

An incident in the fall and rise of Hubert de Burgh

The great vortex created by Hubert de Burgh's sudden fall from power in 1232 and by his partial rehabilitation after 1234 stirred around it a number of local eddies and currents. One of these subsidiary disturbances is recorded in Fine Roll C 60/33 (18 Henry III, 1233–1234). The printed version (no.327 in the Calendar) and the website text are laid below. Although, as indicated, the entry is undated, the surrounding material shows that it belongs to August 1234.

[No date] *Hampshire. Because the king has pardoned that amercement.* These below-written were amerced before the king in the eyre of R. of Lexington and W. of York at Doncaster, the rolls of which eyre are at the Exchequer:

Hubert de Burgh, for disseisin against Herbert son of Matthew. The assize was taken before Matthew of Bigstrup and his associates, justices constituted for this, 100 m.

By W. Raleigh.

A note to the published text indicates that 'the entry has been struck through because the king has pardoned that amercement, but "in the fourteenth year" appears to have been erased here before cancellation'.

In setting out the entry like this, the project team has, for once, made a mistake, indeed two mistakes, as is clear from the image of the original roll:

http://www.finerollshenry3.org.uk/content/fimages/C60_33/m03.html.

First, the words 'These below-written were amerced before the king in the eyre of R. of Lexington and W. of York at Doncaster, the rolls of which eyre are at the Exchequer' have been carried down from the entry next but one above. They do not appear in the entry itself, and do not seem to belong to it. That they do not refer to this entry can be established on internal grounds: the case concerns Hampshire, not Yorkshire, and the justices appointed were Matthew of Bigstrup and his associates, not Robert of Lexington and William of York. Also on external grounds: the record of the Doncaster hearings in Yorkshire Eyre of 1231 does not appear to mention this case.¹

Second, the amercements actually referred to as 'below written' have been omitted from the calendar. They are, in fact, one of 20 marks imposed on Philip of Kyme for failing to prosecute a case against Richard de Percy, and another of 100 marks imposed on Richard de Percy for disseisin against Peter de Mauley.

The entry should, therefore, read as follows.

[No date] *Hampshire. Because the king has pardoned that amercement.*

¹ TNA JUST 1/1042 & 1043.

Hubert de Burgh, for disseisin against Herbert son of Matthew. The assize was taken before Matthew of Bigstrup and his associates, justices constituted for this, 100 m.

By W. Raleigh.

A note should then indicate, as it does now, that the entry has been cancelled because the king had pardoned the amercement. (It will be remembered that, according to editorial conventions marginal annotations are added in italics). The note would also state, as now, that 'in the fourteenth year' has been erased before cancellation.

The note 'by W. Raleigh' presumably indicates that it is he who has authorised the cancellation and judging from the ink and pen it does seem to be later than the entry itself.

Matthew of Bigstrup's appointment to hear this case appears on the unpublished dorse of the Patent Roll for 17 Henry III.² The commission was dated 8 January 1233, and the assize of *novel disseisin* he was to hear was brought by Herbert fitz Matthew against Hubert de Burgh and other named individuals for land in Warblington in Hampshire. It was to be heard at Winchester in the quindene of St Hilary following. Presumably 'in the fourteenth year' in the fine rolls was apparently the date of the assize or the amercement was erased because it was clearly an error. The actual appearance of the amercement in the fine rolls at this point in August 1234, so that the exchequer could set in train the process of its collection, is not easy to explain. Why did it not appear in 1233 after the actual case? Perhaps that was simply due to an administrative oversight. Perhaps Hubert raised the issue now with a view to getting the amercement pardoned, in which case William Raleigh duly obliged.

William Raleigh, who authorised the pardon, had been justice of the court *coram rege* since May 1234. He did not assume the title of justiciar, but was nonetheless the senior judge in England.³ One of William Raleigh's aims now that he was in a position of influence was to do justice, as he saw it, for Hubert de Burgh. This Hampshire case was one of the slights Hubert had suffered and which William Raleigh was intent on putting right. For William Raleigh, Hubert's misfortunes were in any case a symptom of the arbitrary nature of royal rule under the regime of Peter des Roches, and Raleigh's wider purpose was to restore a kingship based on law.⁴

Hubert himself experienced two years of turbulence, humiliation and danger between 1232 and 1234. Until the winter of 1231/2 he had been the most powerful man in the kingdom and since 1224 had been effectively the head of the king's government. But the

² TNA C66/43.

³ D.Crook, 'Raleigh [Ralegh], William of (d. 1250), justice, administrator, and bishop of Winchester' in *Oxford Dictionary of National Biography*, (Oxford: Oxford University Press, 2004), xlv, pp.863-4.

⁴ See D.Carpenter, *The Reign of Henry III*, (London, 1996), pp.39-42.

early months of 1232 saw the growing ascendancy of Hubert's enemies in the king's counsels, culminating on 29 July of that year, when he was stripped of the office of justiciar, had the custody of various royal castles taken from him, and was ordered to give an account of his stewardship of finances while he had been justiciar.⁵ By the autumn of 1232 he was a royal prisoner at Devizes. In November he was put on trial. Much of his land, both inherited and acquired, was taken from him. In the following October Hubert was rescued from Devizes by the men of the Earl of Pembroke, then in rebellion against the king, who took him to Chepstow castle. For Hubert it merely meant exchanging the hostile custody of the king in one castle for the more friendly custody of the king's opponents in another.

The first sign of better things to come for Hubert was the king's return of Hubert's hereditary manors to his wife's possession in February 1234. Then in April came the dismissal of Peter des Rivaux from the post of treasurer of the exchequer. Peter was the nephew and ally of Peter des Roches, Bishop of Winchester. Uncle and nephew together had been the architects of Hubert's fall. This initial sign of returning favour was followed in May by the king's pardon and the restoration of Hubert's hereditary lands to him in person. William Raleigh's action in August was one more small step in the process of Hubert de Burgh's rehabilitation.

Herbert son of Matthew, who brought the case against Hubert de Burgh, had interests in several counties, and one of his main manors was Warblington, on Hampshire's border with Sussex.⁶ This had been granted to Herbert's father, Matthew son of Herbert, by King John in exchange for lands he had lost in Normandy.⁷ Matthew died early in 1231 and Herbert inherited at that point.⁸ But Herbert's patrimony was a mixed blessing. He also inherited from his father an outstanding debt to the crown of money for which his father had failed to account during his time as sheriff of Sussex between 1225 and 1228. The record of the debt was transferred from the Sussex section of the Pipe Roll to Matthew's home county of Hampshire in 1229/30.⁹ In 1231/2 the debt was passed officially to Herbert. That year his obligations to the Crown were set out in the Pipe Roll as two figures, £58 10s 11d from the twelfth year, and £28 16s 8d outstanding from the eighth year. On top of which he owed 'the whole profit of the county of Sussex for the twelfth year'.¹⁰ Herbert dealt with these debts to the crown by arranging more time to pay from year to year. Ten years was clearly not enough, since in August 1242 he still owed £97 19s 7d.¹¹

⁵ D.Carpenter, 'The Fall of Hubert de Burgh', chapter 3 of his *Reign of Henry III*. For both Hubert's fall and the subsequent regime of Peter des Roches, see Nicholas Vincent, *Peter des Roches: an alien in English politics*, (Cambridge, 1996), chapters 8-13.

⁶ *Calendar of Charter Rolls*, 1, p.242 [1239].

⁷ *Close Rolls 1227-1231*, p.477.

⁸ *Calendar of the Fine Rolls 1230-31*, http://www.finerollshenry3.org.uk/content/calendar/roll_030.html, nos.117, 122, 123, all Feb 1231.

⁹ TNA E372/74 m.4.

¹⁰ TNA E372/76, m.2.

¹¹ *Calendar of Fine Rolls 1241-2*; http://www.finerollshenry3.org.uk/content/calendar/roll_039a.html, no.447.

His financial embarrassment did not prevent Herbert from playing a significant part in public life. In 1234 he was one of a large group of magnates who consented to an important provision on the law of bastardy.¹² In 1238 Herbert was one of those who gave judgement in the earldom of Chester case.¹³ In 1239 and again in 1241 Herbert witnessed royal charters.¹⁴

Nor did Herbert's financial difficulties prevent him gaining Warblington, which brings us to his quarrel with Hubert de Burgh. Warblington had come into the king's hands following the loss of Normandy to the king of France in 1204. This was because it had been held by a branch of the Curcy family who took the French allegiance in 1204, and thus had their English lands confiscated by King John. Warblington was far from alone in falling to the king in this way. Indeed, 'the lands of the Normans', as they were known, became a major royal resource, much used as patronage for servants and supporters. In the process they also became much fought over and thus a major source of political instability.¹⁵ Warblington was evidently no exception. By 1219 it was shared between Matthew fitz Herbert and William de Aguillon, with Matthew having the lion's share.¹⁶ Since Matthew only held it during the king's pleasure, it could on his death have easily been resumed by the crown. In fact, in February 1231, Matthew was given seisin of it to sustain him in the king's service overseas (probably in Brittany) as long as he was there by the king's order.¹⁷ A few months later, in June 1231, Herbert did much better and secured a royal charter granting him Warblington in hereditary right.¹⁸ It is a striking fact that Hubert de Burgh does not witness this charter, although he did witness the one at the end of the month which made a hereditary grant to William de Aguillon of his part of Warblington.¹⁹ One wonders, therefore, whether Hubert resented the grant to Herbert. The initial concession, after all, had only been while Herbert was overseas in the king's service. Perhaps Hubert had intended to install William de Aguillon in the whole of the property. The next step seems revealed in the assize Herbert brought in January 1233. There he accused Hubert and no less than 107 other named individuals, including three who shared Hubert's family name, Aylmer, Robert and Nicholas, of disseising (that is dispossessing) him of the land in Warblington unjustly and without judgement.²⁰ Unfortunately only the commission to hear the case survives, enrolled on the dorse of the patent rolls. On the face of it, it looks as though Hubert had sent a very large band of men to dispossess Herbert of some or all of the property. If true, this would be a striking example of him taking the law into his own hands.

¹² *Curia Regis Rolls*, xv, no. 1178.

¹³ F.W.Maitland (ed.) *Bracton's Note Book*, 3 vols. (London, 1887), iii, p.283 (case 1273).

¹⁴ *Calendar of Charter Rolls*, i, pp.243, 263.

¹⁵ See Vincent, *Peter des Roches*, p.532 and <http://www.hrionline.ac.uk/normans/> for the 'lands of the Normans' project.

¹⁶ *Book of Fees*, i, p.258.

¹⁷ *Close Rolls 1227-31*, p.515.

¹⁸ *Cal. Charter Rolls 1226-57*, p.133. The grant promised an exchange should the king restore the manor to the right heirs.

¹⁹ *The Royal Charter Witness Lists Henry III*, ed. M. Morris, 2 vols, (List and Index Soc., 291, 292, 2001), i, 103.

²⁰ TNA C66/43, dorse.

If Hubert had dispossessed Herbert of the manor, Herbert seems to have recovered it through the assize of novel disseisin in 1233. He may also have taken over William de Aguilon's part of the property. At any rate in September 1234, after Hubert's rehabilitation, William secured a writ which informed the exchequer of his charter and perhaps this was part of his more general re-establishment at Warblington. The inquiry of 1242 shows him and Herbert fitzMatthew still sharing possession so at least Herbert held onto his portion, despite the pardon of Hubert's amercement.²¹

Why did Herbert act when he did? The winter of 1232/3, as we have seen, was the low point of Hubert de Burgh's career. With the former justiciar safely imprisoned at Devizes and manifestly in disgrace, those with complaints against Hubert took the opportunity to settle their grievances. Writs were issued against Hubert to win back lands he had taken.²² Herbert's action can be understood against that background.

What of the other person in this drama, Matthew of Bigstrup, who gave the original judgement? Matthew of Bigstrup had established a reputation during the reign of John as 'the most experienced professional attorney of the day'.²³ After the war between John and the barons, Matthew entered the service of Falkes de Bréauté.²⁴ Between 1217 and 1224 Matthew appeared frequently for Falkes and his family in the courts, as well as supporting Falkes in legal business within Falkes' shrievalty. Falkes' fall from power in 1224 had drastic consequences for Matthew. He had to fine in ten marks to secure the king's grace and benevolence for his trespass in being one of Falkes's *familia*.²⁵ Nonetheless the taint of the association remained. Matthew disappeared entirely from the courts for three years, taking up his work as an attorney only in 1227, and emerging as a justice of assize for a brief period from 1229 to 1233. He died at some time between May 1235, when he was in court at Westminster,²⁶ and September 1237, when his second wife Joanna appears as a widow.²⁷

Hubert de Burgh was the instigator of the defeat which destroyed Falkes de Bréauté in 1224, which put back Matthew's career for several years, and which cast a shadow over the final decade of Matthew's life. So Matthew of Bigstrup found himself in a curious position on this Hampshire assize, faced with a case in which his former master's greatest enemy was dependent on his judgement. Hubert was now where Falkes had been in 1224, and the magnates who had been with Falkes before his fall were now, or some of them, in power. 'If only Falkes himself had lived to see the day', as David Carpenter commented on the political situation in 1232.²⁸

²¹ *The Book of Fees*, ii, p.708.

²² C. Ellis, *Hubert de Burgh, a study in constancy*, (London, 1952), p.144. For an example, *Close Rolls 1231-1234*, p.177 (Jan 2nd 1233).

²³ D. A. Carpenter, *The Minority of Henry III* (London, 1990), p.117.

²⁴ *Calendar of the Fine Rolls 1223-4*, no.250.

²⁵ *Pipe Roll 1224*, p.25.

²⁶ *Curia Regis Rolls*, xv, no.1446.

²⁷ *Close Rolls 1234-1237*, p.564.

²⁸ Carpenter, *The Minority of Henry III*, p.393.

If Falkes did not live to see the day, then at least some of his old allies and former clients were there to see it – and to make the most of it. While Peter de Maulay, Engelard de Cigogné and Robert Passelewe were determining affairs at the highest level, in Hampshire a little eddy of the great events was swirling around Matthew of Bigstrup. Almost certainly, Matthew was chosen to lead the team of justices, the only time he occupied such a position and the only occasion on which he acted as a justice beyond Oxfordshire or Berkshire, precisely because his antipathy towards Hubert could be relied on. The case between Herbert son of Matthew and the now humbled Hubert de Burgh was Matthew of Bigstrup's opportunity to strike a posthumous blow to avenge his great patron. Perhaps in the process he treated Hubert unjustly. That at least is the implication of the pardon, and the way William Raleigh secured it. The size of the amercement itself was not exceptional for an offence of that type committed by someone of Hubert's wealth. We may be sure that Hubert himself would have defended his conduct and denied he had acted against the law and custom of the realm which, as justiciar, it was his duty to protect.

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