another reason.

*Assize Roll, Norwich, 14 Edward I.*

“Jury of the Hundred of Smethedon present, that Christiana Gamot, and Nicholas, the son of Mariota Bagge, of Hunstanton, were taken on the indictment of the country, at the sheriff’s turn, and carried in custody to the town of Hunstanton, where they escaped from custody. Therefore judgment against that town for allowing the escape. And the said Christiana immediately placed herself in the church of Hunstanton, and acknowledged herself a thief, and abjured the realm before the coroner. Had no chattels. And the said Nicholas fled, and afterwards placed himself in the same church, and acknowledged himself a thief, and abjured the realm before the coroner. He had no chattels, nor was he in the leet. And after abjuring the realm, he returned into the country and broke into the house of John Norman of Hunstanton, and took and carried away goods and chattels of the same John to the value of 26 marks; and flying when hue and cry raised, he was beheaded, on the suit of the said John and of the country. He had no chattels.”

I do not remember to have seen another instance of a sentence of decapitation for anything but treason.

My concluding extract relates to a man whose depredations appear to have been of great magnitude.<sup>7</sup> It affords too an example of the frequent habit of offenders in those times of

<sup>7</sup> It was only a few years after that the King’s Treasury at Westminster Abbey was broken into and robbed of treasure to the value of £2,000,000.

accusing their companions and others, with no hope of saving themselves, no apparent motive, unless a desire to see them in the same peril as themselves can be so regarded.

*Gaol Delivery, Norwich Castle, 23rd Edward I.*

“Roger Wynde, prisoner, accused Ralph Tubbing, of Felmingham, of receiving cloth stolen by him at Refham, and Hugh Pecham was taken on his accusation for receiving cloth and malt stolen by him. William Morgrim, of South Walsham, he accused of being his associate in killing and slaying William, a servant at Lessingham Hall, when they carried away goods from thence to the value of £200, and also with being his associate in robbing the house of Roger Herman, and stealing there £400 in silver. And he accused John de Mileham of being with him at the death of William Here, killed between Hensted and Eccles, and of stealing 25 shillings from him. He further accused William Lawrence, of Eccles, of assisting in the robbing and slaying of William Here; and one Nicholas de Lund he charged with procuring the death of Here; and, lastly, Robert Crispin, of Lessingham, for procuring and assisting in killing the servant at Lessingham, and at the robbery at the Hall.” Of all these persons, Lawrence alone was found guilty and hung, the rest were acquitted. Wynde himself most justly closing his career upon the gallows.

I have little doubt, a more careful and systematic examination of these Rolls would produce results of greater interest. Mine have been mere desultory extracts, made in the course of other investigations; and abundance of material will be found remaining for those who will trouble themselves to go over these valuable Records.

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In the preceding pages an extract has been given from the Assize Rolls, of a case of resuscitation after execution, and attention drawn to the great rarity of such cases upon the Records.

I have within the last few days met with another case of the same kind upon the Patent Rolls, of which I add a note; but as the Assize Roll for Kent for the year in which it occurred is lost, I can add nothing to the information contained in the Letters Patent.

*Patents, 23 Edward I.* Whereas Robert, son of Hamon Prat of Wyngham, [Kent] lately hung for robbery, was afterwards taken down from the gallows, and placed upon the ground as dead, and was thence carried to the church of St. Martin at Canterbury, and there was found to be still living. The King, for the honour of God and devotion to the aforesaid saint, has pardoned him and granted him his peace. At Wyngham, 21st of September.

On the *Patent Rolls, 4 Hen. III.*, a double duel is recorded in Staffordshire between Hobbe the Werewode, approver, and Walter in the Grene, defeated, and Thomas wi' the Gold, victor, and the said Hobbe the approver vanquished, in a charge of robbery.