

COLCHESTER ARCHAEOLOGICAL TRUST

THE BISHOP'S 'SOKE' IN COLCHESTER.

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WE have hitherto been dependent for our knowledge of this interesting 'soke,' and for the earliest mention of schools 'at Colchester, on a 'fine' of 1206, which was known to and quoted by Morant, and of which an English abstract is now printed in our *Essex Fines* (p. 39). The boundaries which are mentioned therein still exist, namely, Head Street ('Havedstrat') to the east, St. Mary's Lane—now Church Street, North—on the north, the lane next 'Havedgate'—now Church Street, South—on the south, and the town wall on the west. It is described as

all that soke with all its appurts., to wit, with the schools of the same town of Colecestr', and with the advowson of the church of St. Mary at Wall (*de muro*), and with the chapel of St. Andrew, and with the capital messuage which appertains to that soke, to be the right of the aforesaid Bishop, and to appertain to the Barony of the Bishopric of London.

The above 'fine,' I have ascertained, was, as in many other cases, merely the settlement of a suit at law between those who were parties to it. The record of that suit enables us to carry back a good deal further the existence both of the 'soke' and of the 'schools' which it contained. In the *Abbreviatio Placitorum* (p. 49), is an abstract of a 'plea' in Hilary term, 1206, from which it appears that bishop William (of London) claimed this 'soke,' by his attorney, against its holder, William the chaplain (described in the 'fine' as William, son of Benedict), as appurtenant to his episcopal barony,<sup>1</sup> and as having been held in demesne by his predecessor, bishop Richard "de Bealmes," as of right, in the time of king Henry "the grandfather." Now, unfortunately, there were two bishops of London of this name. The first Richard held the see from 1108 to 1128, and the second from 1152 to 1162. We have to rely, therefore, on the king's name for the date. Now, it was the practice at that time, to speak of Henry II. as king Henry "the father" of

<sup>1</sup> The word 'soke,' which meant an exempt jurisdiction, is preserved in the names of Kirby, Thorpe, and Walton, which constituted a 'soke' of the Dean and Charter of St. Paul's.

<sup>2</sup> Sicut jus suum quod pertinet ad baroniam suam quam tenet de episcopatu suo.

the reigning sovereign, John. Henry I. was styled the great-grandfather (*proavus*) of the sovereign, or the grandfather (*avus*) of the father of the sovereign. As the word *avus* occurs in the record of this suit and in another record of it below, we can probably depend on it, and, therefore, accept bishop Richard as the earlier of the two. One must admit, however, that this conclusion would throw back the tenancy of William, the tenant's grandfather, to a period 78 to 98 years earlier.

The said tenant met the bishop's plea, in this suit, by producing a charter of the above bishop Richard, giving and granting to William, "the clerk," his (the tenant's) grandfather, all that his (William's) father had held of St. Paul's and of himself, to be held by him as well and honourably as the said father had held of any of the bishops, his predecessors, or of himself, together with the schools of Colchester (*et scholas Colecestr'*). He also produced a charter of Gilbert, late bishop of London (1163 - 1188), in which it was stated that he (Gilbert) granted to Benedict, son of the afore-said William, the soke, and all the holding (*ienuvam*) which his (Benedict's) predecessors (*antecessores*) had held of his own predecessors in Colchester, to be held in inheritance (*hereditarie habendum*), with the schools in the same town (*et in eadem urbe scholcis similiter*), to him and his heirs, from himself and his successors, for no other service than five shillings a year (*pro v. solidis pro omni servicio*). He further produced (*ostendit*) the confirmation of king Henry the father,<sup>1</sup> etc.

Afterwards, William (*i.e.*, the son of Benedict) came and said that from the conquest of England (*a conquestu Anglie*) his predecessors had held (the premises), and he 'put himself on the great assize' (*ponit se in magnam assisam*)? This explains the "recognition of grand assize" mentioned in the subsequent fine. The jury, as we may term it, found in favour of the bishop, but the 'fine' represented a compromise. For the tenant retained the soke, with the schools, for a yearly payment of five shillings, subject only to the bishop and his successors having the advowsons of the church and chapel, and to himself and his heirs being forbidden to "give, sell,

<sup>1</sup> *i.e.*, a charter of Henry II. confirming the above grant.

<sup>2</sup> Henry II. had decreed that "in a proprietary action for land, an action proceeding in the feudal court, the defending party, the 'tenant' as he was called, might have the action removed into the king's court and the whole question of right determined by the verdict of neighbours. In this case the inquest beats the name of the grand assize. It is a far more solemn affair than the assize of novel disseisin and it speaks to the question of best right" (*History of English Law*, 1895, i. 126). "A grand assize is composed of twelve lawful knights of the district in which the disputed tenement lies, who have been chosen in the presence of the justices by four knights, who have been chosen by the sheriff. This double election is peculiar to a grand assize, a solemn process safeguarded by precautions against the sheriff's partiality" (*Ibid* ii. 618).

pledge, or alienate any part of the said soke without licence of the Bishop or his successors."

Another version of this lawsuit is found on p. 72 of *Abbreviatio*, among the pleas of Michaelmas term, in an undetermined year of John's reign.<sup>1</sup> The bishop in this case seeks to recover from William, son of Benedict, the same 'soke,' but shifts his ground. He now claims that his predecessor, 'R. de Bealmes,' was in actual seisin thereof, "die et anno quo Henricus avus, *etc.*," that is to say, at the time of Henry I.'s death (1135), which was impossible, for that bishop was not then living; and he further pleaded that the tenant had only obtained entry through his episcopal predecessors, who had no right to give away or alienate the possessions of the see except for the term of their lives.<sup>2</sup> William also shifted his ground. He now pleaded "the liberty of the borough of Colchester, which the burgesses have from the King," that is to say, he appealed to the famous charter of Richard I. (1189), granting them "that they may not plead concerning any plea without the walls of the same borough," with other privileges of jurisdiction. To this plea the bishop retorted that William's 'vouching' of that charter ought not to assist him, because he had previously vouched it without success.<sup>3</sup> This legal subtlety is somewhat obscure, but is characteristic of the age.

The burgesses of Colchester did not allow the above privilege to remain a dead letter. Nearly half a century later, in Michaelmas term, 1254, the perennial friction between the abbots of St. John's and themselves led to several of them being indicted for overthrowing the abbot's tumbrel and pillory in Greenstead and West Donyland, also for entering by force and arms the abbot's free-warren in West Donyland, and there hunting hares, also for going by force and arms to the abbot's ships at Brightlingsea (*in Cryclyns-oye*), cutting their ropes and carrying off two sails and a rope. Oliver, son of Elias, seems to have been the leader, but Saher Hanning, Robert of Leicester, and Richard de la Barre are also named. To all the charges the accused pleaded "that they ought not to plead outside the walls of Colchester," and produced the charter of the reigning sovereign (Henry III.) to that effect. The abbot retorted that the burgesses had pleaded outside the borough (*extra burgum*), especially when Jeremias de Caxton and Henry de

<sup>1</sup> From the occurrence on it of an Essex fine relating to Cricksea, it appears to have been of 6 John (1204 - 5), so that this may, after all, have been an earlier stage of the suit.

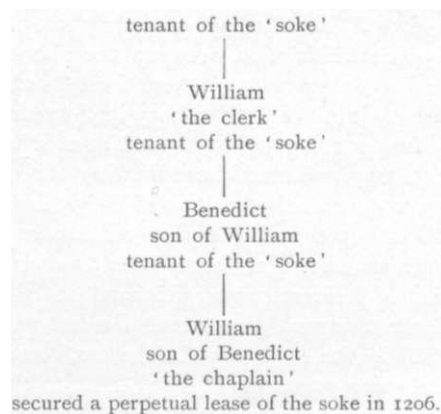
<sup>2</sup> " Qui alienare vel dare nihil potuerunt ab episcopatu nisi in vita sua."

<sup>3</sup> " Quia alia vice illud idem vocavit et non habuit."

Bretton<sup>1</sup> had held pleas before the king. So it was ordered that the rolls should be searched. However, the charter of Henry III. (confirming that of Richard I.), granted 29th November, 1252, was found to substantiate the burgesses' claim, and they undertook to meet the charges at Colchester, when the king should send (his) justices thither.<sup>2</sup>

The matter, however, was compromised by the agreement recorded in Mr. Gurney Benham's edition of the *Colchester Red Paper Book*, p. 162, which is there dated 1255, but was made 21st November, 1254. It is noteworthy that Oliver, son of Elias, Richard de la Barre, and Saier Hanyng were among the burgesses who were parties to it.

Returning to the bishop's 'soke,' we have here a distinct addition to the early history of Colchester. The bishop's contest for the 'soke' illustrates a constant difficulty of bishops and heads of religious houses, whose predecessors, though only tenants for life, had, by enfeoffment or beneficial leases, quartered relatives or friends on ecclesiastical lands, with the result that the lands were afterwards very difficult to recover. Domesday bears constant witness to this difficulty, especially in the case of leases for three lives. Again, it is most interesting to observe that we have, apparently, in the tenants of the 'soke,' a succession of married clergy.



The 'capital message' of the soke suggests that 'capital message' in St. Mary's parish, which formed part of queen Elizabeth's endowment of the Grammar School, and which is described as extending from Head Street to the town wall.

<sup>1</sup> This was 'Bracton,' the famous jurist.

<sup>2</sup> *Abb. Plac.* 131.

But the most interesting discovery, of course, is that the existence of 'the schools' of Colchester can now be carried back to the early part of the twelfth century. It is particularly notable that 'William the chaplain,' while parting with the advowsons of the church and chapel, should have retained "the schools," for these were always conducted for and under the bishop. In my *Commune of London* (p. 117), I have shown that, under Stephen, during a vacancy in the see of London (1134- 1141), the bishop of Winchester, as in charge of the diocese, ordered the episcopal officers to inflict penalties on those who dared to teach anywhere in London without the licence of the Master of the Schools, except those who had charge of the schools of St. Mary at Bow and St. Martin le Grand.