he held, before 1097, both the *terra* and the *villa*. I think he witnessed charter iv in order to show that he acquiesced in the gift and raised no claim to the latter property. This distinction between the *terra* and *villa* seems on the whole to be borne out by x and xj. There was another claimant to the *terra*, and his name is given in cxvij.

The *terra* had certainly been held by Liulf of the King and of the monks by the payment of forty shillings to the latter. Does not this payment identify it as one of the Coldinghamshire estates from which half a mark *per* hide was enjoined to be paid in 1098? It should be noted that King David, in 1126, seems to have granted or confirmed the overlordship of these Coldinghamshire estates to the monks. I understand this to be the effect of charters xv and xvj, and that they explain the double tenure, and the suit of court which, in later times, owners of Swinton owed to the monks.

I take it, then, that Liulf had a lease of the *villa* which came to an end before 1098, but that he and his heirs continued to hold the *terra* on lease. It will be noticed that the first grant to Hernulf is merely a lease for two lives, and it may reasonably be assumed that former holders of Swinton held upon similar terms. The various grants to Coldingham by later Kings of the estates given by Edgar prove very clearly that the right of any King to alienate the possessions of the Crown from his successors was at least open to doubt. But in David's time, "fiefs," as Douglas observes, were "becoming hereditary," and we accordingly find that King granting Swinton by a second charter to Hernulf *in feudo sibi et heredibus*.

THE REPRESENTATION OF THE BARONS OF DUNHAM.

Since Dr. Ormerod incorporated in his History of Chester Sir Peter Leycester's account of Dunham Massey,[1] several reports of the Deputy Keeper of Public Records, upon the Rolls of the County Palatine, have brought to light a considerable body of new evidence, tending to shew that the supposed coheirs of the last baron were illegitimate; and a record, printed in brief by General Wrottesley, in a recent issue of *The Genealogist*, would seem completely to prove that they were so. There is, however, other evidence, which puts a very different complexion upon the case; and it seems important, therefore, that a fuller account should now be published. At the same time we may correct one or two errors of detail in Leycester's narrative.

The last baron succeeded his father (or grandfather) not later than 1272; for James, Lord Audley, who was dead in that year, had his wardship and marriage, and granted it to Alice de Beauchamp, who was still his guardian in 1275.[2] He was born, therefore, about 1255-65. It is

[1] Leycester, Historical Antiquities. Ormerod, i, 521 sqq. (This and subsequent references are to the 2nd edition.)

[2] Esc. 56 Hen. III, No. 11; 1 Ed. I, No. 62; 2 Ed. I, No. 61. Abbreviatio Placitorum (v. infra).

true that a charter of 1278, purporting to be a grant of the advowson of Bowdon to Birkenhead Priory, has been widely copied, and printed (under Birkenhead) both by Ormerod and in the Monasticon.[3] But the description of the grantor, "*Ego Hamo de Mascy filius et heres Hamonis quarti*," is so unusual, as in itself to be suspicious; and when we find, in addition to the facts already related, that a vacancy occurring about this very time gave occasion to a keenly contested lawsuit between the guardian and the Prior; and the latter not claiming under any grant from the last baron, but alleging that his predecessor presented the last incumbent, and judgment given against him,[4] we need no longer hesitate to pronounce the charter a forgery.

We learn, from Leycester, who had the privilege of consulting evidences then preserved at Dunham Massey, that Sir Hamon married first, Isabella, daughter of Humfrey de Beauchamp; that she died before the marriage was consummated; and that he next married her sister. Probably this story is substantially correct, and accounts for what afterwards happened, though we may have our doubts about the very tragic turn Sir Peter gives it, and prefer to suppose the first, as often happened, was a marriage solemnised before the parties were of an age to come together. A Humfrey de Beauchamp witnessed the Mascy charter to Altrincham. Of him I know nothing more; but it is certain that Mary de Beauchamp was this Sir Hamon's wife, and mother of his three daughters—born probably about 1280, or very soon after. She was in London in 1309, in receipt of a terminal allowance, perhaps alimony.[5] Sir Peter, at any rate, tells us of a divorce, though he confuses Mary with a wife Alice, who occurs subsequently in 1314.[6] Lastly, about 1317, he married Joan Clinton, as Leycester calls her, widow of Edmund Deyncourt, the younger. She died in 1327-8, having had no issue by him, and having lost a daughter, the only child of her former marriage.[7]

As early as 1308, Sir Hamon was raising money upon the reversion of his estates, and procured licence to dispose of it to Robert de Holand, then Justice of Chester,[8] though I have no evidence that the bargain was ever completed. Ultimately in 1322 he did sell, or mortgage it, to Sir Oliver de Ingham, Holand's successor, for 700 marks, payable by instalments; and as security for payment of the purchase money, Ingham executed a deed of quitclaim, releasing all right in the estates to the vendor, and lodged this deed in the Abbot of Chester's hands, together with an indenture of covenant, whereby the Abbot was to deliver it up to Ingham when payment was complete, or in case of

[3] Orm. ii, 461. Monasticon, iv, 241 (Ed. 1823). The authority seems to be that very mysterious document the *Cheshire Domesday*.

[4] Coram Rege, No. 11, m. 31d; No. 17, m. 19. Printed (but inaccurately) in Abbreviatio Placitorum.

[5] See MS. Harl. 2112, f. 139; receipt found by Randle Holme among Sir Cecil Trafford's papers. See also the proceedings of 1334, hereafter referred to.

[6] Chester Plea Roll, 7 and 8 Ed. II, m. 32d.

[7] Pat. 7 Ed. II, pt. 2, m. 21; 10 Ed. II, pt. 2, m. 18, 13, 10, 3; Claus. 1 Ed. III, pt. 1, m. 22d., 11; 2 Ed. III, m. 37, 36. Esc. 2 Ed. III (first Nos.), No. 22.

[8] Inq. ad q. d., 2 Ed. II, No. 105. Pat. 2 Ed. II, pt. 2, m. 11, and see Chester Recog. Roll, 2 Ed. II, m. 2.

his making default, to Sir Hamon. By two fines, of that year,[9] the estates were settled upon Sir Hamon and Joan, his wife, part in tail male, the rest in tail general; and the reversion upon Ingham and his heirs.

The exact date of Sir Hamon's death is unknown: that given in an inquisition many years later is certainly incorrect. He was living in 1331—probably in 1332; but died before April 1334, when his executors were sued for debt—among them being Hamon, his son.[10] Evidently, therefore, Leycester was mistaken in supposing that the son's early death was his motive for selling the reversion; and we may rather attribute this to a bitter family quarrel (since, perhaps, happily composed), or to some desperate need for money. The son's name is dropped in subsequent proceedings; and, as an inquisition states that he died in Gascony,[11] and the coheirs claim, not through him, but direct from their father, it may be that he was already dead, but the news had not then reached Cheshire. Ingham took possession, and was soon involved in harassing litigation with neighbours and tenants;[12] but he remained possessed at his death in 1344. He had two daughters: Elizabeth, who died before him, and her only daughter shortly after, without issue; and Joan, who married first, as second wife, Roger, Lord Lestrange, of Knokyn, but had no issue by him; secondly, Sir Miles Stapleton, of Bedale, whose son Miles was thus sole heir to Ingham in 1376.[13]

No sooner was Ingham dead than Sir Hamon's heirs, who had previously asserted their claim, made a determined effort to recover his lands. The claimants were Cecilia Fyton, his eldest daughter; the four daughters of Dionysia, his second daughter, whose issue became extinct before 1386; and the three daughters of Isabella, his third daughter, of whom there will be more to say. But a serious obstacle met them, in the shape of a claim upon Ingham's estate by the representatives of the Earl (the Black Prince), and a writ from him to stay all proceedings during his absence on foreign service. This prohibition was subsequently withdrawn, and the case proceeded. The defendants pleaded that Sir Hamon's three daughters were bastards. This the claimants denied: and issue having thereupon been joined, a jury found five separate verdicts in their favour.[14] The issue

[9] Ches. Plea Roll, 15 and 16 Ed. II, m. 8. The effect of these fines is recited in the records of 1336 and 1344; and the particulars about the deed of quitclaim in other proceedings to be presently noticed.

[10] Sir Hamon is party to two suits, Ches. Plea Roll, 4 and 5 Ed. III, m 11. In 1332 the paufreymon of Hamon de Mascy, and the liberties of Hamon de Mascy are mentioned. The executors are sued Ches. Plea Roll, 7 and 8 Ed. III, m. 9 d, and in later rolls. The false date in Ches. Inq., 49 Ed. III, No. 3 and 4 Hen. VI, No. 6. While this paper is in the press, I find among the Arley Charters, edited by W. Beamont, a grant by Sir Hamon de Mascy, of Dunham, to Sir Geoffrey de Werburton, dated St. Hilary, 7 Edw. III, 13 Jan. 1334 (p. 35).

[11] Ches. Inq. 4 Hen. VI, No. 6. I presume the son, whose legitimacy was also impugned, was by Mary de Beauchamp; but see the subsequent note upon Alice.

[12] Ches. Plea Rolls; see especially an action by the tenants against Ingham's bailiffs, 9 and 10 Ed. III, m. 20, 20 d., where the fine is recited.

[13] This is proved by several inquisitions; 18 Ed. III, No. 49; 22 Ed. III, No. 50, etc., and see the suit of 1376.

[14] Ches. Plea Roll, 17 and 18 Ed. III, 18 and 19 Ed. III, *passim*. The pleadings are most fully given on m. 26 of the former roll. To the allegation of bastardy

having been thus tried, the question is whether anything that subsequently happened can impair either the effect of this finding in law, or its value as historical evidence.

But the matter did not end here. In 1345, by three fines, the estates were conveyed to Henry of Lancaster,[15] and he granted them to feoffees, namely Lord Lestrange and a priest, from whom he took a life interest for himself, settling the reversion upon Lestrange and his heirs. The latter thus secured, by a new title, an estate in fee for his representatives, in place of his own very precarious life interest, in right of Joan, his wife. What consideration the coheirs received does not appear, but we find proof that they acted under pressure of some kind, and not of their own free will; for a year later they were raising money, upon certain terms, to take effect only after they should have recovered actual possession of the estates.[16] However, further efforts, whatever they were, proved ineffectual; and the Lestranges were not ousted for nearly ninety years longer.

In 1375 a new claimant appeared in the person of Thomas Fitton, of Gouseworth. An escheator's jury found that Sir Hamon de Mascy died without heir of his body; that he had a sister Cecilia, married to Thomas de Orreby; that she had a daughter Isabella, wife of Thomas Fiton, who had Thomas Fiton, then living; and that he was thus heir at law of Sir Hamon.[17] Fitton next took proceedings to recover the deed of quitclaim, already mentioned, from the Abbot of Chester, who submitted himself to the judgment of the court; but as Miles de Stapleton, Ingham's then representative, was living out of the palatine jurisdiction, the matter was referred to Westminster. There the proceedings lingered on till 1378,[18] when they seem to have ended abortively; for in that year Lestrange's heir further secured his title by paying a fine of £100, and procuring pardon for various conveyances and other transactions already mentioned, which had taken place without the licence of the king or Earl.[19] Eight years later, as heir of Mascy, Fitton commenced a fresh suit against the then Lestrange himself—the record of which General Wrottesley has brought to light.

plaintiffs rejoined that "Cecil' Dionis' & Isabell' fu^{r}nt filie Hamonis de Mascy nate & procreate infra sponsalia int^{r} p^{r}d'c'm Hamone' & quamdam Mariam de Beuchamp vx^{r}em eius & pro filiabz p^{r}d'c'i Hamonis tente & cognite & illo modo legitime." Was the plea so framed to avoid the jurisdiction of the ecclesiastical court, and bring the issue within the purview of a common law jury?

[15] Ches. Plea Roll, 18 and 19 Ed. III, m. 13, 15. For the feoffment, etc., see the Patent of 1 Ric. II. It is said that Lestrange gave lands in Lincolnshire in exchange. Ormerod ii, 467.

[16] Duchy Lanc. Great Cowcher, i, f. 45.

[17] Ches. Inq. 49 Ed. III, No. 3. This finding corrects the pedigree of Fitton of Gawsworth by Gen. Wrottesley in the *Genealogist*, N.S., xii, 109. The record he quotes (Ches. Plea Roll, 26 and 27 Ed. III, m. 16), after reciting a fine to which Macclesfield and Isabella were parties in 1 Ed. II (not 1 Ed. I; "anno E. regis aui d'ni *Comitis* nunc p^{mo}"; and see Plea Roll for that year), proceeds "ex insinuacione Thome fil' Thome Fyton, fil' and heredis p^{r}fate Isabelle"—words which lend themselves to either interpretation. But this and other records shew that Isabella had two other husbands, Sir John de Grendon and Thomas Fyton, and that the younger Thomas was her son. See Plea Roll, 4 and 5 Ed. II, m. 41; 9 and 10 Ed. II, m. 38, etc.

[18] Ches. Plea Roll 50 Ed. III—2 Ric. II, m. 3 d.; de Banco 51 Ed. III, Trin. m. 266.

[19] Pat. 1 Ric. II., pt. 4, m. 4.

As to the bulk of the property the defendant then vouched to warranty Henry, Earl of Derby, as heir of his grandfather; but as to one acre in Kelsall, he vouched one Eyton and his wife, as heirs of the other feoffee; while as to one other acre, he pleaded denying that Fitton was the heir at law. The Eytons answered, alleging that the representatives of Sir Hamon's daughters were his heirs: the plaintiffs rejoined that they were bastards; and issue was at once joined on that plea, resulting in a verdict for the plaintiff. Then note a very significant fact. No sooner was judgment given in regard to the two acres than the plaintiff executed in court two deeds of quitclaim to the defendant, the first releasing all right in the bulk of the estate, the second in the two acres he had just recovered—and these deeds immediately follow upon the same membrane.[20]

Now what the legal effect of such contrary verdicts may be, I am not qualified to say. The court could not be conversant with every matter entered on the rolls more than forty years before, or know that the issue was *res judicata*: nor, so far as appears by the record, was it informed of the fact, which would be hardly unknown to both the parties. Would they have chosen knowingly to try it a second time? Had they even the power lawfully to do so? Or supposing a second verdict to have been obtained by subterfuge, would it hold good after a scrutiny of the records had disclosed the first? These are points for lawyers to decide. But, regarded as historical evidence, there are certainly good reasons for preferring the earlier verdict. In 1344 the facts of the case must have been widely known and well remembered, and the evidence of contemporaries was still procurable. And at that trial the persons directly interested in proving the facts on either side were parties to the suit. In 1386 it was quite otherwise. More than fifty years had passed since the death of Sir Hamon; more than seventy since his remarriage with Alice; probably a century at least since the birth of the youngest coheir. And those who were directly affected by the issue were not then parties to the suit, and had no opportunity of putting their case before the jury—indeed, it is hardly too much to say that a verdict against them was snatched behind their backs. To my mind, the whole business savours distinctly of collusion.

To return to Sir Hamon's three daughters by his wife Mary de Beauchamp,[21] Cecilia Fyton, the eldest, was ancestress of Fitton of Bolyn, Venables of Bolyn, Trafford, and Booth of Dunham: the pedigree is well known,[22] and we need not stay now to elaborate it. The issue

[20] Ches. Plea Roll, 9 and 10 Ric. II, m. 8. See *Genealogist*, N.S., xiii, 249, 250.

[21] Leycester adds a fourth daughter, Alice, wife of Hamon de Hilond. In the litigation about the Mascy inheritance the existence of such a daughter is never once referred to; but in 1347 one Hamon, son and heir of Alice de Masci, daughter and one of the heirs of Hamon de Masci, knt., quitclaims to Henry of Lancaster all right in the lands which were his grandfather's. Duchy Lanc. Great Cowcher, i, f. 45. Evidently she was not on the same footing as the other three daughters. Yet she can hardly have been born later than 1308, since her son was presumably of age in 1347; while Mary de Beauchamp we know was living in 1309. Was there an intrigue between Sir Hamon and his later wife Alice, and had they a daughter born before marriage? Such a *liaison* may have formed the motive for a divorce.

[22] The evidences given above effectually dispose of the absurd conjecture about Cecilia made by the later editor of Ormerod, and followed unhappily by others, *e.g.* by Earwaker. It is lamentable that hands so incompetent have been permitted to tamper with Ormerod's admirable work.

of Dionysia was evidently extinct by 1386; for the only representatives of the coheirs at that date were Venables and Joan Grosvenor. Isabella, the third daughter, married Hugh de Dutton, of Dutton, the younger, who came of age in December 1297, when Sir Hamon entered into a recognisance to him for sixty marks.[23] Thomas, his son and heir, born in 1314, was by a second wife, Joan. By Isabella he had three daughters, Katherine, wife of William de Hyde, Margaret, wife of Randle de Ditton, and Matilda, who in 1338 all sued for a messuage and land in Dunham, which was settled upon their mother at her marriage.[24] The same three daughters were among the claimants in 1344; Matilda, however, was not a party to the fine of 1345. But Joan, Katherine's grand-daughter, who married Robert Grosvenor, was the daughter of Robert de Pulford; and the Pulford property passed in her right to Thomas Grosvenor, her son.[25] Evidently, therefore, since General Wrottesley has shewn that Robert was her son and heir, Katherine Hyde had been previously married to a Pulford, whose christian name I have not discovered. There is some obscurity in regard to the Pulford pedigree. Our knowledge of it is derived chiefly from mere copies of charters and other documents, the completeness and accuracy of which cannot altogether be trusted. But an inquisition, taken early in 1362, after the death of John, son of Robert de Pulford, shews that he held Pulford and other estates, including three messuages and a carucate of land in Dunham Mascy, and that Joan (aged fourteen years and a half) was his sister and heir.[26] She was hastily married, without proving her age, suing out livery of her lands, or obtaining licence, to Thomas, son of John de Belgrave, who accordingly had to procure pardon the same year:[27] and it seems that there were children of that marriage also. Three daughters are named, Maud, Elizabeth, and Joan; and Dr. Ormerod, finding that Thomas Grosvenor recovered the Pulford estates from Robert, son of Robert de Legh, assumed that Isabella, the wife of Robert Legh, of Adlington (said to have been daughter and heir of Thomas de Belgrave, and to have brought Belgrave to the Leghs) was either a fourth daughter of Joan, or perhaps identical with the Elizabeth, just named. We have, however, no evidence that Joan's husband was lord of Belgrave; while the form in which his name appears may be intended to distinguish him from another Thomas, the head of his family. On the other hand, we learn that there was an Isabella, married (probably at an early age) to a son of John de Pulford's, who had died before his father, and that she took by settlement a life estate in Pulford.[28] The question therefore arises whether she was not afterwards wife of Robert Legh, and mother of the younger Robert, who released the Pulford property to the Grosvenors. As to the daughters of Joan, by Belgrave, nothing seems

[23] Her husband's name in the pleadings, 1338. Proof of age and recognisance, Ches. Plea Roll, 25 and 26 Ed. I, m. 11 d., 15 d.

[24] Ches. Plea Roll, 12 and 13 Ed. III, m. 2. The property claimed seems to have been a part only of their mother's estate; see the Pulford inq. below.

[25] See Ormerod, Pulford, ii, 854, and Allostock, iii, 148.

[26] Ches. Inq. 35 Ed. III, No. 8. The holding in Dunham completes his identification.

[27] Ches. Recogn. Roll, 35 and 36 Ed. III, m. 3. Fine 400 marks.

[28] Ormerod; see under Allostock.

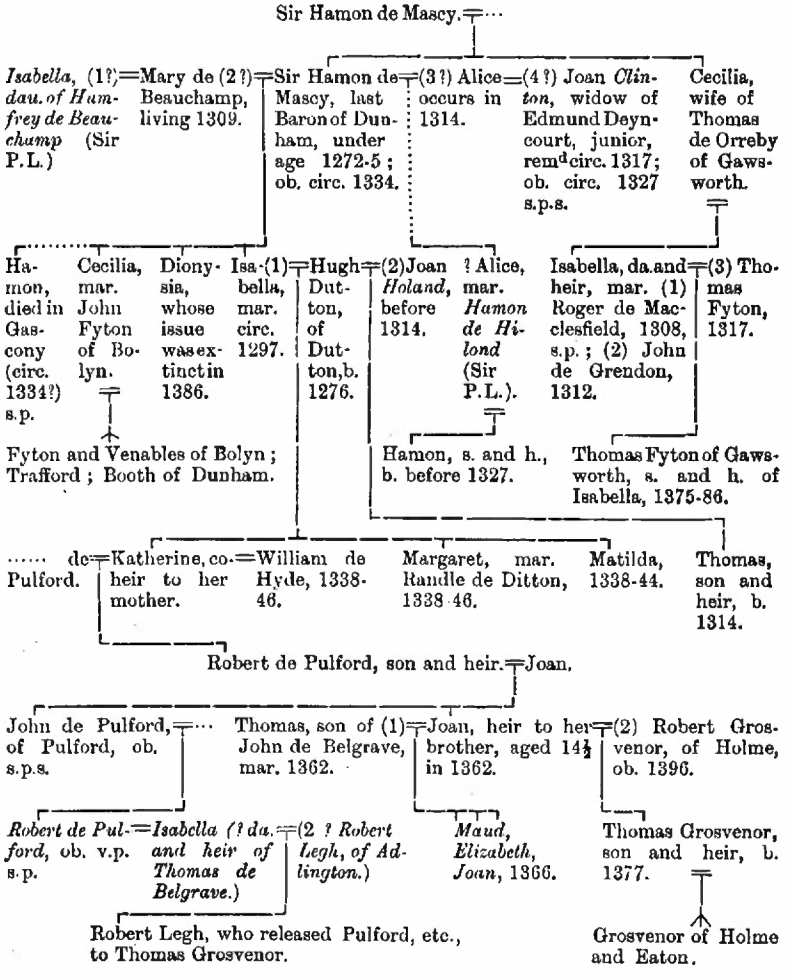
to be positively known. Ormerod elsewhere suggests that they died without issue, apparently because their mother's lands became vested in Thomas Grosvenor. But the subsisting life interest of Isabella, and the irregularity of Joan's first marriage, would very likely stand in the way of a valid settlement; and it may well be that her second husband's legal advisers were able to take advantage of Belgrave's rashness, to the detriment of his children and to the profit of her second family. At all events I have seen nothing that amounts to proof of the failure of her first husband's issue; and it should be remembered that, supposing Belgrave left a son, who survived his mother,[29] then (apart from settled estates) the inheritance would descend through this son to his sisters of the whole blood, and not to his half brother.

The special significance of these details will shortly appear. Ultimately, in 1433, after the lapse of almost a century, Dunham Massey passed in moieties from the Lestranges;[30] and one moiety, including the *caput baroniæ*, became vested in Sir Robert Booth, and Dulcia his wife, who was the representative, or rather one of the joint representatives, of Cecilia Fyton. The other was equally shared between Sir Thomas Stanley and one William Chaunterell. The latter is said to have married the daughter and heir of Thomas de Bolde; and the form of feoffment rather suggests that his interest also may have arisen through his wife. Now if we could shew that this transaction was not one simply of bargain and sale, but in pursuance of a judgment in favour of Mascy's heirs, or even a compromise resulting from the revival of their dormant claims, it would add a new and powerful argument to those I have already advanced for their legitimacy. Or supposing it were found that the second moiety passed to the heirs of Isabella, as the first to those of Cecilia, that in itself would be highly suggestive. But I have not so far succeeded in tracing either the descendants of Joan de Pulford, by her first husband, or the ancestors of Chaunterell and Bolde; nor can I suggest any loophole in the received pedigree of the Stanleys by which such a descent might be brought in. The discovery, however, of the record, which we owe to General Wrottesley's industry, reducing as it does the number of Mascy's representatives to two lines only, seems at once to anticipate a division by moieties, and certainly tempts one to surmise that the partition which actually took place was thus to be accounted for. Possibly a more extended study of the Plea Rolls would bring to light further facts, and either prove or disprove such a hypothesis.

[29] The words of the inq. p.m. Robert Grosvenor (Ches. Inq. 19 Ric. II, No. 9) seem to imply that no son of the first marriage was then living; but Joan may have been dead for years at that time. The document of 40 Ed. III, in which Belgrave's daughters are named, as quoted in Ormerod, does not mention one either; but there may have been a son born after that date.

[30] Ches. Recogn. Roll, 11 and 12 Hen. VI, m. 12d. It may be asked, how came Trafford to take no share, if this were a partition. It appears that Trafford and Booth had made a partition shortly before of the lands inherited by their wives as coheirs, and possibly the dormant claim to Dunham may have been, by agreement, allotted to Booth as part of his share. The Booths of that generation were evidently men of extraordinary energy, ability, and influence—just the men, therefore, to take up a difficult claim, and carry it to a successful termination.

The subjoined pedigree will serve to illustrate my narrative. In it I have printed in *italics* all that I derive from the statements of Ormerod and Sir Peter Leycester, and in one instance a conjecture of my own, as distinguished from facts of which I have found proof in original records.



W. H. B. B.