

LONDON NOTES :

A LOST CHARTER ; THE TRADITION OF LONDON STONE.

By H. C. COOTE, Esq. F.S.A. V.P.

Knowing, as we all do, the magnitude of the privileges which the City of London has from time to time acquired of our kings, and knowing also the very proper jealousy with which she has asserted and maintained all rights thus acquired, no one will (I think) suspect—what is, however, perfectly true—that at some period, which I will not attempt to fix, the custodians of her archives have been so strangely unfaithful to their trust as to have lost that one charter which of all her muniments has been the most important.

The charter to which I allude, and whose provisions I propose to verify, is one which was granted by competent authority in A.D. 1191. The original does not exist. No copy or abstract of it is known—even amongst the enrolments or the *chartae antiquae* now preserved at the Record Office.

Luckily, however, though these means are all wanting, there is indisputable proof, from other sources, both of the granting of the charter and of its precise object.

Before I state what that object was, a few words upon the government of the city anterior to the date of the charter will best explain the extreme value and importance of the lost muniment in relation to the self-government of London. Shortly after the surrender of London to William I. that monarch confirmed to the citizens, by a charter which is still extant, the entire *status quo* of their municipality.* Of the system thus confirmed, I have only to observe that

* “Willm kyng gret Willm biseop and Gosfregð porterefan and ealle þa burhwaru binnan Londone, Frencisce, and Englisce, freondlice, and ic kyðe eow þæt ic wille þæt get beon callra þæra laga weorpe, þe gyt weran on Eadwerdes

the chief magistrate (or *portgerefa*) was, so far as regarded his appointment to office, nothing more than a nominee of the crown.* Under such circumstances, the liberties and rights of our great city (even then considerable) would be liable at any time to be heavily discounted by unscrupulous kings. For such contingencies, however, there was an efficient remedy, if the city could only get it—the *commune*, already in active existence in France.

That the citizens of London at an early period of their history coveted this communal constitution, or, to speak more exactly, that portion of it which should supplement and complete their already existing rights and privileges, viz. the mayoralty, cannot be doubted, for there is evidence that the subject was mooted in the reign of Henry II. though such an aspiration on their part at that time must have met with little favour at court. The Londoners had made Stephen king, and had maintained him on the throne against the better title of Matilda and her son, in the expectation doubtless that an usurper would readily concede the wish of his best friends. In this they were to be disappointed, and when Henry II. succeeded Stephen he feared and hated his old enemies of London too heartily to grant them a privilege which would inevitably strengthen them against himself and all other Kings of England. The fear and hatred of the man who murdered Becket must have been at times superior even to the greed for gold which distinguished himself and his unprincipled race. Richard fully inherited his father's feelings towards London, which he foolishly boasted he would sell—if only he could find a purchaser.†

The aversion of these two kings to granting self-government to London is gauged by a contemporary in an observation for which he must have had authority, viz. that neither would have granted the mayoralty to the citizens for even a million marks of silver.‡

ðæge kynges," &c. (Noorthouck's *London*, app. p. 773; I have revised his transcript), *i.e.*, "William the king greets William the bishop and Gosfreth the portreeve and the bourgeoisie of London as a friend, and I certify you that I will that you retain all the laws that you were possessed of in the time of King Eadweard."

* The compiler of the *Liber Albus* (pars prima, cap. 2, p. 13 (Riley), calls the portreeve the King's "locum tenens."

† Ric. Divis. (Stephenson), p. 10. "Si invenissem emptorem, vendidissem Londoniam," was Richard's favourite jest to his courtiers.

‡ See *post*, the quotation from Richard of Devizes.

In A.D. 1189, however (if that be the true year, for there is a little discrepancy in the date, as we shall see), the great burghal edifice was at last crowned. In that year, if we are to believe what is probably only a private roll, the citizens elected from among themselves a brother burgess to be their mayor, to govern and direct them all, including even the old portreeve of London and the sheriff of Middlesex.*

This first election of mayor fell upon Henry, the son of Aylwin (or Fitzaylwin), and for the twenty-four years that followed the same citizen was constantly re-elected to this office.

Though it is impossible to doubt the genuineness of the document which tells us these facts, but without the least attempt at explaining how they occurred, it is just as impossible, if we take into our consideration only the known charters of the City, to understand how this election and these re-elections could ever have taken place under the conditions commonly understood. For the meaning of it all, as thus abruptly stated, is that the citizens of London, without a royal charter or licence of any kind from the king, dared to adopt a new municipal function, which should supersede the admitted authority of the Crown, exercising it openly and without intermission for twenty-five years, viz., until A.D. 1214, without any recorded protest or dissent from two kings whose inclination was rather to disregard the just privileges of others than to acquiesce in any illegality practised against themselves.

It is, however, the fact, notwithstanding the evidence of this municipal roll, or record (whatever it be), that the first extant charter which allows the citizens to appoint a mayor—to elect him out of themselves, and to keep him in office for a year—is that which was granted by King John in the year which I have just mentioned, viz. in A.D. 1214.

But, whatever inference may be drawn from this well-known charter, which in form at least has all the appearance of being the first granted for this purpose, it is out of all reason, as I have said, to suppose that the citizens in appointing a mayor for the first time in A.D. 1189, and in continuing to reappoint him for the next twenty-four years, could

* De Antiquis Legibus (Riley), p. 1. "Eodem anno" (*i.e.*, the first regnal year of Richard) "factus est Henricus filius Eylwin de Londene Stane Major Londoniarum, qui fuit primus major in civitate, et duravit major usque ad finem vite suae, scilicet fere per viginti quinque annos." See also *ib.* p. 175, and *ib.* appx. p. 206.

have done so without royal warrant. On the contrary, they must have obtained a charter for this purpose previously to A.D. 1214. But, if so, where is that charter? This is a question which the civic authorities ought to be able to answer, for their own record propounds it. The only answer, however, which they give is, that they have no other charter, and have never heard of any other than that of King John, which bears date in A.D. 1214. This is, of course, no explanation of the question which is thus raised. The true explanation will, therefore, have to be sought elsewhere. So stupendous an accretion to the personal power of the citizens as the election of their own chief magistrate could never have been made, as I have already said, without a royal charter; and in reality, though the fact has been forgotten, there was a charter, the lost muniment to which I at first alluded. Though the citizens have forgotten all about it, though they have neglected either to preserve the original or to register its contents, the honest historians of the age, whose works still remain, were too faithful to the cause of truth to omit the mention of any fact which could be considered of importance or interest. We have only to consult them and our present difficulty vanishes, though here again a little discrepancy as to date occurs, as I before intimated. The fact, however, remains.

However strong the personal aversion of Richard might be to this aggrandisement of the city, it was his reign that was to witness the granting of the hated *commune* to the quite as much hated city of London.

Richard, on leaving England for his crusade, had appointed the Chancellor William, bishop of Ely, his viceroy, at the same time enjoining on his brother John a limited absence from the kingdom.*

In the same year John returned to England with the plain intention of occupying his brother's vacant throne. He easily raised a party against the Chancellor; and, on his deposition, procured himself to be appointed viceroy. This party the citizens had greedily joined,† and on the day after the Chancellor's deposition and John's appointment, viz. on the 8th October, A.D. 1191, they obtained a

* Ric. Divis. p. 14.

† On the 7th Oct. 1191, Richard FitzReiner and Henry of Cornhill (the portreeve and the sheriff of Middlesex) had called a burghmote in "aula publica, quæ a pоторum conventu nomen accepit," and there it was determined by the citizens to side with John in his attempt on the throne (Giraldus Cambrensis *de Vita Galfridi Arch. Ebor.* vol. iv. p. 404, Brewer). The words which I have quoted mean, I presume, the Guild Hall.

solemn concession of the long-desiderated mayoralty* from John, combined with a parliamentary ratification of their title.

Of course this shows a previous well-understood and well-defined bargain between the two parties—John and the city.

Whatever may now be said about the morality of this bargain, there can be no doubt that every possible formality and solemnity were employed to give it an appearance of validity. Upon this point there is a cloud of contemporary evidence, clear, exact, and positive.

Walter of Coventry, Roger of Hovedene, and Benedict of Peterborough (all contemporary), who testify to the fact of the grant, use precisely the same words in describing the details. Their words are these:—"The Count of Mortagne (*i.e.* John) and the archbishop of Rouen,† and the king's other justiciaries, granted to the citizens of London to have their commune (*habere comunam suam*), and the Count of Mortagne and the archbishop of Rouen, and almost all the bishops and earls and barons of the realm, swore that they would most firmly maintain it so long as it should please the king" (*juraverunt comunam illam firmiter et inconcusse se servaturos quamdiu domino regi placuerit*).‡

Ralph de Diceto (another contemporary) says more succinctly, "all the before-mentioned *magnates*, (*i.e.*, John, the archbishop, the bishops, earls, and barons) swore (that they would maintain) the *Commune* of London."§ He tells us also, what the others do not tell us, that this parliament was holden in the Chapter House of Saint Paul, London.

Richard of Devizes, another contemporary, has left us an independent account of the affair; the more valuable and trustworthy because he is manifestly hostile to the pretensions of our great city. He says:

"On that very day was granted and instituted the Commune of the Londoners; and the *magnates* of the whole realm, and even the bishops

* The portreeve, though in the new hierarchy he was subordinated to the mayor, continued to be appointed by the Crown until the first year of John, when that king by charter waived this now useless right in favour of the citizens. The latter thenceforward appointed and have continued to appoint the portreeve under the name of sheriff of London.

† He had been recently appointed by Richard to assist the Chancellor. (Ric. Div. p. 27.)

‡ Walter de Coventria—Stubbs, vol. ii. pp. 5, 6. Roger de Hovedene—Stubbs, vol. iii. p. 141. Benedict of Peterborough—Stubbs, vol. ii. p. 214.

§ Rad. de Diceto—Stubbs, vol. ii. p. 99. *Ymagines historiarum*.

of the province itself, are compelled to swear to it. London learnt now for the first time, in obtaining the Commune, that the realm had no king, for neither Richard nor his father and predecessor Henry would ever have allowed this to be done, even for a million marks of silver. How great are the evils which spring from a commune may be understood from the common saying: it puffs up the *bourgeoisie* with arrogance, and frightens the kings." (Concessa est ipsa die et instituta communia Londinensium, in qua universi regni magnates, et ipsi etiam ipsius provincie episcopi jurare coguntur. Nunc primum indulta sibi conjuratione regno regem deesse cognovit Londonia, quam nec rex ipse Ricardus nec predecessor et pater ejus Henricus pro mille millibus marcis argenti fieri permisisset. Quanta quippe mala ex conjuratione proveniant, ex ipsa poterit diffinitione perpendi, quae talis est: communia est tumor populi, timor regni.)*

There is still another contemporaneous account. Giraldus Cambrensis, in his life of Geoffry the archbishop of York, describes the event as one who if not present was well informed of what occurred. He says, "All the citizens having been assembled as a body, the commune was granted to them and was sworn to by all." (In crastino vero convocatis in unum civibus, comunione, vel ut Latine minus vulgariter magis loquamur, communia seu communia eis concessa et communiter jurata.)†

The reader will have seen that all the historians whom I have quoted concur in using the continental word "commune" to express what the citizens of London desiderated and obtained. In the case of London, which had acquired all other things, this word expressed for its citizens the mayoralty only. Nothing else was asked or desired by them, for it was the sole privilege which was wanting to their burghal independence. They were fortunate enough as an old borough to possess all other necessary rights.

This proceeding on the part of the city to ask under the name of commune for a *desideratum* only—not for all that was comprehended in this extensive term—was agreeable to the practice on the continent. Whether the king gave altogether for the first time all municipal rights to a new town or borough, or supplemented in an old city

* Ric. Divisiensis (by Stephenson), pp. 53, 54. "Conjuratio" has the same meaning as "communa" and "communia." See Ducange, *sub voce*.

† Gir. Camb. *de Vita Galfridi Arch. Ebor.* (Brewer), vol. iv. p. 405. The words "communio" and "communa" are manifestly misplaced.

that which was wanting only in the way of self-government, the royal charter was in either case called indiscriminately a grant of "commune."*

I must not, however, conceal from the reader, that two very distinguished antiquaries have attributed to this word *commune* two other meanings, both different from my own, which is founded on the French authority.

Mr. Stephenson, in his *Index to the History of Richard of Devizes* (which he edited for the first time), in reference to the passage which I have hereinbefore extracted, says: "Meeting of the *communia* of London; character of their proceedings." It would seem from these words that Mr. Stephenson took "*communia*" to be a plural noun, and to mean the commons of London,—perhaps the common council.

I need not tell the reader that such an explanation as this is wholly inadmissible.

Professor Stubbs simply regards the grant and institution of the *commune* in the case of London as meaning only a confirmation of the existing constitution of the city. He says, in his preface to the *History of Roger of Hovedene*:

"The burghers (*i.e.* of London) had long been anxious to obtain for themselves the royal recognition of their corporate character, or *communa*."†

He repeats, also, the same view in four other places, *viz.* in a side-note to those passages which I have quoted from Walter of Coventry, Benedict of Peterborough, Roger of Hoveden, and Ralph de Diceto.

This view of the charter of 8 Oct. A.D. 1191 falls very short of the reality. That charter, rightly understood, was what contemporary account without a dissentient voice describes it, and what I have said it was. The citizens needed no such prop to their municipal edifice as Professor Stubbs suggests or asserts. They had long since obtained that at the hands of the great Conqueror, and his charter, before referred to by me, and still extant, was known to all.‡

This all-important concession gave to the citizens a new lord of their own making, and out of their own brotherhood.

* See Raynouard's *Histoire du Droit municipal en France*, vol. 2, chap. iii. chap. vii. chap. viii. chap. xi.

† Vol. 3, p. lxxviii. and p. lxxix.

‡ See *ante*.

In spite of the reservation before mentioned, King Richard never rescinded this charter of his self-constituted viceroy. Perhaps he was restrained by his habitual indulgence for his unworthy brother, whom he loved immoderately: perhaps even he may have feared to provoke too far the active hostility of London so soon after his return, and may have preferred to wait a more convenient opportunity for repealing the obnoxious charter. All these causes may have operated: any one was sufficient.

It is certain, however, that Fitzaylwin remained the elective lord of London long after that king's death.

This question of the charter settled, another arises—who and what was Fitzaylwin? To have merited the first election and all subsequent re-elections for twenty-four years following—so long, in fact, as he lived—Fitzaylwin must have been one of those great burghers whom Fitzstephen, in Henry II.'s time, so proudly commemorates—a gentleman of landed estate lying in the adjoining or other counties, living on his rents, and who, while he might have a country house, kept permanent residence in a stately mansion in London.* It is preposterous to attribute to Fitzaylwin the exercise of any trade, however creditable, as later and unsupported accounts have asserted of him. We may judge of men in all ages—so far at least as regards their social position—by the house in which they live; and this test applied to Fitzaylwin will confirm the presumption which his election and re-elections to the mayoralty themselves afford. At the time of his election and throughout his life—for men did not change their town-houses in the middle ages—Fitzaylwin resided in a stone-built capital messuage situate somewhere in the city, and called London Stone. The *Liber de Antiquis Legibus*, compiled not many years after his death, describes him as “de Londone Stane.”† These words can only be understood as giving the name of Fitzaylwin's place of residence. For the word “stone,” in its secondary sense, meant a stone house. We have an example of the word, as used in this sense, in a deed of Anglo-Saxon times, dated A.D. 889, and there is no reason to believe that this meaning of it had died out in Fitzaylwin's days.‡

* *Vita Sancti Thomæ* (Giles), p. 183.

† *Sec ante.*

‡ *Kemble's Codex Diplomaticus*, p. 118, A.D. 889. “In Lundonia unam curtem quæ verbotenus ad antiquum petrosam ædificium, id est æt Hwætmundes Stane, a civibus appellatur.”

The same word, "stein,"* had the same additional acceptation in mediæval Germany.

But why had Fitzaylwin's house taken to itself the epithet of "London"?

I think even this can be satisfactorily accounted for. Previously to the Great Fire of London in King Stephen's reign, which destroyed nearly the whole of the city, the houses had been built of timber all but a few feet of basement, as in Roman colonial *municipia*.† This dreadful calamity warned the citizens to adopt stone for the houses of the future, and those whose means permitted them did so. It may, therefore, be fairly presumed that the stone house which Fitzaylwin inhabited was the first or the largest which was built after this disastrous fire.

In A.D. 1240 this house was still standing under its old appellation, and the then tenant or proprietor, like Fitzaylwin, took his designation from it—John de Londonston.‡

I think there should be no difficulty in believing that the house in which Fitzaylwin lived, and which afterwards fell to the lot of John just mentioned, was one and the same. For it is impossible to believe that, in an age when houses in a borough (at least the most important ones) were named and not numbered, any Londoner a generation only after the death of Fitzaylwin, and when the "London Stone" of the latter must have still existed, would have been so presumptuous as to affix upon another and a later habitation the same old and honourable name.

I cannot trace Fitzaylwin's London Stone as an inhabited house any further. But between A.D. 1420 and 1430 Lidgate, the poet, speaks of a stone standing in Canwick (now Cannon) Street, which was then called London Stone.§ The same stone, with the same name, was standing in the same place in A.D. 1450, when, as I shall show, Cade apostrophised it. We afterwards find it in its old place

* Dr. Leo's "Die angelsächsischen Ortsnamen," pp. 68, 69.

† See "Assize of Buildings" in the *Liber de Antiquis Legibus*. See also the remarks at p. 44 of Price's *Roman Tessellated Pavement*, published by the London and Middlesex Archæological Society.

‡ *Liber Albus* (Camden Society), p. 336.

§ Quoted in Price's *Roman Tessellated Pavement*, p. 56. The text of the poem is published in *Chronicles of London* (Appendix), 1089 to 12:3 (1827).

in Stowe's time, when it was much what it is now; perhaps, however, there was more of it.*

Our present London Stone, as we all know, is hidden under a bushel; but some members of this Association, including myself, were fortunate enough a few years ago to be present when it was uncovered. Then it was ascertained to be a piece of oolitic building-stone. Taking into consideration this its material in conjunction also with its name, I venture to think on these grounds alone that it is the last remaining fragment of the house once inhabited by Fitzaylwin, and thus for ever associated with the great achievement of complete self-government which the mayoralty implies.

These two circumstances—the material and the name—are not, however, the only grounds for my belief. There is also a tradition—a piece of municipal folklore—which has adhered to this stone, even as a stone only, from a period preceding the age of Cade, and which still in some sort, though less definitely, asserts itself. What I mean is this: Holinshed, the historian, himself a Londoner and a diligent recorder of the events of his own city, tells us that when Cade, in A.D. 1450, forced his way into London, he first of all proceeded to London Stone, and having struck his sword upon it said (in reference to himself and in explanation of his own action), “Now is Mortimer lord of this city.”† It is not too much to say that both in the action and in the words there was a definite and intelligible meaning, as well as an assurance also in the mind of this man, that it would be understood and accepted by all present—that, in fact, “intelligibilia attulit.”‡ What then was his meaning? Must we not understand, from the action and the words which accompanied it, that the victorious rebel considered the stone which he thus appropriated secured to him the lordship of the city?

If we are justified in so thinking, and I consider that is the only construction to place upon Cade's words, then we should, in the first place, take them as an authoritative declaration of an ancient London tradition, that between the stone and the lordship of the city was a close, if vague, relation. This tradition, of which Cade so readily

* Stowe, quoted pp. 57, 58 of Price's *Roman Tessellated Pavement*.

† Vol. iii. p. 634.

‡ We also must not forget that Cade was a man of considerable ability. Holinshed says of him that he was “sober in talk, wise in reasoning, &c.” (vol. iii. p. 634). Such a man does not usually speak idle words in public.

availed himself, must have originated within the walls of London, because it referred to the city, and was intelligible to the citizens who were present. Their actual presence must be inferred, for unless some such had been present, Holinshed's account of the affair would have lacked these and other particulars. Besides, if Cade's address had been only the unmeaning rant of a stranger, we should have had a comment from Holinshed upon its absurdity and want of application to the occasion. But of comment or objection nothing whatever is said.

What Holinshed has thus told us must, therefore, be admitted to be an allusion to some authentic piece of folklore. But folklore of so specific a nature—a reference to a topographical object conspicuous within the city—could rest for its origin only upon facts connected with the municipal history of the city.

I therefore think that this tradition, in conjunction with the name and nature of the stone, tells us the true history of the latter. There had been a stone-built mansion in London, called of old time "London Stone." This London Stone had been the residence of that great citizen who was the first to exercise the new function of Lord of London, and who, though his name is not mentioned in the preliminary history of this transaction, had probably contributed much by his own personal influence to the acquisition of this high municipal privilege. London Stone thus became associated in men's memories with the burghal lordship itself, and when in the course of time the house had been removed to meet the exigencies of later times, which, perhaps, were as imperatively destructive as our own, a fragment of it—what we still see—was left to represent the old mansion, and keep alive its early association.

This, at least, is my contention, which claims to identify London Stone the fragment with London Stone the house of Fitzaylwin, the first Lord of London.