

II.

NOTICE OF A DEED (*circa* A.D. 1226) SETTLING A CONTROVERSY BETWEEN THE RECTOR OF ST CUTHBERT'S, HALES (COLINTON), AND THE CHURCH OF ST CUTHBERT'S, EDINBURGH, IN REGARD TO THE TEINDS "DE CRAGGIS ET GORGIN." By the REV. WILLIAM LOCKHART, A.M., F.S.A. SCOT., MINISTER OF COLINTON, MID-LOTHIAN.

About the year 1226, a controversy having arisen between the rector of St Cuthbert's Church, Hales (Colinton), and St Cuthbert's Church, Edinburgh, in regard to the teinds "de Craggis et Gorgin," and the controversy having been settled by ecclesiastical authority, the following is the Deed of Settlement, as recorded in the *Chartulary of Dunfermline Abbey* (p. 136) and in the *Liber Cartarum Sancte Crucis* (p. 47).

### *Concerning the "Craggis" and "Gorgin."*

John, by the grace of God, abbot of Lundores, and Henry, by the same, prior of St Andrews and . . . prior of Lundores, to all the faithful in Christ to whom this present writing shall come, greeting, in the Lord Everlasting;—Be it known to you all that, with the mandate of our Lord the Pope, it becomes us to settle the controversy between the abbot and convent of Dunfermline and Mr Ricard, rector of the church of Hales, on the one part, and the abbot and convent of the Holy Cross (Holyrood), on the other, concerning the teinds of the “Craggis” of “Gorgin” (Gorgie). At length litigation between parties has of consent been thus amicably settled; that is to say, that the foresaid abbot and convent of Dunfermline, and Mr Ricard (Richard), rector of the said church of Hales, for himself and his successors, shall renounce for ever the foresaid litigation under this agreement, and that the aforesaid abbot and convent of the Holy Cross (Holyrood) shall give, for the sake of peace, each year, one Bezant, or two shillings, at the Feast of St Martin (Martinmas) towards providing lights in the church of St Cuthbert of Hales; and thus all controversy between the churches of St Cuthbert of Hales and St Cuthbert, under the Castle of Edinburgh, shall cease for ever. We as judges, delegated by the authority of our Lord the Pope, have confirmed this foresaid amicable compromise, which we were appointed at that time to arrange; and we have affixed our seals in corroboration, along with the seal of our venerable father the Bishop of St Andrews, and his chapter, and the seal of the abbot and convent of Dunfermline, and the seal of Master Ricard, rector of the church of Hales, with these witnesses, H.      bishop of Dunkeld; Master Laurence,

archdeacon of St Andrews; Master Matthew, chancellor of our Lord the King; Walter de Boscho, archdeacon of Lothian; Randolph Black, deacon of Lothian; Master Peter of Ramsey (Rames); Gilbert of Strivelling (Stirling), and Andrew, Clerks to our Lord the King, Ricard and Hugo Clerks, W. de Boscho, and many others.

The somewhat important controversy, which the above deed settles, evidently arose from the difficulty of deciding as to the actual boundaries of two contiguous parishes, or rather perhaps the boundaries of the lands belonging to two monasteries. In the first instance, apparently, the controversy was between the two churches, and when they could not agree in the matter the two religious houses to which the churches, and these lands attaching to them, respectively belonged, were drawn into the conflict, and when these latter parties could not come to a settlement an appeal was made to the supreme Pontiff, who, by his mandatories John, abbot of Lundores, and Henry, prior of St Andrews, and the Prior of Lundores, finally disposed of the matter.

The church and lands of St Cuthbert's, Hales (or Colinton), were presented to the Church of the Holy Trinity at Dunfermline, which was ultimately merged in the Abbey, by Ethelred, one of the sons of Malcolm Canmore and Queen Margaret, towards the close of the eleventh century. The church and lands of St Cuthbert's, Edinburgh, were presented, along with the chapels of Liberton and Corstorphine and other churches and lands, to the Abbey of Holyrood, at its foundation by David I., a younger brother of Ethelred, about the year 1128. Ricard, or Richard, a rector of Hales in the early part of the thirteenth century, evidently imagined that the Crags of Gorgie, and perhaps the lands of Gorgie, were included in Ethelred's gift, and that therefore they belonged to Dunfermline Abbey. If this were so, he, as rector of the parish of Hales, naturally claimed the teinds. But, on the other hand, the Abbey of Holyrood, as interested in St Cuthbert's Church, Edinburgh, and the teinds and lands attaching to it, put forward a claim at the same time to the very same property; and in all probability a settlement was only arrived at after a lengthened and troublesome litigation. The controversy, however, which may have lasted for a considerable time, was ultimately settled, as most controversies of the kind then were, by ecclesiastical authority alone.

In regard to the terms of the above settlement it may be noted—

1. First of all, that although the deed has no date, yet it must have been executed somewhere about the year 1226, because, in the first place (1) the name of the same person, Ricard or Richard, rector of the church of Hales or Colinton, appears in another deed which is to be found in the chartulary of Dunfermline Abbey, dated in that same year, namely 1226; and (2) secondly, because John        was abbot of Lundores, and Henry prior of St Andrews about that time.

2. It has further to be noted in regard to this deed that the settlement therein set forth is one of *compromise*—"amicable compromise," as it is called. Both parties evidently imagined that they had a right to the disputed property, and not only so, but it would appear they were able to show good grounds for the claims which they respectively advanced, because in the settlement come to, while the one litigant evidently receives the teinds, the other gets an apparent equivalent in an annual payment of money. St Cuthbert's Church, Edinburgh, apparently obtains the teinds of the Crags of Gorgie, but the Abbot and convent of Holyrood, as representing St Cuthbert's, Edinburgh, is called upon to pay annually to the Church of St Cuthbert's, Hales, one Bezant,<sup>1</sup> or two shillings, at what is now known as the term of Martinmas, to provide lights for the latter church.

3. With regard to the parties appearing before the mandatories, so far as the deed itself indicates, it may be observed that, while Ricard or Richard, the rector of the Church of St Cuthbert's, Hales, is a party to the settlement and affixes his seal to the instrument, no appearance is made by any one as belonging to St Cuthbert's Church, Edinburgh, and therefore a natural and probable inference is that there was no stated clergyman at that time in the latter church, the services being performed, in all probability, by ecclesiastics from Holyrood Abbey.

4. Then, again, the Bishop of St Andrews, within whose jurisdiction the two parishes as well as the two monasteries were situated, is not recognised apparently by either litigant as the party to settle the

<sup>1</sup> A Bezant was a gold coin of Byzantium (Constantinople), here apparently valued at two shillings. Bezants varied in weight and value. There were also white or silver Bezants in circulation in the Middle Ages.

matter in dispute, the appeal being made to the supreme Pontiff, and when that authority delegates the matter to others, it is not to the bishop of the diocese, but to the Priors of two religious houses in that diocese, and also within, not the county of Mid-Lothian, but the county of Fife. The sanction, however, of the Bishop and his chapter is given to the settlement by affixing their seal in corroboration.

5. But now the question naturally arises, Where in the neighbourhood of Edinburgh, and to the south-west of the city, are these *Crags*? There cannot be much difficulty in fixing the situation of Gorgie. For in all probability the ancient district would be somewhere about the place where the present village of that name is now situated.<sup>1</sup> But what are we to understand by the *Crags of Gorgin*, or Gorgie, the teinds of which formed the subject of dispute between the above-mentioned churches and monasteries at that early period of Scottish history? The only place answering to the description at the present day is either the rising ground to the north of Gorgie, now known as Murrayfield, or the Craiglockhart Hills, lying to the south-east of the present village of Gorgie; and since the latter are contiguous to the lands of the ancient parish of Hales, and now form part of the parish of Colinton, while the former do not, but are at a considerable distance from the boundary, the natural inference is that the Crags of Gorgie were the hills now known as the Craiglockhart Hills. It is said (Murray's *Biographical Annals of Colinton*, p. 47) that Sir Simon Lockhart purchased the estate which now goes by the name of Craiglockhart from William Lamberton, its previous possessor, during the reign of Alexander III., or between the years 1249 and 1285. If this be so, it would rather seem to favour the supposition that about the year 1226 the hills in question were known as the Crags of Gorgie, and that after the family of Lockhart became their proprietors at a later period, they were then or some time after changed in name to that of the Crags of Lockhart, or Craiglockhart. Indeed, it would appear that the Lockharts were for centuries the proprietors, or occasional proprietors, of the estate here referred to. For

<sup>1</sup> The ancient Gorgin might be a village or town where the Scottish and English armies, passing to the south of the castle of Edinburgh, rested between Stirling and Berwick, and other places to the west and east of the country.

in 1689, and evidently also for some years before his death, Sir George Lockhart, Lord President of the Court of Session, held the lands. This distinguished lawyer and judge was assassinated by John Chiesley, of Dalry, in the above-mentioned year, as his lordship was entering his own house in the Old Bank Close, Edinburgh, after hearing sermon in the High Church. Chiesley, after being summarily tried by the Lord Provost (Sir John Hall of Dunglass), was thereafter hanged on a gibbet, having previously had his right hand cut off, with the pistol (the instrument of the murder) suspended from his neck, and his body hung in chains. (Murray's *Biog. Ann. of Colinton*, pp. 46-50; Macaulay's *Hist. of England*, vol. ii. p. 118; Burnet's *Hist. of his Own Times*, vol. i. p. 414.)