THE LIBERTY OF ST. EDMUND.

The term "liberty" has in this case a two-fold meaning. It infers that the Abbots of St. Edmund had *sac* and *soc* over the tenants on all their lands, a privilege accorded to the greater number of important religious houses throughout the country, and definitely recited by Edward the Confessor in confirming to St. Edmund the privileges granted by Cnut and Harthacnut. It also signifies a far more rare privilege, viz., the similar jurisdiction of this Abbey over all men within the definite area of the "Eight and a Half Hundreds," irrespective of the tenure of their lands.

The origin of the Abbot's jurisdiction over his own tenants probably dates from before the Confessor's time. The second and greater franchise was his gift at the request of Abbot Baldwin. The pious king is said to have been shocked to find his "kinsmen," the young monks, feeding on barley-bread, and to have given the rich manor of Mildenhall and the *sac* and *soc* of the Eight and a Half Hundreds towards their better nourishment. It is at least certain that the grant of Mildenhall was contemporary with that of the hundreds. The Confessor's gift exists in several forms. In two instances the words run—"the eight and a half hundreds' *soc* at Thingo with *sac* and with *soc* as fully as my mother had them in hand." Another (Latin) version is a grant of all royalties (*jura regalia*) within the hundreds. A fourth form gives "the eight and a half hundreds' *soc* as fully as Aelfric, son of Withgar, held it to my mother's use or as I myself have since held it." It is therefore clear that even before the

grant to St. Edmund these hundreds were distinct from the rest of the county, and that they had a central court at Thingo, of which the jurisdiction and issues had belonged to Queen Emma and afterwards to the Confessor.

The Norman Conqueror and his sons confirmed these privileges to the Abbey, and Henry I., in ratifying the apportionment of lands made between the Abbot and the Convent, reserved to the ministers of the Crown during any vacancy of the Abbey "the royalties and liberties which pertain to the Crown which St. Edmund has and ought to have throughout the eight and a half hundreds." King Stephen, in a confirmatory charter witnessed by Archbishop Theobald (1139-61) recited the Abbey's privileges in greater detail.* From each successive king the Abbey acquired confirmatory charters. One granted by Edward II., 10 Feb., 1317, recited the earlier charters and the difficulty experienced by the Abbots in recovering in the King's Courts the fines due to them on the ground that they were mentioned only in general and not in specific terms. Thenceforward the Abbot was to receive all fines of men and tenants of their own or others' fees in the Eight and a Half Hundreds in all causes anywhere in the King's Courts. In 1330 Edward III. further granted that the Abbey should not be impeded in their enjoyment of these franchises by any non-user in the past, and defined once more the privileges of St. Edmund within the Eight and a-Half Hundreds.†

* . . . cum Soka et Saka et Thol et Theam et Infangenetheof et Flemdetheof et Grihtbrece et Fichtwite et Ferdwite et Forestal et Hamsocna et Borrham et Heberetheof et Warpeni et Averpeni.

† All amercements, fines, ransoms of their own men and those of others, all forfeitures, amercements of towns, tithings and hundreds, chattels of felons and fugitives, year, day and waste, murder money and fines for concealment . . . . and all rights over all causes. . . .

After the Dissolution of the Abbey "all the franchises and liberties to have all and singular goods waifs strays goods and chattels of felons and outlaws within the franchises and liberties of St. Edmund" were held by Nicholas Bacon as parcel of the monastery. In 1553 Thomas Lord Darcy received them from the Crown in exchange. By virtue of the grant to Darcy, Sir Nicholas Bacon, bart., claimed £18,636 11s. 11d. in the Exchequer as issues of the Liberties between 1603 and 1622; but the Barons of the Exchequer disputed his claim to the Liberties, and they were resumed into the King's hand.

The effect of the royal charters to the Abbots was to replace the courts of the king by those of the Abbot throughout the Eight and a Half Hundreds, to set his ministers or bailiffs in the place of those of the Crown and to divert to the Abbey the greater part of the royal revenue arising from legal causes of every description. Brother Walter Pinchbeck's "Tract" on the liberties of St. Edmund sets out in detail the privileges claimed by the Abbey, viz., *soc* with all royalties (*dignitates*) and forfeitures to the Crown as freely as the King himself, all fines, amercements, ransoms, amercements (*misericordiæ*) of tithings, towns, and hundreds, all kinds of forfeitures, goods of fugitive and convict felons, year and day, waste, money for murder, and fines as well of Chancery as for concealment, *soc* and *sac*, and return and execution of writs out of the Exchequer and other royal courts. In Register "Kempe" of the Abbey is a complete list distinguishing between the amercements within the Eight and a Half Hundreds due to the Abbot and those reserved to the Crown*. The right of the

*In summing up the Chronicler claims for the Abbey all amercements except the following: *pro habendo breui, pro habenda assisa, pro habenda attincta, pro habendo pone, pro habenda mencione de tempore Amerciamenta propria, de fine quia conuictus, de exitibus terrarum, de thesauro invento, deodand,*

Abbot over his free tenants outside the Hundreds are here said to be exactly similar to those exercised over all men within the Hundreds. Within the town of St. Edmund one amercement only appertained to the Crown, viz., *pro breui habendo*. This list is evidently a summary of the agreement made in 1291 between Abbot John Northwold and Edward I. concerning the franchise of the monastery. The King was inquiring strictly into the title to all royalties claimed by his subjects lay and religious. The Abbot struggled for those of St. Edmund at great cost of money and energy, and finding himself too weak to dispute them further laid the cause "before the highest judgment seat." According to the Chronicler the King's admission of the Abbot's right was due to a vision at night threatening that St. Edmund would otherwise cause him to die the death of Sweyn, whom he slew at Gainsboro'.

It is said that the Confessor, in granting the Eight and a-Half Hundreds, warned Abbot Baldwin of the dangerous nature of his gift. It certainly involved the Abbey in continual disputes both with the officers of the Crown and with privileged lords of certain fees within the Hundreds. In theory the Abbot's ministers levied all fines within the Liberty; in practice they had often to recover them in the Exchequer. To cite one example, *circa* 1305, a certain monk, John de Eversdon (probably John of Everisdon, the Chronicler), was sent to Westminster to claim for the Abbey, since the horses had been stolen by unknown men. Numerous writs exist addressed to the sheriff, the clerk of the market and other officers of the Crown prohibiting them from entering the Liberty by reason of their offices. The jealous custody of his liberties evidently cost the Abbot dear, as for one confirmatory charter alone (that of 1336) he paid a fine of £300. To this was added perpetual litigation notably with the Archbishop of

Canterbury and the Bishop of Ely. The dispute with the Archbishop lasted several centuries, and began about 1186, when the Archbishop refused to allow tenants of his manor of Monks' Eleigh to be tried for murder in the court of the Abbot, pleading the chartered right of his church to judgment of causes in which its tenants were involved. Abbot Samson, with characteristic strength of purpose, sent twenty armed men to Eleigh. They carried off the accused men to the Abbot's gaol, and the Archbishop brought his cause before King Henry II. in the Chapter House at Canterbury. Here were read the charters of St. Edmund and of Christchurch, Canterbury, dating on either side from the time of the Confessor, and even Henry the Lawgiver knew not what to say save that they confuted each other. The Abbot was ready to abide by the verdict of the two counties of Norfolk and Suffolk, but the Archbishop refused, remarking somewhat truly that those counties were biassed in favour of St. Edmund. Henry, in anger, left the dispute unsettled, and the Archbishop preferred to suffer his monks to be done to death without redress rather than to allow his tenants to plead in the Abbot's Court.

The dispute with the Bishop of Ely was of a similar nature, relating to the rights of the Abbot over the tenants of the Bishop within the Eight and a Half Hundreds. In 1272 Bishop Hugh and Abbot Henry came to the following compromise :–The Bishop should hear the suits of his tenants within the Liberty at the Court of St. Edmund so long as he sought the right at a convenient time ; should a plea arise between a tenant of the Bishop and the man of any other lord within the Liberty, the cause should be heard jointly by the stewards of the Abbot and the Bishop at some place between Brettenham and Rattlesden, or between Downham and Brandon. The Bishop should receive the amercements

of his tenants. If the plea were against the Bishop himself, the Abbot should determine it in his court, "as the sheriff did in the county." This carefully arranged agreement left open the question of return of writs which was still in dispute between the two ecclesiastics in 1410, and distrust of his adversary deterred Abbot Cratfield from accepting the offer of a church worth £20 per annum in exchange for his admission of the Bishop's claim. Thomas Bedford, then Earl of Dorset, visited the Abbey in 1418, and tried to effect a compromise, but failed owing to the death of Bishop Fordham and the refusal of the monks to allow to his successor, Bishop Morgan, five of the vills in dispute "entirely to himself," together with the hamlets of Chedburgh, Nedging, and Wattisham. The termination of this ancient quarrel is at present unknown.

The burgesses of Sudbury also resented the attempts of the Abbot's ministers to execute writs within their borough. About 1529 they appealed to their lady the Queen, citing Domesday Book as proof of their extra-hundredal position, and hinting that, unless the Abbot could be induced to abstain from the extortion of unjust fines and other infringements of their privileges, the Queen would lose good tenants. It is noteworthy that the Domesday account of Sudbury, while it states that "the soke is in the same vill," heads the entry "Tingohu Hundret."

The original Liberty included the hundreds of Thingho, Lackford, Thedwastree, Blackbourne, and Bradmere (two), Babergh (two), Cosford (one-half), and Risbridge. After the Dissolution the extent of the franchise must have been greatly curtailed by numerous grants out of the Court of Augmentation. Already by 1540 rents in Weston had been purchased by John Croft "with all royalties"; Kytson's grant

of the manors of Fornham St. Martin and St. Genevieve included the leets and hundreds; the leet-fine from Hesset had been acquired together with view of frankpledge by Thomas Bacon; the leet-fine of Ingham had been acquired by Nicholas Bacon; and Downham Manor, with hundreds and leets, had passed to William Maltyward.

Over the tourn held for each hundred the Abbot's bailiff or lessee presided. In 1538, John Freere, of Wickhamskeith, had a forty years' lease of Thedwastree Hundred. The Abbot reserved to himself waif and stray, goods of felons and fugitives, escheats, and treasure-trove. Freere was to receive all rents and suit-fines and the profits of fodder corn. He was to pay £19 8s. 4d. yearly; to answer for the royalties reserved to the Abbot; to hold the courts for the hundred; to raise "if possible," all exchequer fines, issues of the tourns of St. Edmund, fines of the green wax, and estreats of the Justices of the Peace; to make return to the mandates of the Steward of the Liberty; to hold pleas of debt under 40s.; and to execute the King's writs delivered to him by the Steward of the Liberty. His livery was worth 10s. yearly.

The great pleas for the whole Liberty were held at Thingho, near Babwell, in Queen Emma's time. Subsequently the court was moved to Catteshall, in Barton, and in the time of Edward I. it was brought back to Henhow, near Shirehouse Heath, for the greater ease and convenience of the justices and people, and on account of the great crowds which attended. A privilege highly valued by the tenants of the Liberty was their right to plead and be impleaded before the King's Justices at Henhow alone; and they made good their exemption from attending the courts held for the *corpus comitatus* at Beccles. Less desirable to

modern minds was the retention of trial by fire and water after trial by inquest had become common in royal courts. The ancient form of trial was finally abolished within the Liberty by a charter of Henry III., dated before 1232.*

The steward† of the liberty stood to the Abbot as the sheriff to the King. He presided over the great courts of the liberty just as the sheriff did over the county court. He returned and executed writs, levied fines, and amercements, and appeared yearly at the Exchequer to render his account. His office related to all the royalties enjoyed by the Abbey; with its manors and lands he only intermeddled upon the express command of the Abbot. His office is therefore to be distinguished from the stewardship of the Barony of St. Edmund, which related solely to the fee of the Abbot. By charter of William I. the manors of Lydgate, co. Suffolk, and Blunham, co. Bedford, were granted to a certain Ralph to hold in fee of the Abbot of St. Edmund by the service of steward. Abbot Albold (1114-19) gave the lands and office of Ralph to Maurice de Windsor and his heirs. To him succeeded his nephew, Ralph of Hastings who was followed by his nephew, William of Hastings. William's son and heir, Henry of Hastings, was brought before Abbot Samson to claim the stewardship with its customary dues. Since he had not yet attained to knighthood the Abbot considered him too young to take up office, but offered him the half of the perquisites if he would appoint a deputy. The business was thereupon deferred; but it became customary for the steward's deputy to receive one half of his fees. The minority of Henry of Hastings lasted till 1188. He went with Richard I. to the Holy Land and died

* It is witnessed by Hubert de Burgh as Justiciar.

† For a considerable part of the material relating to the stewardship, the writer wishes to express gratitude to Sir Ernest Clarke, F.S.A.

childless. His brother William of Hastings paid 100 marks for relief of the inheritance in 1195. He escaped the well-known contest between Abbot Samson and his knights in 1196, since at that time he was "in the King's service beyond the seas." The stewardship of the Liberty descended to John of Hastings, first Baron Hastings (by writ). In 1302 inquisition into his office was made before the King's Escheator in the Great Court of St. Edmund, in consequence of his claim to the stewardship both during the vacancy of the Abbey and during the life of an Abbot. The jurors swore that this was the custom in the time of Henry his father and Henry his grandfather. The steward's fee for holding a great court in person was one mark, if the Abbot was absent; should the Abbot be at Bury or at the neighbouring manors of Elmswell, Chevington, or Culford when the court was held, the steward went thither with eight horses and thirteen men, and received fodder for his horses, wine, ale and waxen candles, and meat for his hounds and his falcons. Reasonable expenses were allowed him when he went to the county court at Ipswich on the Abbot's behalf or to the Exchequer to render his account. In the *Liber Albus* of St. Edmund (Harl. MS. 1005) is preserved a more detailed account of the steward's perquisites. It was evidently drawn up at the time of some disagreement with Henry of Hastings, possibly Henry, the father of John, the first Baron. According to this account the steward was to accompany the Abbot with six men, viz., himself, his clerk, his sergeant (*serviens*), and three boys (*garcones*). He was to have four horses maintained at the Abbot's expense. If sent away on business he was to have his expenses, but was to spend the Abbot's money "in such a way as not to seem burdensome." If he lingered uninvited at any of the Abbot's manors he received no maintenance.

At Bury St. Edmunds he received daily four gallons and a-half of ale such as the Abbot drank, and half a gallon of a lighter quality; pasture for his horses; and in winter six candles such as the Prior used, in summer, four. The monkish annotator reduced the number of candles to two if the Abbot were absent. The steward, his deputy, and his clerk, were all bound to take an oath of fealty to the Abbot. Thus 22 March, 1314-15, John of Hastings, son of the first Baron, presented to the Abbot at his manor of Sutherey, Sir Geoffrey Burdeleys, knt., to be his deputy, and Sir Geoffrey brought his clerk, Nicholas de Badburgham, and there and then Sir Geoffrey and his clerk took the same oath of fealty to St. Edmund. This same Sir John in 1324 appointed Master Ralph de Bocking his deputy for life agreeing to allow him his livery as one of his "bachelors," and reserving to himself all things belonging to the office of High Steward. A separate agreement was drawn up between the Abbot and Master Ralph. He was probably that Ralph de Bocking who was appointed one of the custodians of the Abbey and Town after the riots of 1327.

The appointment of a deputy, who often styled himself "steward," adds to the difficulty of tracing the later history of this office. In the Inquisition on the death of Sir John of Hastings, the first Baron, February, 1312-13, the manor of Lydgate, with five marks' rent in the town of Bury, was still said to be held by the serjeantry of being steward of the liberty. Possibly a close examination of records concerning Lydgate might bring to light more information touching the stewardship. To John, second Lord Hastings, succeeded Laurence, his son, Earl of Pembroke. The Earl's grandson, John, died a minor in 1389, when the barony of Hastings became dormant. Presumably the office of steward had descended with the title. Among the Yates Manuscripts is a copy of a letter written

by Peter le Neve, Norroy King of Arms, to Theophilus Earl of Huntingdon, and enclosing extracts from the Bury registers concerning this office, "which had formerly belonged to the family of Hastings, his lordship's ancestors." The claim of Sir Nicholas Bacon to the profits of the Liberty, 1603-22, was based on Edward VI.'s charter to Thomas Lord Darcy, presumably relating to the town only; but it is evident from the testimony of Sir Edward Coke that the liberty of the Hundreds had come into the possession of the Howard family before the attainder of Thomas, the fourth Duke of Norfolk. In recognition of his faithful service as solicitor to the family, Sir John Wentworth the Elder received a fifty years' lease of the stewardship. Aided by Coke, he preserved the liberty of St. Edmund and other liberties in Norfolk from the effects of the attainders of the Duke and of his son, Philip, Earl of Arundel. The royal grant of the chief stewardship to Thomas Howard, Baron de Walden, and Henry Howard, his brother, in June, 1603, was evidently an act of confirmation rather than of restitution. In the next month Lord Howard de Walden was created Earl of Suffolk, and in 1618 Robert Reyce, in his "Breviary," recorded of the Franchise of St. Edmund that "that royalty belongeth to the Earle of Suffolk, as high steward of the same, who putts in an under-steward who acts in quality of an under-sheriff." Subsequently the office was purchased probably from a descendant of the Earl by a member of the Davers family. At the beginning of the nineteenth century Dr. Yates stated that the courts were still held every three weeks in the name of Sir Charles Davers, and that any inhabitant within the liberty had the right to apply for the recovery of debts under 40s. The earliest record of the office in the Davers family is the will of Sir Robert Davers, the third baronet, who in 1722 bequeathed the office and place of chief steward

to the Liberty of Bury St. Edmunds to his brother, Jermyn (the fourth Baronet). When the baronetcy became extinct, upon the death of Sir Charles Davers, the sixth Baronet in 1806, the stewardship with his other estates devolved upon his nephew, Frederick William Hervey, fifth Earl of Bristol. From him the office has descended to the present Marquess of Bristol, who is by inheritance Chief Steward of the Liberty.

In conclusion, the writer would admit that lack of time and ignorance of the law have rendered very imperfect an account of this ancient franchise, which certainly deserves greater study than it has yet received.

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