
DUKES, EARLS, AND MAORMARS.

(See Vol. I., *New Series*, p. 187.)

As my controversy with Mr. Lindsay now turns on a question not of personal, but of general interest, the existence, namely, of a "Saxon" peerage, as involved in his "opinion that an elaborate system of feudal peerages or dignities existed at an early period in England" (p. 189), I need not apologise to the readers of the *GENEALOGIST* for returning to so important a subject.

The only point raised by me had reference to Mr. Lindsay's assertion that a Maormar was "as truly a peer as the dukes (*sic*) and earls of Saxon England." Expressing my surprise that anyone now living should

believe in the existence of Saxon "dukes," I explained to Mr. Lindsay that *dux* was a Latin equivalent for *ealdorman*, and that this could be proved (though quite unnecessary) by references (which I gave him) to the works of Dr. Stubbs.

Mr. Lindsay, enjoying the advantage over me as before, of an immediate reply, is totally unable to refute my observations, makes no allusion to Dr. Stubbs' authority, but refers me to Selden (who, as might be expected, knew better, even in those days, than to speak of Saxon "dukes"), and more especially, to certain charters, which, be it observed, are as silent as Selden on the existence of Saxon "dukes," but in which the word *dux* (i.e., *ealdorman*) duly appears; also the word *comes*. These, he proclaims, are "sufficient authority for the expression which has astonished Mr. Round," and this, though that expression is not to be found in them! Now, courtesy to Mr. Lindsay compels me to assume that, when he quotes these charters on the authority of Kemble (p. 189), he cannot have observed that *they are one and all marked by Kemble himself as spurious!*¹ In two of them, as they would prove nothing, this is of little consequence. But in the third there is, indeed, a remarkable passage thus triumphantly appealed to by Mr. Lindsay:—

"The opinion that an elaborate system of feudal peerages or dignities existed at an early period in England is supported by a charter of the date 664, or thereabouts, by 'Wulphere Rex Merciorum et Mediterraneorum Anglorum . . . Deo et Beato Petro et monasterio suo de Medehamsted . . . ' in which, after a long enumeration of lands, occurs the following passage:—'Precipimus etiam quod prædictum Monasterium et dominia sua sint libera et quæta ab omni dominatione, exactione *comitum, baronum, vice-comitum et ministrorum suorum, &c.*'

This charter is confirmed and attested by four kings and four nobles with the title *princeps*. The Saxon charters from which I take these extracts were collated, latinized (!), and printed, under the editorship of John M. Kemble, by the English Historical Society, and I refer my readers to vol. iv, p. 168, and vol. v, pp. 2 and 12, for the above quotations, and to the prefaces for a list of the manuscripts consulted."

Passing over the detail that the brilliant feat of "latinizing" these Latin charters was accomplished *not* "by the English Historical Society," but by "John M." Kemble himself ("*sumptibus* societatis"—to quote with Mr. Lindsay, from the title-page), I may observe that the fact of this charter being spurious, even if Kemble had not marked it as such, would be abundantly obvious, from *the very passage* that Mr. Lindsay so confidently quotes. Indeed, if he will allow me to use the expression, its acceptance as genuine "is sufficiently amusing to anyone who has the slightest acquaintance with history" (*ante*, i, pp. 61, 123). That this expression is not one whit too strong will be clear from the following analysis:—

On opening the volume at the passage quoted, as above, by Mr. Lindsay, the eye is caught by various terms, which give us a truly instructive and entirely novel view of the state of society in the year of grace 664. We meet at once with "parks" and "castles," the seats, no doubt, of Mr. Lindsay's Saxon "dukes and earls" (who, by the way, were eating horse-flesh in honour of Woden a century later, and more²). We also meet with "Huntingdonshire," though, in Mercia, the shire-system "can hardly have been introduced before . . . 919, and . . .

¹ Codex Diplomaticus (Eng. Hist. Soc.), iv, 168 ; v, 2, 12.

² Green's *Conquest of England*, p. 9.

probably dates from the days of Æthelstan" (925—940¹). Among the other institutions which, we now learn, were already flourishing in 664, were *murdrum*, introduced after the conquest ("post conquestionem") by the Normans, for their own protection; ² *duellum*, which was "brought in by the Normans," having been unknown to the Anglo-Saxons; ³ *frankum plegium*, "of which there is no definite trace before the Norman Conquest;" ⁴ *danegeldum*, not introduced till the close of the tenth century, ⁵ with *hidagium* and *auxilium*, its successors in the twelfth. ⁶ Doubtless, to a believer in Saxon "dukes," or even in the "creation before 1014" of an "earldom" in our existing peerage, there would be nothing incongruous in the occurrence of these terms in the year 664, or in the accompanying "elaborate system of feudal (!) peerages or dignities." But to everyone else it will be a fitting prelude to the occurrence, at this period, of "comitum, barouum, vice-comitum," etc., etc. For, first, as to "earls" (*comites*), the two greatest modern authorities, Dr. Stubbs and Mr. Green, agree entirely with Selden himself (to whom Mr. Lindsay so strangely appeals) that the title "earl" was brought in by the Danes, from whose language (*jarl*) it is derived. ⁷ They, also, both confirm his view that it was introduced in the place of the earlier title of *ealdorman*, which it gradually supplanted, and while Selden assigns the change to "about 1020" (p. 505), Mr. Green independently assigns it to the reign of "Cnut" (p. 428), i.e. to 1016—1025. So much for the "earls of Saxon England" in 664! Turning next to the Barons (*barones*), we find the learned Selden stating:—"Nor were the names of Baron and Barony received in any use (as I think) among the Anglo-Saxons" (p. 508). This modest conclusion is, needless to say, abundantly confirmed by Dr. Stubbs, who briefly observes that "the title of baron . . . is a creation of the Conquest" (*Const. Hist.* i, 365). So much for the "barones" of 664! There remain only the "*vice-comites*." Now I cling to the hope that Mr. Lindsay, though he reckons it among "feudal dignities," is at least aware that a *vice-comes* would be a sheriff, *not* a viscount. "Would be," that is, if it were anything. But how could there be a sheriff (i.e. shire—reeve) when there were as yet no shires? And, even if there could have been, who would have styled him, at that time, a *vice-comes*, when that term was only introduced "*after the Norman Conquest*?" ⁸ So much then for those "feudal" dignitaries, the "*vice-comites*" of 664!

It will probably be admitted, after these revelations, that Kemble was not far wrong in marking as spurious this precious farrago of homilies, lies, and curses, which Mr. Lindsay displays as "sufficient authority for the expression which has astonished Mr. Round"!

I can only trust that he will not echo the tremendous denunciations of his wondrous charter on all who may treat with disrespect this glaring

¹ *Ib.* p. 235. The district had previously been known as North Gyrwa land (*Ib.* 236).

² *Dialogus de Scaccario*, i, 10: "Quid Murdrum, et quare sic dictum"

³ Stubbs' *Const. Hist.* i, 276.

⁴ *Ib.* i, 87.

⁵ *Ib.* i, 133.

⁶ *Ib.* i, 582-4.

⁷ Selden's *Titles of Honour*, Pars. ii, cap. v, sec. 2 (pp. 501—505); Stubbs' *Const. Hist.* i, 160; Green's *Conquest of England*, pp. 428, 607.

⁸ Stubbs' *Const. Hist.*, i, 114; cf. i, 269 (and note).

and irapudent forgery. Its vehemence is so amusing that I am tempted to quote it :—

“Si quis igitur diabolica illectus prauitate, etc., etc. . . . marieat aeternaliter retrusus inter flammiumas astantis gehennæ incorruptiones, lugubre sibi solium uendicans inter tres nefandissimos proditores Christi, Iudam, Annam et Caiapham, et in Saturnæ faucibus maneat deglutendus [et] omnium infernalium morsibus carnificum sine fine laceretur” !

But I must not forget that Mr. Lindsay refers me “further,” for the use of the expression—Saxon “dukes”—to “the fifth chapter of Selden’s ‘Titles of Honour.’” To that chapter I readily turn, but only to find that Saxon “dukes” are not once mentioned in it, and that Selden, though he actually wrote more than two centuries ago, was as well aware as we are now that *dux*, as I have explained to Mr. Lindsay, was “a Latin equivalent for *ealdorman*!” Selden’s observations are in fact so sound that I wish I had space to quote them more fully. He rightly states that—

“The word *Ealdorman* . . . is sometimes expressed by *subregulus* and *regulus*, sometimes by *Patricius*, *Princeps*, *Dux* . . . By *Comes* also and *Consul*; nor is it without example that they are called *Reges*, . . . sometimes divers together subscribe by the name of *Dux*, sometimes by the name of *Princeps*; and sometimes both titles severally occur for persons of the same dignity in the subscriptions of the self-same charter” (p. 502).

In proof of this assertion he quotes a charter, in which the king grants lauds to a man by the name of “Comes, and yet calls him also *Dux and Comes*” (p. 503). The above list of “Principalities and Powers” should illustrate the futility of looking for any definite principle or system in the use of Latin titles by Anglo-Saxon officials. A similar warning is also to be drawn from the list of the titles of Anglo-Saxon kings, printed in Appendix II. to the First Report of the Index Society (pp. 52-61). The same scholarship, in short, that would give us “dukes” in Saxon England, would on the same principle give us “aldermen” in Cappadocia, and make Pontius Pilate “shireman” of Judea! ¹

In dealing with his (spurious) Wessex charter (which could no more have been written “before 675” than the earldom of Mar could have been created “before 1014”) Mr. Lindsay similarly translates *præfectus* as a “præfect,” being evidently unaware that *præfectus* was one of the equivalents for “shire-reeve.” ² He also states that it is “attested by . . . the archbishop,” whereas it is attested by *two* “archbishops.” If one was of Canterbury, will Mr. Lindsay tell who the other is likely to have been in Wessex “before 675?”

To return to Selden :—

“Where Bede speaks of *Principes*, *Duces*, or *subreguli*, there the Saxon hath always *Ealdormen* . . . The title of *Ealdorman* continued for these *Duces*, *Principes*, *Comites*, etc., until about MXX. . . . But, about that time, the word *Earl* . . . was attributed to them . . . Till about that time *Dux* or *Princeps* is most usually in them [i.e. charters] for *Ealdorman*” (pp. 503, 505).

Dr. Stubbs explains that—

“Vicecomes occurs as the Latin word for sheriff in Canute’s letter to the Bishops, given by Florence of Worcester: but this is clearly a translation of Norman date” (*Const. Hist.* i, 114).

¹ *Titles of Honour*, p. 503; Stubbs’ *Const. Hist.*, i, 113.

² *Const. Hist.*, i, 113 note.

Yet, even in this, modern criticism is admirably anticipated by Selden, who observes that this—

“Proceeded from the ignorance of them that, after the Norman Monarchy, in their turning [i.e. translating] the Saxon laws, thought that *Eorl* was used for *Comes* in Athelstan’s time, because it was so afterward, and in their own time. *That kind of fault is most common.* And, upon the like reason also, the *Ealdormen* of these elder ages of the Saxon times are sometimes miscalled by the name of Earls, because these of later times were styled so, when that of *Ealdormen* was grown wholly out of use to this purpose” (*Titles of Honour*, p. 502).

To resume then, we have seen that of the *five* dignities, of which our existing peerage is composed—duke, marquis, earl, viscount, and baron—only *one*, namely earl, is older than the Conquest; that even this was only first introduced “about 1020;” and that it was then “attributed to the self-same persons that before had had the dignity of *Ealdorman*.”¹ Moreover, since the *Ealdorman*, as I have shown from Dr. Stubbs, was “the chief magistrate of a shire or cluster of shires” (*ante* p. 187), it follows that he remained so, when he began to be called an EARL, and that, therefore, during the forty or fifty years in which alone there were earls in “Saxon England,” their character was that of governors of provinces, and not always of the same, an official post widely different even from the later *comitatus*, and still more from the modern “earidom.” Apart from the “Æthelings,” or members of the royal houses themselves, the only terms of distinction in “Saxon England” were practically *Thegn*, which, according to Selden, “signifies but minister or servant,”² and *Ealdorman*, which signifies, as we have seen, the holder of an official post.

Before these plain and indisputable facts there fades away the idle dream “that an elaborate system of feudal peerages or dignities existed at an early period in England.” And with them we may, I think, bid a long farewell to their graces the Saxon “dukes.”

On the Maormars of Mar it is only necessary to add a very few words. In the first place I quoted from Mr. M’Kerlie’s treatise the vital criticism that, as to the Maormar of 1014, “*there is not a shadow of information to show, or prove, that he ever had any, or left, issue to carry on his line*” (*ante* i, 187). Mr. Lindsay, while loftily dismissing the writer as “a Mr. M’Kerlie,” is unable, I find, to rebut his criticisms, and even declines to give an “opinion whether or not a lineal descent from Maormars to earls can be proved as a matter of pedigree.” In other words it is a *mere guess* that there was any blood relationship at all between them, even though that guess may appear “very probable” to one to whom Wulfhere’s charter appeared perfectly genuine! That is to say, we now learn that Mr. Lindsay’s belief that the *Earldom* of Mar was “created before 1014” (*ante* i, 61), that the assertion that “the illustrious line of Mar can be traced in *uninterrupted succession* to the old Pictish period,³ that Mr. Goodeve-Erskine’s vaunt that his ancestors have been “earls of Mar for the last thousand years,” that Riddell’s even bolder vaunt that they have been earls of Mar *ab initio*,⁴ that the boast of “the great and accurate Lord Hailes” that the *Earldom* of Mar existed “before the

¹ *Titles of Honour*, p. 501.

² *Titles of Honour*, p. 507.

³ *Ancient and Modern*, p. 1.—(“Short History of the Family of Mar”).

⁴ *Law and Practice in Scottish Peerages* (1842), p. 169.

era of genuine history," that even the existence, in 1014, of an "Earl Donald I. of Mar" (as assumed by Lord Crawford in his *magnum opus*),¹ all rest, and rest alone, on the glimpse, in 1014, of a "Maormar of Mar" (in Ireland), between whom and the far later *earls* of Mar it is now tardily admitted that no relationship whatever can be proved!

In the second place, Mr Lindsay tells us:—

"I think it very probable from the whole tenor of Mr. Round's argument that he has derived his knowledge of the subject from Mr. McKerlie" (*ante* p. 188).

Now, as Mr. Lindsay confessed, at the outset, to having read my "twenty closely-printed pages" (*ante* i, 60) on the subject, which teem with references to authorities, mostly on his own side (dealing with the exclusive theme of my argument, the bearing and consequences, in practice, of the lords' decision,²) and in which I do not once refer to Mr. McKerlie or his views, I have a right to call on Mr. Lindsay to explain why he thinks it "very probable" that I derive my knowledge from McKerlie, when he is fully aware, from the above facts, that this is not the case. And I might fairly retort, when Mr. Lindsay tells us that he looks "to the Wittenagemot (*sic*) for the origin of Parliament," that "I think it very probable . . . that he has derived his knowledge of the subject" from some popular production (in which, I believe, such a word is still to be found), for had he mastered its meaning, he would at least have known that "Witena" was the genitive of "Witan," and was therefore spelt with *one* 't'!

Lastly, as Mr. Lindsay again protests against my—

"Impugning the *honesty* of those who argue for the continued existence of the ancient Earldom of Mar side by side with a modern Earldom,"

I am forced to remind him that, in the course of my Article, I convicted those who so argue, of supporting their argument by the "suppressio veri," and by something stronger than a mere "*suggestio falsi*." The passages convicting them of so doing will be found on pp. 157—158 of my Essay, and either Mr. Lindsay must disprove the charges, which are there proved by actual demonstration, or we must conclude that, in his opinion, such conduct is *not* dishonesty.

J. H. ROUND.

Although I have no leisure to continue any argument with Mr. Round, the above communication makes it incumbent on me to offer some explanation upon the following points, viz.:—

I. The genuineness of the Saxon charters which I quoted last July.

II. My not having noticed Mr. Round's reference in the same number of the *GENEALOGIST* to Dr. Stubbs' assertion that "Dux" and "Ealdorman" are equivalent.

III. The applicability of any errors I have committed to the question of the Earldom of Mar.

IV. The general view of the subject.

I. Upon the first point my explanation is that Mr. Round having ridiculed my hypothesis of a possible existing earldom dating from the Saxon dynasty, I referred him to three charters, out of several hundreds, in which Saxon nobles appear as *Duces* or *Comites*. My copy of the *Codex Diplomaticus* is imperfect, and I do not possess the volume which

¹ *Earldom of Mar in Sunshine and in Shade*, i, 165.

² As this is a point on which "the Minutes of Evidence and Printed Cases" can, obviously, throw no light, I had no occasion, there, to refer to them.

explains the asterisk placed at the head of certain charters. I therefore confess that I am wrong in having quoted from charters which are rejected by the authority from which I took them; and I beg to withdraw these three, and to substitute for them four or five hundred others, as to the genuineness of which there is no question. I think it would have been not ungraceful on Mr. Round's part, as he has now referred to these charters, if, while impugning my accuracy, he had admitted the fact that a distinction between *Dux* and *Comes* is clearly proved by a few of them. But I do not grudge him the satisfaction he has derived from his exposition of the charter purporting to be of 664. While, however, I think I was wrong to quote from that charter without more reflection, I do not even now regard it as worthless. For, although a forgery is useless for the purpose of proving its main subject, it should be recollected that a forger is necessarily careful to be accurate as to form. If, then, it had not been perfectly notorious, at the time that this particular forgery was committed, that the feudal system existed long before the Norman Conquest, the form of this charter would have exposed it to detection at the very time of its production. The fact, no doubt, is that, it being desired to prove ancient title in Norman times, the forgers used a style and form as applicable to the seventh century which everyone knew was applicable to the tenth and eleventh. I, therefore, rejecting the doctrine that an entirely new hierarchy was suddenly created in 1066, and that the England of 1070 was altogether different from that of 1050, believe on the contrary that the Norman nobles supplanted the Saxon in their places, calling themselves by a Saxon feudal title—earl—peculiar to Saxon-Norman England; and I assert that the authorities to whom Mr. Round refers have not devoted sufficient attention to this point when writing history.

II. The reason why Mr. Round's reference to Dr. Stubbs as an authority for the statement that "Dux" is equivalent to "Ealdorman" was not noticed by me, is simply that the sentence on this subject printed in Mr. Round's July article was not included in his article as originally drafted, but was inserted subsequently to the article being communicated to me. I noticed the fact at the time, and called the attention of several persons to its inconvenience. And I may here remark upon Mr. Round's observation that I enjoy the advantage of an immediate reply—that, it is not very usual to open the pages of a periodical to an attack upon one of its contributors. The indulgence was granted in a very courteous manner to Mr. Round, who ought in the ordinary course to have published his comments in the *Collectanea Genealogica*. I cannot say that in my judgment the tone adopted by Mr. Round in his various articles has been at all indicative of any similar courteous feeling. Neither do I think the advantage has been with me; for if I had not been compelled to answer hurriedly I should have had leisure to discriminate more carefully the charters from which I quoted.

III. While I admit freely that the proper conclusion to be arrived at from a study of Pre-Norman charters is a subject as to which opinions may differ, it is perfectly clear that the relation of Earls to Mormaers occupies a far less assailable position. I cannot do better than refer my readers to the admirable article on the Earldom of Angus which was printed with the October number of the *GENEALOGIST* in the *New Peerage* of "G.E.C." based as the article is on the opinion of Dr. Skene,

an antiquarian of the most conspicuous authority. It might, perhaps, have been more to the point if I had sought an illustration in the Irish Earldoms. Can it be said, for example, that Lord Inchiquin would be guilty of any absurdity if he spoke of his ancestors as lords or earls of Thomond for 1000 years, merely because the title of earl was substituted by King Henry VIII. for that of King?

IV. I can only conclude my statement of opinion by re-asserting that to speak of a pre-historic earldom of Mar as now existing is so far from ridiculous that it is the view of the subject most natural to those who know anything of peerage law and history; and I again repel indignantly the imputation of dishonesty, of "suggestio falsi," or "suppressio veri" as applicable to my friends. Mr. Round's sneering reference to "Lord Crawford's *magnum opus*" is written without any apparent knowledge of the fact that the Earl of Crawford's work was never revised by him, and cannot certainly be called the "*magnum opus*" of a man whose writings on peerage law, art, and philosophy, occupy a very distinguished literary position. Indeed one can only smile at a writer who proposes to refute so high an authority with quotations from Mr. McKerlie. It is perfectly obvious and, indeed, now confessed, that Mr. Round never read the Minutes of Evidence and printed Cases of the Mar Peerage case, before he printed his article in the *Collectanea Genealogica*, but that he collected his facts from second-hand sources, and borrowed the greater portion of his arguments from others. But this is not so much the subject of complaint as that he commenced with an unworthy imputation of dishonesty instead of limiting himself to an attack upon the consistency of his opponents.

W. A. LINDSAY, *Portcullis*.

[*.* We cannot insert any further articles on this subject.—ED. GENEALOGIST.]
