

THE ORIGIN OF OLD AUSTER TENEMENTS IN SOMERSET

BARRY LANE

It is now over 100 years since Mr H Symonds asked in Somerset and Dorset Notes and Queries “Can anyone explain the term ‘old auster’?”¹ Since then there have been few satisfactory replies.² I hope the following will add more evidence and a deeper understanding of the issues around the term.

A similar question had been asked earlier in 1867 by Mr Dyke Reeve in the Somerset County Gazette, which had elicited the answer – “Some ancient deeds have reserved *unum austurcum* (a hawk) as a rent to the lord. An auster tenement, then, would mean a holding subject to the payment of a hawk: or perhaps, rendering falconer’s service by the tenant”.³ This charming explanation is a most unlikely derivation, given how many such tenements existed in most of the manors in the Axe valley.⁴

By contrast *The Revised Medieval Latin Word-*

*List*⁵ indicates that the word **astrum** meaning ‘hearth’ or ‘home’ was in common use from at least 1221.⁶ The fuller *Dictionary of Medieval Latin from British Sources*⁷ expands the meaning as ‘hearth as unit of habitation, household’ and, with **vetus** or **antiquum** it becomes ‘old auster, a (tenement annexed to) old-established habitation (with specific rights and obligations)’.

From its Anglo-Norman origin the term remained in continuous use until at least the time of the Parliamentary Inclosures of the common lands of the Axe valley in the period 1778-1853. As part of the required legal process of Inclosure the Commissioners were required, at a public meeting, to establish who held grazing rights on the commons. Details of these meetings rarely exist but the Commissioners reported in their Awards the basis of the farmers’ claims. The phrase used in the

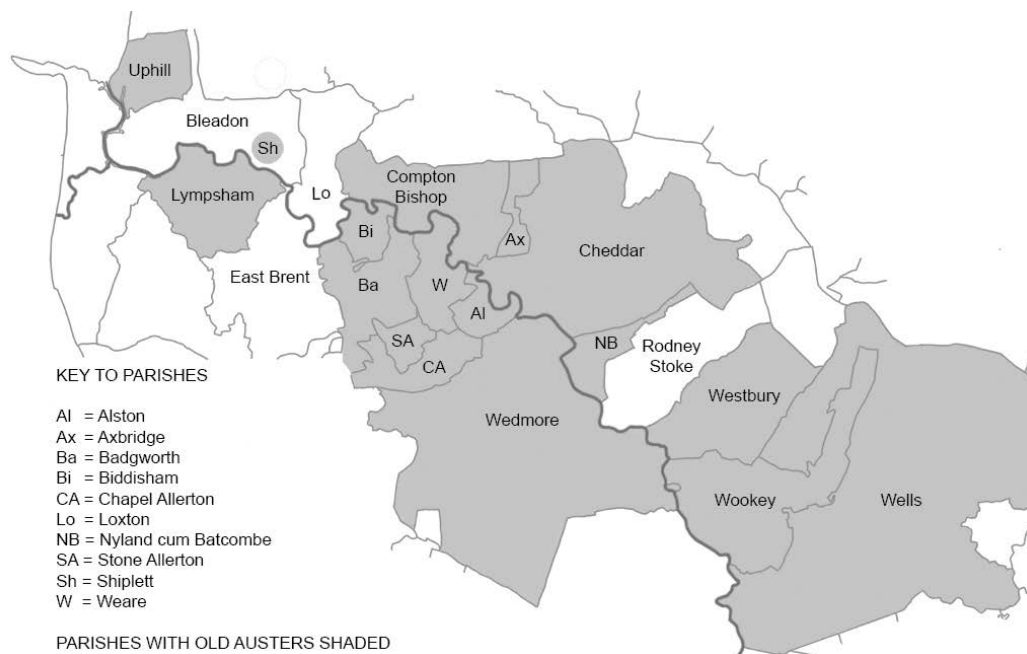


Fig. 1

Westbury Inclosure Act⁸ was “persons are entitled to rights of common in and upon the said commons or wastelands, in right of their tenement, commonly called old auster or ancient tenements.” In other Awards phrases such as “ancient tenement” or “old enclosed tenement” occur alone. In some Awards the Commissioners simply asserted that ‘so-and-so’ had the right of common and the term ‘old auster’ was not used.

A search of all the available Inclosure Awards in 19 ancient parishes covering the low-lying moors of the Axe valley and the upper parts of the Mendip Hills from Wells to the sea at Uphill, revealed that old auster tenements were recorded in all but three – Loxton, East Brent and Rodney Stoke. (Fig. 1.) In the parish of Bleadon there were no old austers recorded except within the small hamlet of Shiplate. The absence of any mention of old auster in some Awards does not of course mean that they were not present, just that they were not recorded using that term. Further research in other documents might establish this.

One of the characteristics that has been suggested as defining old auster tenements is that they are found on ecclesiastical estates. Indeed, along the Axe Valley they are found on the Domesday estates of the Bishop of Wells (Wells, Wedmore and Westbury), of the Bishop of Winchester (Shiplate in Bleadon) and of the Abbot of Glastonbury (Lympsham, and Nyland). However they also occur on the lands belonging to the King (Cheddar and Axbridge) and to lay barons such as Serlo de Burcy (Uphill) and Walter de Douai (Badgworth, Allerton, Weare and Alston Sutton).

Another characteristic that has been suggested as defining old austers is that their rights of common grazing were stinted, that is that the tenement only had the right to graze a specified number of animals or, that on the contrary, auster tenements were unstinted. In Rodney Stoke⁹ each ancient tenement had the right to stock eight oxen on Stoke Moor; and allotments of the newly enclosed land there were proportional to the number of oxen that each tenement could demonstrate that they had the right to stock. This varied from one to 52, including occasionally 1.5 oxen, which presumably meant that one ox was shared between two tenants. This suggests that consolidation and division of tenements had taken place over the centuries. In Loxton¹⁰ each allotment was based upon a standard ‘sheep leaze’ of 80 sheep; again consolidation and division was evident. Tenements in Cheddar were stinted on the basis of 400 sheep¹¹ whereas

in Bleadon¹² the size of a standard stint was not evident, if there was one; allotments were made on the basis of a wide range of numbers of sheep ranging from five to 280, with no clear common factor. In Banwell¹³ grazing was not stinted on Banwell Moor, but was stinted on Banwell Hill, with old auster tenements having the right to graze a wide range of numbers of sheep, from 2.5 sheep to 400 sheep, and each was allotted land in proportion. As along the Axe Valley the Inclosure Awards only record stinted rights in 5 of the 19 parishes; most are unstinted, neither stinting nor unstinting appears to define austers.

The example of the rights of common grazing in North Curry¹⁴ provides some confirmation that stinting may be a later development. In that parish three kinds of tenement were described – customary or old auster tenements, newnham or stinted-hold cots (cottages), and overland tenements. Stinting may well have been introduced as new tenements were created because the amount of common land available for grazing was limited or was already overgrazed. Both the unstinted old austers and the stinted-hold cots received allotments at the time of Inclosure. In summary therefore old austers were not confined to ecclesiastical estates, nor to exclusively stinted or unstinted tenements.

A useful description of old auster or ancient tenements is to be found in the 1647 survey of the Customs of the Manor of Taunton and Taunton Deane.¹⁵ In that document land is divided between bondland and overland, which has no dwellings attached to it. “Bondland, now is, and time out of mind hath been, holden by customary fine and certain rents, paying heriots, and doing other suits and services to the same belonging” With this also went the right of common grazing. Old auster or bondland tenements are here distinguished as ones which have rights, but also duties. Significantly, the survey also recorded that a man’s heir was first his widow, and if no widow the youngest son – a Saxon custom called borough english. Recently Mick Aston has reported that the *compotus* rolls of the manor of Winscombe record many instances of widows inheriting old auster tenements in the 14th century.¹⁶

Bondland, fines, heriots, suits and services are all evidence of the origin of a form of tenure in the Saxon structure of common field agriculture, in which the rights of grazing of stock were critically important. The evidence of the Inclosure Awards emphasises how this remained the case for a 1000 years, that is until Parliamentary Inclosure took

place in the late 18th or early 19th centuries, when these rights were formally exchanged for plots of land through a closely defined legal process.

The obligations that fell upon such tenements included “doing suits and services” mentioned in the Taunton record. Suit was the regular attendance at the lord’s manorial court, which managed the programme of agricultural work across the estate, and also recorded the admission of heirs or new tenants to tenements, a process that will be returned to later. The nature and extent of the services that the lord required were many and varied, and almost certainly changed over time. These obligations have been described in detail in many documents.¹⁷ Most services were gradually commuted to money payments as the centuries went by, but some remained important into the post-medieval period. Williams, Nash and Sabin¹⁸ each noted the obligations on old auster tenements to maintain lengths of the sea walls and drainage channels on the moors. In Westbury, and in 68 other manors belonging to the Bishop of Wells, maintaining the ditches, hedges and fences of the boundary of his deerpark in Westbury, in units of ‘ropes’ or raps (a measure of about 20 feet¹⁹), was the main service that survived into at least the 13th century.²⁰

Furthermore auster was a term in common use in the 13th and 14th centuries referring to a home or tenement, as a taxable unit. A subsidy for the Holy Land in 1221 levied upon each hearth or ‘auster’ was recorded in the Annals of Dunstable.²¹ Elton records that ‘[In] Montgomeryshire austerland is that which had a house upon it in ancient times’.²² Another use of the term in 1347 from Middlesex was – ‘to ... be taken for each complete tenement, that from old times was an old auster and heritable, ... one heriot’.²³ These references demonstrate that the use of the term was not restricted to Somerset and the last introduces the important theme of inheritance, which will be returned to later.

There are several occurrences of the terms *astrum* or *in astro* meaning hearth or ancestral home, as well as the related term *astrarius* meaning hearth-holder or inheritor in the important legal treatise *De Legibus et Consuetudinibus Anglie*, edited by the prominent 13th-century jurist Henry of Bracton, that make the link between the two terms clear.²⁴

Although inheritance customs varied from place to place, the fundamental right of even the villein family to inherit never seems to have been questioned at the level of customary law.²⁵ Studies

of many medieval estates have shown the principle firmly maintained that a holding should descend from generation to generation in a family line.

There seems little doubt that throughout the country inheritance within the family was the norm until at least the Black Death.²⁶ In fact it was almost an obligation; villeins were tied to the land and therefore the heir or heirs had a duty to cultivate their father’s holding and, if he or they fled, they could be brought back by the lord. So villein tenements were heritable, subject only to the “customs of the manor” which included payment of a fine or heriot and the lord’s acceptance of the tenant’s homage.²⁷

Rosamund Faith has shown how the concept of the ‘hearth’ was central to Old English inheritance customs, which were mainly partible,²⁸ gavelkind²⁹ or borough english. She quotes from the ‘Customal of Kent’ which states “let the message be departed between them, but the hearth for the fire shall remain to the youngest son”.³⁰ A similar example of borough english inheritance is found on the manor of Taunton mentioned above. More romantically Maitland saw in this practice “the trace of an ancient religion of which the hearth was the centre”.³¹ In contrast Norman inheritance was based upon the quite different custom of primogeniture.³²

So in Anglo-Norman times the term auster was clearly used to distinguish certain kinds of tenement where the Saxon inheritance custom was very strong. Whether it was a particular form of inheritance that was recognised, or whichever was the local custom, is not known. But it was these tenements which were heritable, but also rendered heriots and services, that were important to the lords. They would have been the main core units in the local agricultural economy.

In the course of the 12-14th centuries legal theory and practice made the status of villein more clearly defined, more uniform and more rigid. Christopher Jesse³³ has shown that, under the laws of Edward I, new customs were not to be recognised if they post-dated 1189, thus providing a *terminus post quem* for the creation of new auster tenements. The great lawyers of the late 12th and 13th centuries Glanville and Bracton, are commonly associated with this work of re-definition of medieval tenures; but the work was begun by the humbler lawyers and by the legally trained clerks who drew up the manorial customals and surveys of the great estates.³⁴ Many of these great estates were ecclesiastical and one of the most important and extensive group of them in Somerset in this period was that of the bishopric of

Bath and Wells under bishop John of Tours (1088-1122).

After the Conquest William I had made little attempt to reorganise the structures of Old English society, other than to replace the major landowners with his Norman barons.³⁵ The manor of Westbury was already in the hands of a Lotharingian bishop appointed by Edward the Confessor, Giso of Wells, who remained there until his death in 1088. This was a critical moment for the bishopric of Wells.

The new Norman bishop was John de Villula, also known as John of Tours (1088-1122).³⁶ John had been a priest at Tours before he became William's physician and was present at the king's bedside when he died in 1087.³⁷ It seems that the king's third son and heir to his English estates, William Rufus, felt it important to honour his father's physician and the following year, after bishop Giso's death, John was consecrated Bishop of Wells. He was an active and ambitious man. Within two years he had moved the seat of the bishopric to Bath, where he took over the abbey, together with all its estates, and acquired the City of Bath with its mint as well.

Tony Nott³⁸ has convincingly argued that it was

John of Tours who created the deer park in Westbury and there is a lease of a tenement in Prestleigh dated 1218 which records the obligation on that property to repair and maintain a length of the Westbury park boundary.³⁹ Furthermore, a 16th-century copy of an early 13th-century document, *The Enclosing of the Park of Westbury*⁴⁰, gives details of 68 manors or settlements, including Westbury, in the four Somerset Hundreds of Wells Forum, Winterstoke, Kingsbury and Chew, in which the tenants owed the same service of maintaining specific lengths of the boundary of the Westbury deer park.

No specific link has been made between the tenants named in this roll and any particular auster tenements, but it is highly likely that it was the holders of auster tenements (or of tenements which were later to become known as austers) who would bear the brunt of the new bishop's demands.

To impose such an additional burden on to the tenements of so many and such widely distributed manors at one time could only have been achieved by a lord with considerable power and determination. Lesser lords may well have not had the inclination to challenge their tenants in such a fundamental way.

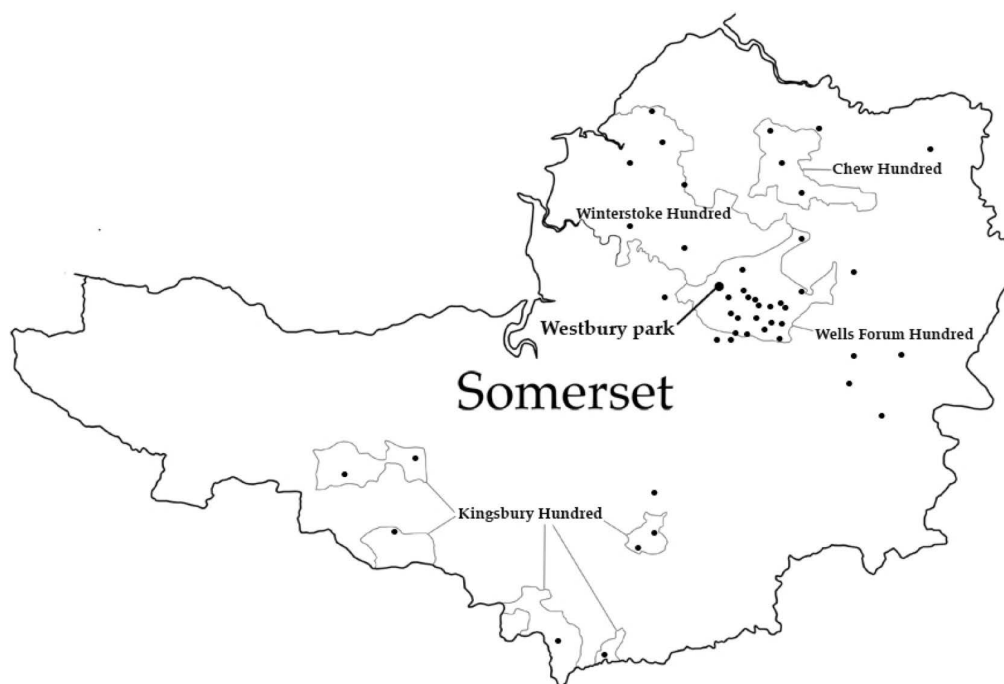


Fig. 2 Location of manors (indicated by dots) held by the bishop of Bath and Wells where the manors and tenants had the duty to maintain the boundary of the deer park in Westbury

The evidence suggests that Bishop John of Tours, during the 34 years of his episcopacy (1088-1122) began the process of modernising the terms of landholding on his manors in Somerset from Old English villein tenure to that of the emerging Anglo-Norman copyhold. It is also probable that his example would have encouraged neighbouring strong landlords to do the same. Despite the fact that the earliest documentary use of the term is in the 1221 subsidy for the Holy land, about 100 years later, it may well have been his clerks who first used the term *auster* to identify former Saxon heritable tenements, which also owed various duties to the lord of the manor. The term *auster* became so useful that the term spread widely and many other estates adopted it.

ACKNOWLEDGEMENTS

I would particularly like to thank Dr. Peter Franklin for his assistance with the translation of medieval Latin texts; Richard Ashdowne, David Bromwich, Anne Crawford, Dr Rosamond Faith, Dr Peter Franklin, Christopher Jessel and Frances Neale for their guidance and assistance, and also members of the Westbury Society who have pestered me for 10 years for an answer. The views expressed here are entirely my own, as are any errors.

ENDNOTES

- ¹ Symonds 1911, 32
- ² Nash 1971, 157-162; Sabin 1971, 191-192
- ³ SHC, *Somerset County Gazette* 9 November 1867
- ⁴ This conclusion is confirmed by the fact that *a(u)sturcus* is never found reduced to *a(u)strum* in Medieval Latin.
- ⁵ Latham 1965, 35
- ⁶ Latin *atrium* is also used in the same sense as *astrum*. Classical *atrium* (the central room of the Roman house, courtyard, perhaps originally 'the dark, smoky place' (from Latin *ater* ('black')) referring to the primitive hut with indoor fire) > Old French *astre/ atre/ aitre/ estre/ eitre* > Medieval (Anglo Norman) Latin *astrum*, also *astra* and *astrium*.
- ⁷ Latham et al, 1975
- ⁸ SHC, DD/X/KIM 14/1
- ⁹ SHC, Q/RDe 74

- ¹⁰ SHC, Q/RDe 35a
- ¹¹ SHC, Q/RDe 33
- ¹² SHC, Q/RDe 22
- ¹³ SHC, Q/RDe 42
- ¹⁴ Olivey 1901, 130 and Appendix B, 333
- ¹⁵ Locke 1816, 33-34
- ¹⁶ Aston et al. 2012, 115-7
- ¹⁷ For example, a detailed description of the typical services demanded from a villain tenant in the Abbot of Ramsey's manor of Stukeley in Huntingdonshire is given in Pollock and Maitland 1968, Vol. II, 366-367
- ¹⁸ Williams 1970, 120-1; Nash 1971, 157-162 and Sabin 1971, 191-2
- ¹⁹ Richardson 1986, 15
- ²⁰ British Library Royal MS14 B xxvii
- ²¹ *Annales prioratus de Dunstaplia* [Beds] (Incarnation-1297) [-1241 attrib. R. de Morins], in *Ann. Mon.* III 1-420; also ed. T. Hearne, *Chronicon seu annales prioratus de Dunstaple* 2 vols. (Oxford, 1733)
- ²² Elton 1882, 191
- ²³ *Indent., Mddx. G. S. Alb.* II 328 this was the original ref but it should be fuller from what follows – *G. S. Alb. Gesta abbatum monasterii S. Albani* [Herts] (793-1396), 3 vols., *Chr. Mon. S. Alb.* IV, containing: I 1-324, (793-1255) [mainly by M. Par.]; I 325-II 108, (1248-1308) [anon.]; II 111-III 372, (1308-96) [by Wals.]; II 294-9, v. Wallingf. Or; III 373-535, (1349-1401) [anon.]
- ²⁴ Bracton 2, 208, 247; 3, 284, 285
- ²⁵ Faith 1966, 77-95
- ²⁶ Lomas 1984, 295
- ²⁷ Simpson 1986, 49-50, 167-8
- ²⁸ 'partible' refers to a system of inheritance in which the estate of the deceased person is divided equally among the heirs.
- ²⁹ 'gavelkind' means a custom by which a tenant's estate, other than the widow's dower, was divided in cases of intestacy equally among his sons, or for want of them, among his daughters. This custom was prevalent in Kent and in some parts of Middlesex, Dorset and Wales. Richardson 1986, 21
- ³⁰ Faith 1966, 83
- ³¹ Maitland 1968, 281
- ³² Faith 1966, 85
- ³³ Jessel 1998, 89
- ³⁴ Postan 1973, 148
- ³⁵ Stenton 1947, 614
- ³⁶ Powicke and Fryde 1961, 205
- ³⁷ Barlow 1983, 45
- ³⁸ Nott 1996
- ³⁹ Green 1892, 34
- ⁴⁰ British Library Royal MS14 B xxxvii

BIBLIOGRAPHY

- Aston, M. et al., 2012. 'Medieval farming in Winscombe Parish in North Somerset', *SANH* 155, 79-144
- Barlow, F., 1983. *William Rufus*. Berkeley, CA: University of California Press.
- Bracton, Henry of, *De Legibus et Consuetudinis Anglia* (S.E.Thorne ed.) on-line August 2013 at http://www.law.harvard.edu/programs/ames_foundation/bracton.html
- Elton, C.I., 1882. *Origins of English History*. London: Bernard Quaritch
- Faith, R., 1966. 'Peasant families and inheritance customs in medieval England', *Agricultural History Review* 14 (1966), 77-95.
- Faith, R., 1997. *The English Peasantry and the Growth of Lordship*. Leicester University Press.
- Green, E., 1892. *Feet of Fines*. Somerset Record Society 6. Taunton.
- Harvey, P.D.A., (ed.), 1984. *The Peasant Land Market in Medieval England*. Oxford, Clarendon Press.
- Jessel, C., 1998. *The Law of the Manor*. Chichester, Barry Rose Law Publishers Ltd.
- Latham, R.E., 1965. *The Revised Medieval Latin Word-List*. Oxford University Press for The British Academy.
- Latham R.E., Howlett D.R. and Ashdowne R.K. (eds.), 1975. *Dictionary of Medieval Latin from British Sources*. British Academy: Oxford. Fascicule I, A-B
- Locke, R., 1816. *Customs of the Manor of Taunton and Taunton Deane*. Taunton: James Savage
- Lomas, T., 1984. 'South-East Durham', Harvey 1984.
- Nash, S.G., 1971. '136. Old Auster', *Somerset and Dorset Notes and Queries* XXIX, 157-162.
- Nott, A.W.G., 1996 *The Park of the Bishop of Bath and Wells at Westbury*, *Somerset MA* thesis, University of Bristol.
- Olivey, H., 1901. *North Curry: Ancient Manor and Hundred*. Taunton.
- Pollock, F. and Maitland, F.W., 1968. *The History of English Law before the time of Edward I*. Cambridge University Press
- Postan, M.M., 1972. *The Medieval Economy and Society*. London, Weidenfeld and Nicholson.
- Powicke, F. and Fryde, E., 1961. *Handbook of British Chronology*. London: Offices of The Royal Historical Society.
- Richardson, J., 1986. *The Local Historians Encyclopedia*. New Barnet: Historical Publications Ltd.
- Sabin, A., 1971. '160. Old Auster', *Somerset and Dorset Notes and Queries* XXIX, 191-192.
- Simpson, A.W.B., 1986. *A History of the Land Law*. Oxford, Clarendon Press
- Stenton, F.M., 1947. *Anglo-Saxon England*. Oxford, Clarendon Press
- Symonds, H., 1911. '20. Manor of Wiveliscombe and Fitzhead', *Somerset and Dorset Notes and Queries* XII, 32
- Williams, M., 1970. *The Draining of the Somerset Levels*. Cambridge University Press