Notes and Documents

THE LAWS OF BRETEUIL.

Introduction.

A curious mistake, taking deep root in the works of paleographers and historians, has served to obscure the meaning of certain facts which are of principal importance in the history of the mediatised English boroughs—of the boroughs which were not royal, but subject to great lords. That the word Britolium cannot be translated Bristol, and must be translated Breteuil, is a fact which needs no insistence. Yet wherever the word Britolium in one or other of its spellings is found in conjunction with a description of the privileges of English, Irish, or Welsh boroughs, the temptation to believe that Bristol must be the place that was meant has led almost every writer into error. Though the cause of the error is slight—the inclusion of a single s—the consequences have been serious. Mr. Round has shown in his papers on London and on the Cinque Ports that the origin of certain burghal liberties has been sought too exclusively on this side of the Channel. The study of the Laws of Breteuil in England, coupled with inquiry into the spread of certain closely cognate burghal customs, will show, I believe, that we must throw back the date when the imitative process began to the Conquest itself, and will, I think, serve to make it clear that a large number of privileges granted by the Norman lords in their borough charters were of French origin. Our characteristic belief that every sort of 'liberty' was born of ideas inherently English must receive another check, and must once more be modified to meet certain facts that have failed to obtain due recognition. There is a large class of burghal liberties not wrung from reluctant lords, but offered by the lords as bribes to secure their own ultimate enrichment.

1 Seyer (Memoirs of Bristol, i. 280) gives forty-two ways of writing the name Bristol, but in none of them is the s omitted.

2 The Rhuddlan case has generally escaped concealment. Delisle and Le Prévost, in their Dictionnaire du Dép. de l’Eure, detected also the Shrewsbury and Dungarvan cases.
Professor Maitland has ere now pointed out\(^3\) that a thread binding the Norman boroughs of England to French prototypes is worth feeling for, but we might long have ignored his warning, preferring to cherish old beliefs in an undisturbed calm, did not the ‘Leges Britolii’ thrust themselves upon our notice. The thread, once detected, stands out in glaring colours. With Dr. Gross’s treasury of references it becomes an easy matter to track it up and down, and the result is that the great English port loses its place as chief progenitor of the liberties of the boroughs of England, Wales, and Ireland. It remains in secure possession only of Redcliff (1164), Lancaster (1188), Cardigan (1249), Chester (1308), and, in Ireland, of Dublin (1171), Cork (t. Hen. II), Waterford (1205), Rathcoole, near Dublin, and possibly Kilmadeen, near Waterford (t. Hen. III), Limerick (1292), Galway (1484)—that is, of eleven out of the thirty-one daughter-towns ascribed to her by Dr. Gross.\(^4\) The remainder must look to an obscure Norman stronghold as their lawful parent.

More important than this is the grand scheme of burghal colonisation initiated by the Conqueror’s tenants-in-chief, the outlines of which can be laid bare when the charters of boroughs that were once non-royal are analysed in the light of their French prototypes. Not the castellum only but the bourg, not garrison colonies only but colonies of chapmen, garrison and market towns, were the Norman instruments to quell and to civilise the troubled or thinly occupied regions. When the Norman is seen at the work of town-making a new truth is added to Morgan’s penetrating remark:\(^5\) ‘The most thoroughly Normanised counties were those upon the Welsh border,’ a truth too long obscured by latter-day talk of the ‘English municipal constitution’ conferred by the conquerors upon the Welsh towns.

What a Lorris-en-Gâtinois or a Beaumont-en-Argonne was for the smaller boroughs of France, a Freiburg-im-Breisgau for those of Germany, the distant and little-known Breteuil was for those of England. The highly artificial character of the twelfth and thirteenth century rage for borough-making, the Städtegründungsfieber, as Dr. Georg von Below has christened it, has not been

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\(^3\) In *Domesday Book and Beyond*, p. 214, note, he says: ‘It is difficult to unravel any distinctively French thread in the institutional history of our boroughs during the Norman age; but the little knot of traders clustered outside a lord’s castle at Clare or Berkhamstead, at Tutbury, Wigmore, or Rhuddlan, may have for its type rather a French bourg than an English burh. Indeed at Rhuddlan (D.B. i. 269) the burgesses have received the law of Breteuil.’ Further, in the *History of English Law*, i. 639, second edition, he says: ‘Perhaps the free tenure of houses at fixed and light rents which was to be found in the old shire towns served as a model and generated the idea that where such tenure is there is a liber burgus; but just in this quarter a French strain may be sought and perhaps detected.’ And he refers to the Rhuddlan entry in *Domesday*, Tardif’s *Somma*, and Prou’s *Les Coutumes de Lorris*.

\(^4\) *Gild Merchant*, pp. 244–57.

\(^5\) *England under the Norman Occupation*, p. 87.
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adequately treated, so far as it concerns England. The subject has been well worked both in Germany and France, and the abundant continental illustration requires, and at the same time facilitates, an analysis of its leading characters. By collecting the charters which proposed to found new boroughs in these islands and offered building-plots of fixed size, a means may be afforded to direct inquiry into the form and outward features of the artificially created town, which may for all time remain a borough rather in name than in reality. There is inquiry to make into the planning of the houses, into the lie of the streets, into the possibility of distinguishing certain ancient features to this day. There is the question how far the new town was or was not an agricultural entity equipped on the lines of the German rural community. The mapping-out of towns in colonial settlements of a much later date will have side-lights to offer, for the work of colonisation may call for the same instruments in many places and at many times. It is not through the mediatised boroughs, for the most part of a secondary and inferior order, that we can hope to lay bare the secrets which still conceal the origin of urban life in the Germanic system, but by way of illustration and by way of warning they have their own contribution to make in that burning controversy, as also in the history of the decay of feudalism.

It is my purpose here first to sketch the early history of Breteuil so far as it is important to explain the part that town has played. Next I will give all those English references to the laws of Breteuil which I have been able to collect, with reprints of charters where the clauses are important to determine the nature of the laws. I hope to establish with some degree of security two dozen cases in which Breteuil was made the example which an English, Welsh, or Irish town should follow. The famous Preston Custumal will be used as a case in point, and will be printed for the first time in the Latin version preserved at Preston. The clauses will be illustrated from the charters of both French and German boroughs, and from parallels cited from early Germanic and early French law. I propose further to subjoin an inquiry in each case into the reasons (mainly genealogical) why the laws make their appearance at that particular place. The derivative cases, the cases of boroughs which modelled

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6 See G. von Below's interesting popular account of the growth of German towns in *Das ältere deutsche Städtewesen und Bürgerthum*, p. 5. Karl Hegel (*Die Entstehung des deutschen Städtewesens*, p. 37) gives a list of references to the German works on burghal colonisation in various parts of Germany. It is reckoned that as many as 350 towns were founded in the twelfth and thirteenth centuries in North-East Germany alone. Bonvalot's *Le Tiers Etat d'après la Charte de Beaumont et ses Filiales*, Froissart's *Coutumes de Lorré*, Stouch's *Les Comtes de Bourgogne et leurs Villes Domaniales* (*Nouvelle Revue Historique*, xxii.), Pirenne's *L'Origine des Constitutions Urbaines au Moyen Age* (*Revue Historique*, lvi. 64 sqq.) treat incidentally of the work of town-making in France.
their privileges on those of towns where the laws of Breteuil were in use, will then be dealt with. From these materials, with the aid of the customs of Verneuil, Breteuil’s near neighbour, which had a body of rules that must have been remarkably like those of Breteuil, I shall endeavour to sketch out the articles of the lost laws. Lastly I propose to track out those clauses in the charters of mediatised boroughs not associated with Breteuil, in which cognate influences have been at work—notably those in which the maximum misericordia of twelvepence and the burgage rent of twelvepence, for a building area often of given size, are privileges conferred upon the burgesses. These serve as a useful thread in tracking out the principles that guided the formation of burghal colonies founded on French lines. The Scotch evidence here becomes serviceable.

Before I begin my task I should like here to acknowledge my deep obligations to Professor Maitland for his most friendly guidance on a large number of points, especially for many of the references that appear in my notes to the Preston Custumal, to Dr. Gross, who has generously allowed me to see his references to the shilling amercement and shilling burgage, and to Mr. George Neilson, who has helped me with references to the Scottish burghal literature. If it had not been for a word casually dropped by Professor Maitland in connexion with the Preston Custumal, the word ‘Britolium’ would probably never have had a special significance for me.

Part I.

The best account of Breteuil is given in Delisle and Le Prevost’s ‘Dictionnaire du Département de l’Eure.’ The primitive form of the name is given as Britogilum, ‘the settlement of the Breton.’ The place begins to appear in history about 1060, when William, duke of Normandy, built a castle and put it in the hands of his cousin and seneschal William Fitzosbern. It is desirable to notice here his family connexions, as family connexions with Fitzosbern and with William the Conqueror will be found of considerable importance in tracing out the ramifications of the ‘Leges Britolii.’ Fitzosbern’s descent was from Herfast, brother of Gunnor, the duchess. Herfast’s son Osbern de Crépon, seneschal, was assassinated by William de Montgomery, a name destined to be connected with the laws of Breteuil in England. Osbern’s son by Emma, daughter of Raoul, count of Ivry, was William Fitzosbern. He distinguished himself in the duke’s expedition to England, and in reward was given the earldom of Hereford and the Isle of Wight. He married Adeliza, daughter of Roger de Toesny. Of his work in England more will be said elsewhere, for it is to him and

7 Ord. Vit. iii. 11; Will. Gemet. vii. e. 25.
to his followers that the expansion of the 'Leges' can generally be traced back. His Norman estate included also Cormeilles, where he founded an abbey. We have a mention also of the 'customs of Cormeilles,' which may have been like those of Breteuil. Ordericus Vitalis records (vi. 8) that Richard de Hugleville founded a boury on the Sie and called it Aufay, and introduced among his colonists the customs of Cormeilles.'

On Fitzosbern's death in 1071 William I divided his inheritance, giving to Fitzosbern's elder son, William, Breteuil and the Norman estates, to the younger, Roger, also called 'of Breteuil,' the earldom of Hereford and the English estates. William of Breteuil died in 1103, leaving no legitimate children, and the lordship was then disputed between his illegitimate son, Eustace, supported by the men of Breteuil, and Ralph le Breton, the son of Fitzosbern's daughter. Ralph was ultimately successful, but doubting the fidelity of the men of Breteuil he decided to give these lands as his daughter Amicia's dowry. They thus passed, probably in 1122, to Robert le Bossu, earl of Leicester. In 1136, on the death of Eustace of Breteuil, his son William again raised his claim, and in 1138 the town was burnt. We get a significant description of the occupations of the inhabitants at this time. Firebrands were thrown into the town 'at a time when the husbandmen happened to be threshing the corn in the open streets, and great heaps of straw and chaff lay scattered before the houses.' In this manner, says Ordericus, a wealthy town was reduced to ashes in the twinkling of an eye, and the burgesses lost much wealth which they had deposited for safety in the church (xiii. 38). Breteuil remained a possession of the earls of Leicester until in 1204 Amicia, wife of Simon de Montfort, one of the Leicester heiresses, parted with it, with her sister's consent, to King Philip Augustus.

Ordericus's account of Breteuil sufficiently shows that it was a castle and town of great importance; on more than one occasion it was able to resist huge besieging forces. It is clear that the burgesses were men of an independent spirit, and that some at least were engaged in agricultural pursuits. We may notice further that in the charters of the earls of Leicester the prepositura or prefectura of Breteuil is alluded to, as also its mills, its fair, its denariorum census, of which a tenth was given to the abbey of Lire, and the rights of its burgesses to dead wood for burning and for the harbouring of the beasts in the great forest of Breteuil.

In 1199 King John granted to the burgesses of Breteuil propter magnam iacturam quam incurrunt propter serviciun nostrum the liberties of 'our burgesses of Verneuil,' meaning, there can be no doubt, Verneuil in the diocese of Evreux, not far from Breteuil. This grant is of greater significance than from its late date may at first appear, for we know exactly what the
liberties of the men of Verneuil were in the time of Henry I and of Henry II. They are recorded in two charters to Pontorson, on the borders of Brittany and Normandy, which was to be endowed with the same liberties, and they happen to be in several respects remarkably like the liberties indicated in the English references to the laws of Breteuil. The laws of the burgesses of Verneuil and of the burgesses of Breteuil had, we may believe, much in common long before John made Verneuil an example to Breteuil. In granting to Breteuil the liberties of Verneuil he was, it would seem, making no important change. This theme can best be developed when the English evidence has been presented. We must notice here, however, that the early Norman history of Verneuil is unfortunately too slightly known for it to be possible to trace an early connexion between the families ruling the two bourgs Breteuil and Verneuil. All that is known of Verneuil is that it once belonged to a certain Aubert le Riboust and to his son Aubert le Riche, and that Henry I built a castle there and formed a town. Henry I, according to the charter of Henry II to Pontorson, conferred upon Verneuil a charter of liberties. We may note incidentally that Ordericus (xiii. c. 44) speaks of the garrison of Verneuil, within whose circuit was comprised a population of 13,000 men.

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(To be continued.)

THE HIDATION OF NORTHAMPTONSHIRE.

Northamptonshire, for the Domesday student, is a county of peculiar interest. Its survey possesses distinctive features, and we enjoy, for the solution of the problems they present, the assistance of a quite unusual amount of auxiliary information. My 'Feudal Englar.d' contains papers on three of the sources of such information: (1) 'the Northamptonshire geld roll,' (2) the record of the knights of Peterborough; (3) 'the Northamptonshire survey' of the twelfth century. Professor Maitland has subsequently dealt, in his 'Domesday Book and Beyond,' with the figures in the 'County Hidage,' an earlier document which did not come within my own purview. Lastly, there is available in the county histories of Bridges and of Baker (so far as he extends) that

* Ordonnances des Rois de la Troisième Race, xi. 638. Both versions are in some places very obscure. The late M. Giry at one time contemplated re-editing the customs, but did not proceed with the scheme.

* In the lately published Calendar of Documents preserved in France, edited by Mr. J. H. Round, there is a charter (no. 301, p. 101) from Henry II (c. 1174) granting to those who dwell at Condé-sur-Iton (Eure), under the bishop of Evreux, or who may receive dwellings there, all the customary liberties and quitances of those of Breteuil.