

From the *Transactions* of the
Bristol and Gloucestershire Archaeological Society

**On the Hundredal and Manorial Franchise of the Furcas,
Tumbrel, and Pillory**

by J. Latimer
1887-88, Vol. 12, 114-122

© The Society and the Author(s)

ON THE HUNDREDAL AND MANORIAL FRANCHISE
OF THE FURCAS, TUMBREL AND PILLORY
IN THE CO. OF GLOUCESTER IN THE MIDDLE AGES.

By JOHN LATIMER.

It is not generally known that, long after the concession of the Great Charter, many lords of manors in Gloucestershire, as in other parts of the kingdom, possessed the right of maintaining a private gallows, and of hanging thereon the felons caught and tried within their jurisdiction, and it may not be uninteresting to offer a list of the Gloucestershire manors to which this seignorial privilege can be shown to have pertained at the close of the 13th century.

Edward I., soon after his return from the Holy Land, about the close of the second year of his reign, found that the rights and revenues of the crown had been greatly diminished during the turbulent reign of his father, Henry III., and that numerous exactions and oppressions had been committed on his subjects, the offenders in each case being the great barons of the realm, who had been suffered, in a large measure, to do what was right in their own eyes. One of the first acts of the young King's administration, after his arrival, was to order a minute and searching inquiry into those abuses. And as the Justices Itinerant, who then visited each county only about once in seven years, would not make their circuits again for some time, it was determined to appoint a special commission, charged with the duty of holding an investigation in every hundred throughout the country by the help of a jury of the freemen. The presentments made in each hundred were duly returned in the following year, 1275, and from the "Rotuli Hundredorum," embodying the results, much information can be obtained as to the legitimate privileges of the barons, as well as of the abuses that had crept in during the civil wars. Amongst the numerous questions put to the jurors, to which they

answered on their oaths, was one requiring information as to the regal privileges possessed or claimed by the lords of manors of the district—one of such privileges being the right of maintaining a *furcas*, or gallows, and from the answers returned to this interrogatory in Gloucestershire the first of the following tables has been compiled.

It is but fair to the local lords to state that in only two cases, those of Lechlade and Slaughter, were the gallows alleged to be a novelty. In each of the other instances the franchise was proved to be the rightful privilege of the lord of the manor. But the fact that in upwards of thirty districts in a single county, capital punishments took place independently of the *Curia Regis*¹ of the justices of gaol delivery, and of the courts held monthly before the sheriff² surely goes far to prove that executions must have been exceedingly numerous during the middle ages. It may be added in support of this assertion that baronial rights over life and death were far from being exceptionally numerous in Gloucestershire. In Somerset the number of *furcas* presented by the juries was at least thirty, in Wiltshire 46; in Devonshire, 117; in Lincolnshire, 95; and in Essex, 138.

The record in reference to Bristol is so remarkable that one is surprised to find it unnoticed by local historians. Although the citizens of Worcester proved their right to have “a gallows, a pillory, and a gomestol [or ducking stool³] by charter of the king,” no such privileges were put forward by the Bristolians. The first presentment of their jury is that Maurice de Berkeley had the assize of bread and beer, the attachment and judgment of thieves, and a

¹ According to the Saxon Chronicle, the *Curia Regis*, which accompanied the King in his journeys through the realm, hanged in 1124 forty-four thieves at Huncot in Liecestershire.—*Rolls Edition*, II., 221.

² There were no county magistrates at the date under review. As soon as Quarter Sessions were instituted by Edward III., the justices took cognizance of felonies, and capital punishments were of common occurrence. According to a paper in the Wiltshire Archæological Magazine, Vol. XXI. p. 105, by Mr. Merriman, clerk of the peace for that county, seven capital sentences were recorded at a single session *temp.* Elizabeth.

³ The Rev. E. A. Fuller informs me that the instrument bore a similar name at Cirencester. There was a Gomstolf street at Shrewsbury.—*Patent Rolls*, 4th Edw. I.

pillory inside, as well as a gallows outside, the boundaries of the town, though they knew not by what warrant or at what time the privileges were conceded. It is shown by the *Placitu de Quo Warranto*, 15th Edward I., to which a further reference will presently be made, that the claims in question related only to the Berkeley Manor of Redcliff, then only partially incorporated with the borough, and where the pretensions of the lords led to the contemporary deeds of violence and bloodshed recorded in Mr. Seyer's *Memoirs of Bristol* (Vol. II. p. 79). As regarded Bristol north of the Avon, the town and castle with the hundred of Barton were, as in the case of Gloucester, in the hands of the king, and that his constable claimed extreme power is sufficiently proved by an incident in 1279, when a man named William de Lay was torn out of the churchyard of SS. Philip and James (for which the right of sanctuary was claimed), carried into the castle and decapitated.¹ The Redcliff gallows is heard of eight years later in 1287. Smyth, in his *Lives of the Berkeleys*,² writes: "Richard Hayward, accused about a stolen piece of blue cloth, affirmed that he bought it of Margery, wife of Ralph Slip, which in the court of this Lord in Redcliff Street she denied. Whereupon the free suitors then gave judgment upon his life, and forthwith hanged him, without any trial by jury, against the law and custom of England; for which false judgment the suitors were now fined forty shillings."

Amongst the curious presentments made respecting illegal acts committed during the civil tumults of the preceding reign, two or three may be worthy of a brief notice. The jury of Deerhurst hundred complained that Gilbert and Walter Scott, foresters of Gilbert de Clare, Earl of Gloucester, had recently taken certain men with five sheep, which, "as they say," were stolen, and caused the said men to be beheaded without any form of justice. The jury of Burnetre (Henbury) had many grievances to present. For instance, to summarise a long story, in the previous reign, the Earl of Gloucester, by Thomas of Hameldene, then his bailiff of Thornbury, but "now" burgess of Bristol, went to Weston St.

¹ Evans' Chron. Hist.

² Sir John Maclean's edition, Vol. I. p. 195.

Lawrence, which was not in his fee, but in that of the Bishop of Worcester, and there took fifteen head of cattle, the property of William de Veyn, driving them off to Thornbury, and there retaining them by force and extortion until the owner was forced to redeem them for the sum of £4. Not content with this raid, the aforesaid Thomas, acting for the same Earl, sent John, the beadle of Thornbury, with a multitude of others, during the night, to the sheep-fold of de Veyn, at Lawrence Weston, and therefrom by force and arms seized nine score of two teethed (two year old sheep understood), and drove them towards Thornbury. The owner raised the hue and cry, and obtained auxiliaries from all the neighbourhood, but the "late bailiff, now burgess," as the jury repeatedly call him, was too many for them, and kept a tight hold on the sheep until William de Veyn redeemed them at an outlay of £12. Moreover, the bailiff prosecuted for a disturbance of the peace those who had aided de Veyn, and extracted ten marks from them. Finally, he raised a prosecution against the priests and clerks of Westbury and Henbury for having sympathised with their neighbour, and extorted eight marks more. (It is pleasing to learn from a note to the Rolls that this remarkable Bristol burgess was afterwards brought up before the justices itinerant and fined for his pranks, albeit only in the modest sum of twenty shillings). Another grief of the same hundred is rendered amusing by the phrase with which it concludes—a phrase evidently inserted as an afterthought at the instance of some economical juryman, who seems to have been as much shocked by the misappropriation of agricultural produce as by the outrage committed on the owner. The following is a literal translation :—

They (the jury) say that in the second year of the King's reign, on the feast of St. Mark the Evangelist, Lord Maurice de Berkeley, on the King's highway, outside the town of Berkeley, to wit, on the road which leads towards La Wele, the aforesaid Maurice, *in propria persona*, with five of his men at arms, met John, son of Edith of the wood, of the town of Yate, riding a bay mare of the value of half a mark; and the aforesaid Maurice asked the said John "Whence art thou?" who answering "I am of the town of Yate," the said Maurice took him, and led him to his castle of Berkeley, with his mare, and there imprisoned and detained him for half a day, and afterwards ejected him,

and detained the aforesaid mare, and to this time by force detains it, against the peace of our Lord the King, and one sack of "buen" [possibly bere or beans] and one bushel of oats.

The most surprising fact in connection with the local returns of seignorial gallows remains to be mentioned. It is their remarkable incompleteness. Whether the juries were sometimes too much under the influence of local lords, or whether—as was natural enough—the gallows had often come to be regarded as a matter-of-course institution, it is difficult to determine. However it may have been, the presentments were defective. After the inquisitions were returned to the Exchequer a Parliament was summoned to meet at Gloucester in 1278, where a statute was passed to improve the process of provincial judicature by regulating the territorial franchises. Immediately after the passing of the Act the Justices in Eyre made their usual itinerary, and writs of right and of *quo warranto* issued very generally, not merely against the persons presented in the Hundred Rolls, but against others whose claims had come to the ears of the King's ministers. The result, as regards Gloucestershire, is to be found in the *Placita de Quo Warranto* under the 15th Edward I., and it will be seen from the supplementary list below that fourteen more feudal gallows had been discovered in the county, raising the total number to forty-five.

Whilst dealing with the furcas, the greatest and most formidable privilege of the feudal lords, a brief mention may be made of two other instruments of punishment confided to the same hands—the pillory and the tumbrel, or ducking stool. The pillory, which existed in England before the Norman Conquest, and was not finally abolished until the first year of the present reign, was used for the punishment of purjurers, forestallers, petty thieves, knaves, libellers, and—when advancing civilisation had evoked the crime—forgers. It consisted of a wooden frame about 5 ft. in height, with sliding panels enclosing the neck and sometimes the wrists of the criminal in holes pierced for the purpose, so that he was completely left to the mercy of the crowd.¹ (A specimen is preserved in the

¹ Some of the culprits were also condemned to lose an ear, a circumstance which often had unpleasant consequences to those who were deprived of an ear in an innocent way. Amongst many similar documents in the

Town Hall, Marlborough). The tumbrel was originally devised for the castigation of those who broke the assize of bread or beer; that is, who used false weights and measures, or sold an adulterated article; but in its later days it was almost exclusively reserved for women, who were exempted on account of their sex from the pillory. "Scolding and unquiet" females were also liable to the punishment, and in some towns enjoyed a monopoly of its advantages. The instrument was an oaken chair fixed on a pair of wheels having either one or two very long shafts. The culprit, strapped into the chair, was wheeled into a river or pond backwards, and, the shafts being tilted up, he or she was plunged into the water, the machine being recovered by means of ropes. As Hawkins states in his *Pleas of the Crown* (book 2, cap. 11, sec. 5) that lords of manors claiming courts leet were bound to maintain a pillory and tumbrel on pain of forfeiture of their franchises, the "ducking stool" was common down to the close of the 17th century, after which it gradually disappeared, as its companion the stocks has done in our day. The latest local instance of its use occurred in Bristol in 1719, when, according to Evan's *Chronological History*, the husband of the alleged scold brought an action against the mayor, and obtained such heavy damages that the local bench subsequently granted full licence to female vituperation. The Gloucestershire manors in which pillories existed are marked below with an (*); those possessing tumbrels with an (°).

FROM THE HUNDRED ROLES.

TABLE I.

MANORS.	LORDS POSSESSING GALLOWS.
<i>Liberty of Sodbury and Codrington.</i>	
*° Great Sodbury - - - -	Thomas de Weylaund
*° Codrington - - - -	Abbot of Stanley
*° Winterburn - Galfrs. de Wraxhale and Rads. de Hadel.	
° Ale Weston (Alveston) - - - -	Fulco fil. Warini
*° Marshfield - - - -	Abbot of Keynsham

Patent Rolls is an "Intimatus" signed by Edw. I. during the Parliament at Gloucester, 15th August, 1278, certifying that the loss of part of the left ear of one Hugh de Bildewas was due to the bite of a dog belonging to the Abbot of St. Peter's, Gloucester, as had been proved by the testimony of Walter de Haylun.—*Patent Rolls, 6th Edward I., m. 6 (10).*

St. Briavels.

The Royal Manor and Forest	-	-	-	The King's Constable
Manor unnamed (Bicknor ?)	-	-	-	Robert de Muscegros

Hundred of "Grimbaldesesse."

Hawksbury	-	-	-	-	Abbot of Pershore
Horton	-	-	-	-	Chapter of Salisbury
Wyke	-	-	-	-	John la War'
Alrel (Alderley)	-	-	-	-	John de Clausi
*o Thornbury	-	-	-	-	Earl of Gloucester
Henbury	-	-	-	-	Bishop of Worcester

Hundred of "Bristwaldebereve."

*o Fairford	-	-	-	-	Earl of Gloucester
Bibury	-	-	-	-	Bishop of Worcester
Lechlade	-	-	-	-	Earl of Cornwall

Borough of Bristol.

*o Outside the Boundaries	-	-	-	Maurice de Berkeley
---------------------------	---	---	---	---------------------

Borough of Berkeley.

For this Borough	-	-	-	Maurice de Berkeley
------------------	---	---	---	---------------------

Hundred of Slaughter.

Salomonesbir' (Slaughter)	-	-	-	Abbot of Hayles
---------------------------	---	---	---	-----------------

Hundred of Longtree.

Woodchester	-	-	-	John Mautravers
-------------	---	---	---	-----------------

Hundred of Bisley.

*o Painswick	-	William de Monte Caniso (Mountchesny)
--------------	---	---------------------------------------

Hundred of Whitstone.

o Longney	-	-	-	Prior of Great Malvern
*o Haresfield	-	-	-	Earl of Hereford
Unnamed Manors	-	-	-	Prior of Lanthouy

Hundred of "Thebaldestan."

Cleeve	-	-	-	Bishop of Worcester
Beckford	-	-	-	Prior of St. Barbara
Hinton	-	-	-	Abbot of Gloucester

Hundr d of Berkeley.

o For this Hundred - - Maurice and Henry de Berkeley

Hundred of "Blideslawe."

Awre - - - Wm. de Valence and Countess of Gloucester
 Alvington - - - - - Prior of Lanthony

Hundred of Dudston.

Unnamed Manors - - : - Prior of Lanthony

FROM THE PLACITA DE QUO WARRANTO.

TABLE II.

Hundred of Kiftsgate.

Sudeley - - - - - John de Sudcley
 o Ebriton - - - - - John de Boys (*alias* Bosco)

Hundred of Tewkesbury.

Tewkesbury - - - - - Earl of Gloucester

Hundred of Lancaster.

For the Hundred - - - - - Earl of Lancaster

Hundred of Longtree.

*o Hampton Avening - - - - - Abbess of Caen
 *o Tetbury - - - - - William de Breuse

Hundred of Whitstone.

*o Morton - - - - - William de Valence

Hundred of Deerhurst.

Prestbury - - - - - Bishop of Hereford

Hundred of Bradley.

Sevenhampton - - - - - do.

Hundred of Slaughter.

Lower Slaughter - - - - - Abbot of Fécamp
 Netherswell - - - - - Abbot of Hayles

Hundred of Cheltenham.

Cheltenham - . - - - Abbot of Fécamp

Hundred of Botloc.

Newent - - - - - Abbot of Cormeilles

Hundred of Grimbold's Ash.

Melbur'¹ "Prior de Weylaund, Marġia ux ej. et Rīcus fil. car."

¹ This is given because it appears in the book (p. 274). But there was no manor of Melbur' in the county, nor was there any priory named Weylaund. There is no doubt that the entry refers to Great Sodbury, the first place mentioned in the previous list. Thomas de Weylaund was first judge of the Court of Common Pleas, with a salary of £40 a year.—*Patent Rolls, 6th Edw. I., m. 2* (10). Is it possible that the title of Prior was given to him in virtue of his office

