

THE MEDIEVAL CONSTITUTION OF NEW WINDSOR

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BEFORE THE FIRST CHARTER OF 1277

AS its name implies, New Windsor was a new town; at the time of the Norman Conquest it did not exist. Saxon Windsor occupied part of the site of the present Old Windsor and lay three miles down stream. By 1086 it had become a settlement of considerable size and its royal lodging, visited by Edward the Confessor, continued to be included in the itinerary of the early Norman kings. Its site beside the Thames, however, was low-lying and ill-suited for defence, and soon after the Conquest, in about 1070, William I built a fortress three miles up stream on the chalk hill which rises ninety feet from the river. From it the country could be guarded and the Thames kept under watch. This, the *castellum de Windesores* of Domesday Book, derived its name from the Saxon settlement of Windsor although the half hide in which it had been built belonged to the neighbouring manor of Clewer; the constable of the castle paid an annual sum of 12s. for this land for many centuries.

In 1086 no town of Windsor is recorded at the castle gate, and the nearest settlement was probably that of Orton, a small hamlet occupying a site east of the castle. At Whitsuntide 1110, however, Henry I, in the words of the Anglo-Saxon Chronicle 'held his court for the first time in the new Windsor', to which Henry of Huntingdon adds 'which he himself had built'. It is almost certain these words refer to the castle and that they imply what was to prove a permanent move by the king from Saxon Windsor to the Conqueror's fortress; and it seems certain that there must have been a settlement at New Windsor from at least

this date. It was a town which originated beside the castle to serve its needs, and which formed an element in the general and deliberate expansion of urban life during the 12th century.

The medieval town of New Windsor, with the exception of its riverside suburb of Underore, lay almost entirely within the north east corner of the manor described in Domesday Book as *Windesores* under the heading *Terra Regis*. Its building plots fronted a market place which extended southwards from the castle gate in a wedge shape, in which the church was later built. Whether the town was a deliberate plantation, or a more gradual growth beside the road linking Old and New Windsor, from a very early date the identity of New Windsor was separate from that of its parent vill. This is indicated by the use of the word *burgus* in the Windsor entry in the 1130-1 Pipe Roll: William fitz Walter received from the king a virgate of land in exchange 'pro terra sua que capta est ad burgum'.¹

Any investigation into the status of New Windsor in the first century or more of its existence is bedevilled by two complications. The first is that 'Windsor' may be used in the records to denote either New Windsor, or Old Windsor, or very often both of them together, so that it is not always possible to detect its exact meaning in any context. The second complication arises from the fact that New Windsor lay within the Domesday *Terra Regis*, the king's land, which later formed what came to be known as royal, or ancient, demesne of

¹ *Pipe Roll 31 Henry I, 127; and, Ibid., 126: 'in terra burgi de Windesor, 2s.'* Cf. A. Ballard, *British Borough Charters, 1042-1216* (1913), xcvi, for the use of *burgus* to imply a piece of land.

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the crown. By the end of the 12th century, tenants of this ancient demesne were enjoying certain privileges which could scarcely be distinguished from those of boroughs. These privileges were in the main judicial and tenorial. Tait concluded that by the end of the 12th century no sharp line could be drawn between the judicial privileges of boroughs and those of ancient demesne. So far as tenure was concerned, both the tenants of boroughs holding by burgage tenure, and the tenants of ancient demesne holding by special socage, paid low quit rents in lieu of all, or nearly all, services.² Thus, the two features which are regarded as common to all 12th century boroughs—burgage tenure and a borough court—were in essence the features also of ancient demesne. For whatever reason, New Windsor at this date was probably enjoying such privileges.³

Nor did the sending of twelve men to the eyre necessarily serve to distinguish the status of New Windsor, for this practice was shared alike by boroughs and many manors, especially settlements on ancient demesne.⁴ In 1225 Wallingford, Abingdon, Windsor, Newbury, Lambourn, Hungerford, Cookham, Bray, and Wargrave (several of which have never had any pretensions to burghal status), were all listed on the rolls of the justices itinerant under the heading 'hii sunt burgi qui iuraverunt per se'.⁵ By the middle of the 13th century, change is incipient. In 1241 and again in 1269 the *Windlesore villata*, meaning presumably both Old and New Windsor, was represented as a unit by twelve men. On the other hand in 1261 New Windsor appears to have been separated

from Old Windsor, in that the *burgus de Wyndesoueres* was represented by twelve.⁶ Furthermore, as both ancient demesne and boroughs were liable to pay tallage, this cannot be regarded as a means to determine the status of New Windsor, vis-à-vis its parent manor.⁷

There are indications that the town of New Windsor was taking precedence over Old Windsor, however, from the procedure which was adopted for the payment of Windsor's farm during the middle years of Henry III's reign.⁸ Until 1236, although there were some exceptions, the constable of the castle had accounted for the farm of Windsor (including both Old and New). It was fixed at £26 (or £25). Then, after the Exchequer reforms of 1236, the administration of royal demesne was entrusted to special *custodes dominicorum*. At Windsor the manors of New and Old Windsor were removed from the constable's care and assigned to two *custodes*. Until 1263 when the Windsor farm reverted to the constable's account, various expedients were adopted, one of these being the assigning of the town of Windsor (apparently including Old Windsor) to a separate approver or keeper at an annual farm. On 9th July, 1250, Godfrey de Liston was appointed to approve the town of Windsor and all the king's demesnes of that town. On 26th May, 1251, James le Gaunter of Windsor was appointed to keep the town of Windsor with the market and heath at £44, saving to the king the pleas of the market when he was in the town; a similar appointment of Gilbert de Tegula followed on 22nd February, 1252, at £50.⁹ These three men all bore the title of

² James Tait, *The Medieval English Borough* (1968), 107, 195-6, 218, 263, 343-4, 354-5; Ballard, *op. cit.*, xc; R. S. Hoyt, *The Royal Demesne in English Constitutional History, 1066-1272* (1950), 171-207, 230-235.

³ *V(ictoria)C(ounty)H(istory, Berks)*, iii, 57 asserts that burgage tenure was the rule in the reign of King John at Windsor, but the references given in the footnotes do not support this claim.

⁴ F. Pollock and F. W. Maitland, *History of English Law* (1952), i, 634, 640, n.3.

⁵ P(ublic)R(ecord)O(ffice), Just. Itin. i. 36; in Just.

Itin. i. 38 (1248) the list recurs with Reading taking the place of Wallingford.

⁶ Just. Itin. i. 37; i. 42; i. 40.

⁷ Tait, *op. cit.*, 343-4.

⁸ Shelagh Bond, 'The Medieval Constables of Windsor Castle', *Eng. Hist. Rev.*, lxxxii, 238-9.

⁹ *Cal. Pat. Rolls, 1247-58*, 70, 97, 130. Gilbert de Tegula held the post for several years (*Cal. Cl. Rolls, 1268-72*, 3). The *custos* of the king's market amerced the villata (*Cal. Cl. Rolls, 1256-9*, 189). Previously, in 1240, the manor of Windsor had been let to farm to the men of Windsor (*Cal. Lib. Rolls, 1240-5*, 4, 12).

bailiff.¹⁰ Similar posts seem to have been held by Hugo Clericus and William Puncun in 1240 (when the manor of Windsor had been let to farm to the men of Windsor), Aylwin de Tegula and William Puncun in 1241¹¹ and James le Gaunter and Henry de Coleburn in 1261.¹² In 1263 the restriction which the constables of the castle had suffered was over when the new constable that year was granted the castle, town, and forest of Windsor together with other manors.¹³ The collection of the farm was thus once again merged into that of the whole complex but the *de facto* if not *de iure* recognition of the special position of the town of New Windsor remained. In 1274 the constable was farming not an undifferentiated 'Windsor' but the *burgus* of Windsor together with the manor of Old Windsor.¹⁴ This indicates yet again that a distinction was being drawn between New Windsor and its parent manor.

That New Windsor should by 1274 be the dominant element in the Windsor complex was inevitable, for the town had increased greatly in importance during the reign of Henry III. The king was actively engaged in extensive building works in the castle and at his new hunting lodge in the forest. Accompanied by his court and the considerable numbers of a government *in itinere*, he resided for many days, even weeks, almost every year at Windsor, whose importance as a trading and market centre consequently grew. The town, with its market and fair,¹⁵ by 1268 may also

have had a merchant gild, for in the Pipe Roll for Michaelmas that year the constable accounted for 6s 9d received 'de consuetudine cuiusdam gilde'.¹⁶ The possession of such a gild marked an important stage in the development of any town.¹⁷ In 1274 it was reported that the adjoining villata of Eton, between Baldwin's Bridge and Windsor Bridge 'semper solebant esse ad lot et scot et ad totum regale cum burgensibus de Wyndesore'.¹⁸

FROM THE FIRST CHARTER OF
1277 TO 1438

Three years later, when the town had already been in existence for over a century and a half, New Windsor was granted its first charter by Edward I on 28th May, 1277. Did this charter create the borough, or was Windsor, as Tait considered possible, already by then an old borough?¹⁹ The laconic clauses of the charter itself throw no light on the problem as couched in these terms, and we have seen that many of the distinguishing features of a 'borough' were to be found at Windsor before 1277. It has been recently pointed out that a borough's first charter implies the existence of an organised community willing to negotiate and able to pay for its new status;²⁰ and in this sense, at least, New Windsor's first charter must represent an important stage in its history. It was certainly recognised as a landmark by contemporaries in their use of such phrases as 'extra libertatem novi burgi de Wyndesore'; 'in burgo novo de Wyndesore'; and in a reference

¹⁰ *Cal. Lib. Rolls*, 1245-51, 303; *Cal. Cl. Rolls*, 1251-3, 452; *Cal. Lib. Rolls*, 1251-60, 85, 190, 276.

¹¹ P.R.O., E. 372.85; E. 372.88; *Cal. Lib. Rolls*, 1240-5, 122. In addition, John son of Andrew occurs as bailiff of Windsor on 20th February 1240 (*Cal. Lib. Rolls*, 1226-40, 452); Thomas Ive as bailiff of Windsor in 1245 (E. 372.90 and 94); and James as *prepositus* of Windsor in 1246 (*Cal. Cl. Rolls*, 1242-7, 465).

¹² P.R.O., E. 372.108.

¹³ *E.H.R.*, *op. cit.*, 239.

¹⁴ *Rotuli Hundredorum*, i, 18; translated in (R. R. Tighe and J. E. Davis) *Annals (of Windsor)* (1858), i, 96; in the pipe roll for 1252 (P.R.O., E. 372.96)

the *burgus* of Windsor and Old Windsor rendered separate accounts in part.

¹⁵ E. 372.85.

¹⁶ E. 372.113.

¹⁷ Tait, *op. cit.*, 263.

¹⁸ *Rot. Hundr.*, i, 18; *Annals*, i, 97; *V.C.H.*, iii, 58; Charles Gross, *The Gild Merchant* (1890), i, 53-4.

¹⁹ Tait, *op. cit.*, 201. Cf. M. de W. Hemmeon, *Burgage Tenure in Medieval England* (1914), 26, n. 2; he considered that in 1255 it was doubtful whether Windsor was a borough, when messuages that year escheated to the king.

²⁰ G. H. Martin, 'The Origins of Borough Records', *Journal of Society of Archivists*, ii, 4 (1961), 149.

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to the grant *de novo* to the men of Windsor that the vill should be *liber burgus*.²¹

The provisions of the 1277 charter are known from the enrolment on the charter roll; the original engrossment is now lost. The text was enrolled twice, for the former entry, immediately preceding the correct version, had omitted the two final clauses, and a marginal gloss notes 'vacacio quia aliter inferius proxime.'²² The king began by granting that 'villa nostra de Nova Windesore' should be *liber burgus*²³ and that his *probi homines*²⁴ of the vill, their heirs and successors, should be free burgesses, should have a merchant gild,²⁵ and enjoy the liberties and customs which the burgesses of the king's other boroughs enjoyed. This latter formula appears to be unique, for in charters to other boroughs at this period the granting of the specific liberties of a named borough is usual. Similar clauses, however, are found in earlier charters to Dunwich, Ipswich and Stafford.²⁶ In addition to freedom from toll throughout the realm, the burgesses were to have their pigs quit of the pannage called fentake. Finally—

and these are the clauses omitted in the first enrolment—the justices itinerant of both common pleas and the forest, were to hold their eyres in the borough; and the capital gaol of the county and gaol delivery were both to be at New Windsor. (By 1359 the building of a new gaol at Wallingford probably marks the end of Windsor as the location of the chief gaol in Berkshire.²⁷) Whatever the status of New Windsor had formerly been—and the clauses of the charter seem to have been mainly confirmatory—the borough's rights and privileges were now firmly authorised.²⁸ The charter was confirmed in 1316, 1328, and 1379,²⁹ and remained in force for over a century and a half as the basis of the constitution.

No official administrative records survive for this century and a half at Windsor³⁰ so that such development as occurred can be pieced together only from references in the public records, from information afforded by private charters, and from the evidence of the later government of the borough. It was a period which, in many other boroughs, was

²¹ P.R.O., Just. Itin. 1.44(1284).

²² P.R.O., C. 53.65, m. 2. The text is given in latin in Joseph Pote, *The History and Antiquities of Windsor Castle* . . . (1749), 3; and in English in *Annals*, i, 104–5. Enrolments were made from drafts or warrants, rather than from the engrossments (H. C. Maxwell-Lyte, *Historical Notes on the use of the Great Seal of England* (1926), 359, 361).

²³ Tait, *op. cit.*, 194–220 for a discussion of the meaning of *liber burgus*, which became a common phrase under Henry III and Edward I, and conferred burghage tenure and a borough court.

²⁴ *i.e.* burgesses (*Ibid.*, 244).

²⁵ The merchant gild, peculiar to boroughs, was yet absent from many of them and had to be granted separately (*Ibid.*, 263, 210). It might, however, be licensed after it had already been in existence for some time, as at Shrewsbury, whose gild rolls survive from 1209, although the gild was not licensed until 1227 (G. H. Martin, 'The English Borough in the Thirteenth century', *Trans. of the Roy. Hist. Soc.*, Fifth series, xiii (1963), 129, 135).

²⁶ Tait, *op. cit.*, 198, 202, 211. Cf. A Ballard and J. Tait, *British Borough Charters, 1216–1307* (1923), 18–19; and Ballard, *Br. B. Ch.*, 11, 14, 15. I am

grateful to Dr G. H. Martin for drawing my attention to these earlier parallels, and for guidance on several other points in this paper.

²⁷ R. B. Pugh, *Prisons and Imprisonment in Medieval England* (1968), 60–64.

²⁸ Other boroughs received charters after they were already enjoying borough characteristics. For example, Guildford did not receive a charter until 1257 (E. M. Dance, *Guildford Borough Records, 1514–1546*, Surrey Rec. Soc., xxiv (1958), xiv–xv) and Manchester until 1301 (J. Tait, *Medieval Manchester* (1904), 42, 44).

²⁹ M. Weinbaum, *British Borough Charters, 1307–1660* (1943), 6 for list of confirmations and sources. The charter was confirmed in 1316 and 1328 to the men and burgesses, in 1379 to the burgesses (*Annals*, i, 127, 233–4); and in 1379 a payment of 100s. was made to the Hanaper for the confirmation (*Annals*, i, 234; *V.C.H.*, iii, 59).

³⁰ Cf. Shelagh Bond, *Handlist of the records of the royal borough of New Windsor* (1959). Ashmole, when he made extracts from the borough records, in the middle of the 17th century, did not note the survival at that time of any administrative medieval records. His extracts and notes are preserved in the Bodleian Library, Oxford, and are cited below as 'Ash'.

marked by a growing conception of the borough as a corporate community, although legal incorporation was not to become general until the 15th century; and a period, too, during which the early distinction between borough and non-borough in terms of burgage tenure and a borough court became inadequate.³¹ It was a period, also, during which increasing duties in administration, together with financial and judicial responsibility, were reflected in an increasing number of borough officers and in an increasing sophistication in the records which they kept.³² The loss of Windsor's earlier borough records is doubly to be lamented. It has meant, of course, that much of the town's medieval history must inevitably remain obscure; but it also makes it impossible to use the diplomatic of the written archives, which Windsor must have produced, to illuminate the evolution and elaboration of the borough's constitution and administration.

Soon after 1277³³ the king granted 'burgensibus et probis hominibus' of Windsor that they should hold the borough to farm for ever. On 1 January 1280 letters patent were issued to this effect, the farm being fixed at £30.³⁴ This, however, was cancelled within less than two years and new letters patent on 10 September 1281 reduced the farm to £17.³⁵ The grant was conditional on good behaviour and on justice being done 'mercatoribus alienigenis et indigenis necnon et pauperibus eiusdem ville'.

Geoffrey de Pycheford, constable of the castle, accounted for the farm of New and Old Windsor until 29 December 1279,³⁶ after which date the burgesses became responsible, with the advantage that they would in future have at their own disposal such moneys as remained when the farm had been met. It was not long, however, before the bailiffs were paying their £17 to the Exchequer through the constable—a method adopted presumably for convenience, and one which did not detract from the borough's privilege.³⁷

The grant of fee farm to a borough implied that the burgesses in future would have the right of electing reeves or bailiffs to be responsible for collecting and paying the farm. These elected bailiffs superseded the royal nominees at Windsor who had previously held office.³⁸ Royal nominees must inevitably have felt the prior claim of the crown in times of dispute; elected bailiffs, on the other hand, were more likely to support and to act for the burgesses who placed them in office. For this reason, the grant of fee farm was of constitutional as well as financial significance. The term 'king's bailiffs' continued in use at Windsor in 1299–1300 and, again, as late as 1400.³⁹

It is possible to compile a list of the names of the bailiffs, two of whom held office each year, from 1299 onwards, although there are gaps, especially in the earlier years. The names can be recovered only from casual references

³¹ Tait, *op. cit.*, 205–6.

³² G. H. Martin, *The early court rolls of the borough of Ipswich* (1954), 25–6, 38 and *passim*.

³³ It seems that Windsor had to negotiate separately for this privilege; and the subsequent letters patent are not recorded in Ballard and Tait, *op. cit.*

³⁴ P.R.O., C. 66.99, m. 27; *Cal. Pat. Rolls*, 1272–81, 356.

³⁵ *Ibid.*, 456; C. 66.100, m. 7. From January to September, Windsor was charged at the rate of £30 p.a. (*Cal. Pat. Rolls*, 1288–96, 298). In 1281, the king granted Old Windsor to John de London at £23 p.a. (*Cal. Fine Rolls*, 1272–1307, 143); this £23, with the £17 paid by New Windsor, amounts to a good deal more than the £25 or £26 formerly paid by the constable of the castle for the Windsor complex.

³⁶ P.R.O., E. 372.124.

³⁷ E. 372.146 (1299 and 1300): *homines de Wyndesore* render account for £17; cf. P.R.O., S.C. 6.752.5 (1305) and S.C. 6.755.4 (1411); *Annals*, i, 134. See also *Cal. Cl. Rolls*, 1454–61, 468, which orders the bailiffs to pay £15 p.a. of the farm to William Towe to discharge debts due to him for the king's household expenses of £45 18s 4d.

³⁸ Tait, *op. cit.*, 185–193, 228, 234. Cf. Guildford, where the first mention of a bailiff in the gild merchant elections occurs in 1367, the year after the charter granting the fee farm (Dance, *op. cit.*, xxiii).

³⁹ *Year Books of Edward II*, 1 and 2 Edward II, ed. F. W. Maitland, vol. i, Selden Soc. xvii, 57; (records of the Dean and Canons of Windsor) W.R., XV. 44.235.

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and especially from the witnessing of private charters by the bailiffs. By the early 15th century, when there are fewer gaps in the list, it becomes clear that the bailiffs must have started their year of office around Michaelmas,⁴⁰ and by 1491 all elections were taking place on the Sunday before St. Matthew.⁴¹ In spite of annual elections, many bailiffs continued to hold office for several years at a stretch, or were re-elected after an interval. For instance, Philip le Marshal and Osbert le Taverner were bailiffs for four years from 1334 to 1338; then Osbert le Taverner and William Draspere served together from 1340 to 1344, and 1346 to 1347; and Osbert le Taverner held office for a further period from 1348 to 1350.⁴² In addition to their work in collecting and paying in the borough fee farm, the bailiffs kept the gaol and were responsible for the safe-keeping of prisoners. They also sat with the mayor at the borough court.⁴³

From the late 13th century, the burgesses of Windsor had a common seal: 'SIGILLVM] COMMVNE BVRGENSIVM WINDL'SORIE' according to its legend.⁴⁴ The possession of such a seal (which often followed the grant of fee farm) implied that the burgesses might take action in common and have responsibility in common. The burgesses of Windsor, or *poures Burgeys*, as they sometimes described themselves, were of course acting together in petitioning for grants of pontage,⁴⁵ for the receipt of customs from ships on the Thames, and concerning the ownership of land outside the borough.⁴⁶ But the idea of a borough with

a legal personality of its own was also gradually gaining ground and the use of the term 'communitas' in 1309 should be noted. In that year, two shops were mortgaged 'probis hominibus totius communitatis Wyndesore' for 22 years to secure the repayment of £10.⁴⁷ This mortgage shows the whole community holding property if only for a limited period. It also shows the whole community able to lend money, accruing perhaps from sums remaining over from paying the fee farm, or perhaps from the dues paid to the gild.⁴⁸ In the absence of other such mortgages surviving, it is impossible to say whether this formed one of a series of loans on security.

Because of the loss of borough records, any attempt to describe the nature of the medieval *communitas* of New Windsor and its administration must remain tentative. With regard to its earliest organisation, 14th century references to Portmanlese pasture are the only slight indication of the highly problematical existence of a port-moot.⁴⁹ What is certain, however, is that Windsor's merchant gild came to be of over-riding importance in the town. The gild was headed, in the 14th century, by the *senescallus gilde mercatorie* and although John Godfray, whose name occurs in 1337⁵⁰, is the first known steward, his office must certainly have originated considerably earlier. The names of other stewards of the merchant gild can be recovered, although the list is far less complete than that of the bailiffs. In 1430, 1431, 1435, 1436 and 1437, although not invariably in those years, holders of the office are on occasion des-

⁴⁰ See Appendix, below.

⁴¹ *Annals*, i, 321, quoting Ashmole 1126, 35a, where 6 Henry VI should be 6 Henry VII.

⁴² E(ton)C(ollege)R(ecords) 11/122, 124, 128, 129, 134, 140; ECR 12/455, 458, 463, 464, 466; W.R., XV 44.77, 81-84, 93.

⁴³ *Annals*, i, 321; *Cal. Pat. Rolls*, 1367-70, 103; *Ibid.*, 1338-40, 346; *Ibid.*, 1350-54, 255; and see below, note 68.

⁴⁴ A perfect example survives, ECR 11/206. See W. de G. Birch, *Catalogue of Seals in the Department of Manuscripts in the British Museum* (1892),

ii, 212 for full description: the arms include those of Edward I and Eleanor of Castile. See Tait, *op. cit.*, 235-49 for seals and the meaning of *communitas*.

⁴⁵ V.C.H., iii, 58, 59; *Rolls of Parliament*, i, 193b; *Annals*, i, 105; pontage granted in 1307, 1314, 1324, 1397, 1403, 1408, 1412, 1425.

⁴⁶ V.C.H., iii, 58; *Annals*, i, 128; *Rolls of Parl.*, i, 383b; P.R.O., S.C. 8.88.4363; and S.C. 8.147.7307.

⁴⁷ Wi[ndSOR borough records]. T.463.

⁴⁸ Cf. Leicester (V.C.H. *Leicestershire*, iv, 15).

⁴⁹ ECR 11/124; ECR 12/465; W.R., XV 44.119.

⁵⁰ ECR 12/464, on 29th June, 1337.

cribed as stewards of the 'Gilde aule', and not of the gild; after 1439 the office disappears entirely.⁵¹

Meanwhile, the office of mayor had appeared at Windsor, the first known mayor, John Peyntour, occurring in 1363.⁵² The offices of mayor and of steward of the merchant gild seem to have been interchangeable, in that, for instance, John Lausel in 1392, and Thomas Harpcote in 1404, were each described in one list of witnesses as mayor and in another as steward of the merchant gild; and on 20th May, 1402 Robert Wythele was specifically called *senescallo sive maiore*, steward or mayor.⁵³ There is no reason to doubt that these examples represent the normal state of affairs at Windsor—either the overwhelming importance of the gild, or an almost complete conflation and fusion of two offices and two organisations. At Guildford, where there is no evidence of any purely administrative court other than that of the gild merchant, the chief officer in 1361 was elected as steward but called mayor; and at Leicester, the office of head of the gild was 'merged and converted' into that of mayor.⁵⁴ At Windsor, although the term 'mayor' is in use by 1363, stewards of the merchant gild continue to be found until 1439, after which date (when a new charter was granted), the office of mayor alone is found.⁵⁵ As late as 1431, the steward of the

merchant gild, with the two bailiffs and with the consent of the whole community, sealed with the borough seal—a clear case of the utmost fusion of gild and borough.⁵⁶ In 1474, the corporation was known as 'the Fraternitie of the Gyldehall'.⁵⁷

The head of the town, whether known as *senescallus gilde mercatorie* or as mayor, appears to have been elected annually at the same time as the bailiffs, and like them often remained in office for several years at a stretch, or was re-elected after an interval. John Lausel, for instance, was steward of the merchant gild, or mayor, in the years 1382–3, 1384–5, from 1391 to 1394, and again from 1395 to 1398.⁵⁸ As head of the town, the mayor received letters and writs from the king and central government;⁵⁹ he served as coroner and clerk of the market;⁶⁰ and he presided over the borough court.⁶¹ He was often associated with the bailiffs in the witnessing of private charters. Elsewhere such authentication of land transactions by officials was cheaper and of no less validity than enrolment in the court, and its frequency at Windsor suggests that the same may have been true there.⁶²

The mayor and burgesses, or the mayor and bailiffs, exercised jurisdiction relating to the probate of wills. Burgage tenure, unlike most other tenures, usually permitted the devise of

⁵¹ W.R., XV 45.109, 120, 125, 129; ECR 13/748. See Appendix, note 16.

⁵² ECR 12/552, 554, on 6th and 20th November, 1363. In 1361 a *custos* is recorded, associated with the bailiffs (P.R.O., C. 135.162.10). Cf. Henley, with a *custos* of the gild (P. M. Briers, *Henley Borough Records Assembly Books*, 1–4, 1395–1543, Oxfordshire Rec. Soc. (1960), 3–4.

⁵³ ECR 11/174; ECR 12/629, 632; W.R., XV 45.3, 4; ECR 12/672, where the two bailiffs and four of the burgesses were associated with him.

⁵⁴ Dance, *op. cit.*, xxi, xxiii; V.C.H., *Leics.*, iv, 24; Tait, *op. cit.*, 233.

⁵⁵ Ralph Chippys was described as steward of the merchant gild on 30th November, 1438 (W.R., XV 45.135) and as mayor on 24th June, 1439 (W.R., 45.136).

⁵⁶ W.R., XV 45.110; cf. 1402, the steward or mayor was associated with the bailiffs and burgesses

(ECR 12/672); in 1371 the steward and bailiffs grant property (Wi. T. 466).

⁵⁷ *Annals*, i, 400.

⁵⁸ W.R., XV 44.174, 176, 201–7, 213, 216, 218, 221, 222, 225; ECR 11/174–6, 179, 181, 201; ECR 12/629, 632, 646, 649.

⁵⁹ *Annals*, i, 320–1, 407, 416; sometimes they were addressed to the mayor and bailiffs (*Ibid.*, 417–8); P.R.O., C. 47.48.2.29.

⁶⁰ P.R.O., C. 47.48.6/111; Pote, *op. cit.*, 8.

⁶¹ *Annals*, ii, 628.

⁶² Tait, *op. cit.*, 231; cf. E. W. W. Veale, *Great Red Book of Bristol*, Intro. Part i, Bristol Rec. Soc. ii (1931), 133, and M. D. Lobel, *Bury St Edmunds* (1935), 87. For a full discussion of official witnessing at Windsor, see Shelagh Bond, 'The Attestation of medieval private charters relating to New Windsor' *Journal of Society of Archivists*, iv, 4 (1971), 276–84.

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landed property, although boroughs might differ from one another in allowing devise of both inherited and acquired lands. Probate of wills was, strictly, a matter for the ecclesiastical courts, but boroughs often arrogated to themselves the hearing and registration of those parts of wills which related to property within the liberty of the borough.⁶³ At Windsor, there are examples of this double probate and registration. Emmot Burges's will was proved before the archdeacon of Berkshire on 14th December, 1447 and then on 18th February, 1448 before the mayor, steward [of the court] and bailiffs of Windsor.⁶⁴ One part of Thomas Brotherton's will, after probate was to remain with the dean and canons of Windsor, and the other part with the mayor and burgesses in the guildhall.⁶⁵ The practice of probate seems to have been of some antiquity at Windsor, for in 1407, in a grant of property which had been inherited, the words occur: 'quod quidem testamentum est approbatum et irrotulatum in Registro Gilde Aule Mercatorie de Nova Wyndesor coram maiorem et Burgenses ibidem prout mos et consuetudo ville de Wyndesor predictae exigunt et requirunt.'⁶⁶ It was claimed in 1447 that all the lands and tenements in the town were always devisable by testament; and wills were 'made, proved, proclaimed and enrolled in the court of the mayor and burgesses after the custom of the town out of tyme that no mynde is used.'⁶⁷ Free devise of tene-

ments which had been acquired, provided it was not in mortmain, was specifically granted in the 1439 charter; it may have been a confirmatory clause, or have extended a devise previously limited to inherited land.

Furthermore, it was before the mayor, or steward of the merchant gild, and the bailiffs in the king's court at New Windsor in the guildhall there, 'iuxta usum et consuetudinem in villa illa in tempore quo non extat memoria'⁶⁸ that final concords were levied. Several of these final concords were enrolled in the Boarded Book of Enrolments from 1457 onwards,⁶⁹ but originals survive from an earlier date, from 1414 and 1423.⁷⁰ In 1423 the steward of the court's name came first in the heading, before that of the steward of the gild; later in the 15th century, his name occurs more usually after that of the mayor and before the bailiffs' names.⁷¹ This legal post, described as steward, steward of the court, understeward and keeper of the courts, was, during the reign of Elizabeth I, merged into that of the town clerk.⁷²

The possession of the borough court, the court of record, was one of the marks of a borough from earliest times; and the loss of the records of Windsor's court is particularly to be lamented, for the earliest volume of its proceedings to survive dates from as late as November 1480 and covers only a few years. Before this date, there is no surviving regular record of the functioning of the court.⁷³ It was

⁶³ Tait, *op. cit.*, 355; at Ipswich, enrolments of testaments survive from 1281 and at Norwich from 1288 (Martin, *Ipswich*, 27-8); and cf. Bristol (Veale, *op. cit.*, 66, 20).

⁶⁴ *Annals*, i, 324.

⁶⁵ W.R., I. G.14.

⁶⁶ ECR 12/686.

⁶⁷ P.R.O., C. 1.16.630a. Some wills, mixed with final concords, were enrolled in the (now lost) Boarded Book of Enrolments, ff. 1-31b, in roughly chronological order, so perhaps made contemporaneously. Ashmole transcribed these entries in Ash. 1126, 29b, 31a-33a, 39a, 68a-b.

⁶⁸ Ash. 1126, 32a, translated in *Annals*, i, 324.

⁶⁹ Ash. 1126, 32a, 33b, 39a, being transcripts of the Boarded Book of Enrolments, ff. 1-31b, 93a-94b.

⁷⁰ W.R., XV 45.52 (before the steward of the merchant gild, two bailiffs and others); XV 45.93 (before the steward of the court, the steward of the merchant gild, two bailiffs and others).

⁷¹ Ashmole drew attention to the place of the steward next to the mayor (Ash. 1126, f. 33b). In 1592 the steward was ordered to sit next to the mayor upon the bench (*Ibid.*, 38b); other fines survive, e.g. ECR 13/887, 890, 910; ECR 11/236.

⁷² P.R.O., C. 1.46.312, and C. 47.48.6/104; *Annals*, i, 452, 659-60.

⁷³ P.R.O., C. 47.48.8.181; Wi. JB a, beginning in November 1480, was described in 1858 as 'the earliest existing records among the muniments of the Corporation' (*Annals*, i, 399-400). See *Annals*, ii, 628 for the account of the borough court given in 1833; and, for cases before it, see *Annals*, i, 324, 449-50, P.R.O., C. 47.48.2.29.

held every three weeks in the guildhall before the mayor and bailiffs, and had 'potestatem et auctoritatem audiendi et terminandi placita realia personalia et mixta de terris tenementis et aliis rebus quibuscumque infra eandem villam emergentibus'.⁷⁴ Its impartiality may not have been beyond suspicion: one petitioner had misgivings, being 'a pouver man and unknowen in the said towne';⁷⁵ and another case was brought 'within the liberty of the town of New Windsor, where John is so strong and mighty' that the petitioner, though innocent, feared he was powerless.⁷⁶ No records survive of Windsor's view of frankpledge.

FROM THE SECOND CHARTER OF
1439 TO 1466

The century and a half which followed the granting of Windsor's first charter had seen the foundation of the College of St. George and of the Order of the Garter by Edward III in 1348, within the castle. The king also spent lavishly on royal lodgings there and formed additional parkland, so that when the castle ceased to perform any military function, it continued to be of importance in times of peace. It was not a period, however, in which the town of Windsor experienced any equivalent growth. If the 1277 charter had been granted in response to requests from the townsmen of Windsor, petitioning from a position of strength and prosperity, it seems equally possible that their second charter was granted in 1439 in response to a situation of depopulation and decline. In 1438 an inquisition⁷⁷ reported that Windsor was depopulated, and that the annual profits of its courts, fair and market tolls, stallage and rents

of assize, had fallen from £17 11s to £6 11s—a doleful catalogue, but by no means unique to Windsor, other towns complaining of similar losses and depopulation at this period.⁷⁸

Within six months of the 1438 inquisition, Henry VI granted letters patent to the borough on 19th May, 1439—the first statement of its rights and privileges to emanate from the Chancery since 1277. The original letters patent received at Windsor are now lost, although they seem to have survived as late as 1736.⁷⁹ The text, however, was enrolled on the patent rolls,⁸⁰ although one important clause was there omitted. The terms of this omitted clause were included in Edward IV's confirmation of the 1439 letters patent which he issued in 1462.⁸¹ This confirmation survives and is now the second earliest royal grant preserved in the borough strong room. It is strange that Tighe and Davis in 1858, purporting to give a translation of the enrolled text of 1439⁸², nevertheless include the missing clause. Ashmole, however, noted in the margin of the extracts he made of the 1439 letters patent, beside the clause in question: 'this is not in the charter which I copied out of the Tower'.⁸³

The provisions of the 1439 letters patent gave financial help and exclusive civil and criminal jurisdiction to the borough. Financial relief came first, as might be expected after the 1438 inquisition. The king granted freedom from such dues as passage, pontage, stallage, throughout England and he added the power to take all fines, amercements and forfeitures. Then, turning to jurisdiction, he granted cognizance of all pleas concerning land, and other pleas, real, personal, and mixed, together with debt and trespass, before the mayor and bailiffs;

appointed in 1736 to investigate the borough charters recorded its existence at that date (note-book in the Royal Library, Windsor Castle).

⁷⁴ P.R.O., C. 145.308.8, translated in *Annals*, i, 305-7.

⁷⁵ P.R.O., C. 1.31.423.

⁷⁶ P.R.O., C. 1.19.228.

⁷⁷ P.R.O., C. 145.308.8, translated in *Annals*, i, 305-7.

⁷⁸ Cf. A. R. Bridbury, *Economic Growth: England in the later Middle Ages* (1962), 75.

⁷⁹ Holleyman noted (pp. 36ff) that a committee

⁸⁰ P.R.O., C.53. 187, m. 44, no. 38. For a useful discussion of the nature of 'charters' and 'letters patent' granted to a borough, see A. A. Dibben, *Coventry City Charters* (1969), 3.

⁸¹ Wi. I. C. 2.

⁸² *Annals*, i, 307-11.

⁸³ Ash. 1126, 15b.

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and that no other court or view of frankpledge should be held 'in dicto burgo vel aliquo loco eiusdem adeo longe et largiter prout nova Wyndesore nuncupatur', unless by agreement of the burgesses. Furthermore, the mayor and bailiffs were to be justices of the peace, for the letters patent granted them power to deal with such matters as would otherwise be determinable before the justices of the peace for Berkshire. All pleas were to be heard in the guildhall before the mayor and bailiffs. The mayor is clearly recognised as head of the borough in these letters patent, and the mayor's seal—SIGILLUM MAIORIS BURGI DE NOVA WYNDESORE—presumably dates from about this time, being used on a document of 1449.⁸⁴ Further severance from outside interference followed; the steward and marshal of the king's household were not to molest for breach of assize of bread, wine, and beer, or for trespass; no sheriff, constable, or bailiff, was to enter the borough but all was to belong 'ad supradictos maiorem ballivos et burgenses . . .'⁸⁵ The burgesses were to have the chattels of felons, the return of all writs and summonses, waifs and strays, treasure trove and mainour, and power to devise acquired land by will, except in mortmain. Finally, the king released £7 a year of the £17 fee farm, so that in future £10 only was to be paid. It is this final clause relating to the reduction of the fee farm which was omitted in the Chancery enrolment (but which was included in Edward IV's 1462 confirmation).

Further changes in Windsor's financial position and constitution followed in the next four decades, bringing the borough into line with general burghal development elsewhere,

and stemming in part from intervention in local affairs by both Henry VI and Edward IV. On 11th October, 1440, Henry VI founded Eton College, half a mile over the river from Windsor. Three years later, on 3rd July, 1443, the king licenced the 'burgensibus et probis hominibus' of Windsor to grant to the new college the 'aquas et piscarias in riva Thamesie' which they themselves had enjoyed by virtue of the grant of fee farm.⁸⁶ The schedule from which this licence was drawn up survives with, at its foot, a note recording the king's wish for two patents to be made to that effect, on 1st July, 1443.⁸⁷ The mandate to the keeper of the hanaper,⁸⁸ concerning the issue of the letters patent to the burgesses in July, records that the king granted the bill on 12th April, 1443. As a result, the borough granted to the college the water and fisheries on 7th July, 1443, and the grant was confirmed by the king to the college on 1st October, 1445. It was further quitclaimed by the king to the college on 14th November, 1448.⁸⁹ Windsor had thus lost valuable water and fisheries. What was to be done to compensate for the loss? Another schedule⁹⁰ was perhaps enclosed in the petition of the burgesses of Windsor for letters patent under the great seal. This schedule rehearsed the original grant of the fee farm of 1281, and the letters patent of 19th May, 1439, which contained the reduction from £17 to £10; it stated, however, that this reduction had been intended for ten years only—a limitation lacking in the 1462 text. The schedule then recorded the burgesses' wish for the 1281 grant to be cancelled in the Chancery, and that the sum due should be reduced to £8 for the remainder of the ten years and should then be £15 for

⁸⁴ P.R.O., C. 47.48.7/175. See Birch, *op. cit.*, 212, for description.

⁸⁵ This phrase is used in a 16th century petition (*Annals*, i, 325). Cf. the dispute, 1616, between the mayor and clerk of the king's market (*Ibid.*, ii, 70). For the jurisdiction of the castle court, *Ibid.*, i, 323-4.

⁸⁶ Sir H. C. Maxwell-Lyte, *A History of Eton College* (1911), 4-6; *Annals*, i, 329-333; ECR 11/204.

⁸⁷ P.R.O., C. 81.1433.26; it rehearses the grant of the fee farm of 1281 and the main clauses of the licence. Under the turn-up of ECR 11/204 is written 'dupl'.

⁸⁸ P.R.O., C. 81.1433.31.

⁸⁹ *Annals*, i, 340-2; ECR 11/205-7.

⁹⁰ P.R.O., C. 81.1433.27; and, petition, S.C. 8.311. 15508, on which, in a 20th century hand, are notes suggesting it was associated with C. 81.1433.26, 27, 31.

ever. The water and fisheries were valued at £2 a year. The letters patent which were issued on 18th September, 1444⁹¹ followed this schedule closely. It was clearly to the burgesses advantage that within less than eighteen months after they had lost the water and fisheries, they should receive some compensation. On the other hand, the addition of a limitation of ten years to the former reduction of the fee farm meant that, after this period had elapsed, they would now have to pay £15 instead of £10.

FROM THE THIRD CHARTER OF
1466 TO 1500

A further, and more important, development at Windsor in the middle of the 15th century followed in part upon Edward IV's intervention on local affairs. Parkland was already beginning to encircle Windsor on three sides, and in the 1460s the king emparked a further 200 acres of land which lay within the parish of New Windsor to the east of the castle. He had confirmed, in 1462, the letters patent issued in 1439 and the reduction of fee farm to £10 of 1444; and then, on 22nd September, 1466, he himself issued new letters patent to Windsor.⁹² Their provisions were to remain the basis of Windsor's constitution until the next charter was granted in 1603.

The preamble of the 1466 letters patent, after citing the 1439 grant, confirmed in 1462, then included a description of the ruinous state of the tenements in the town, the inhabitants' great distress, and the further damage caused to them by the imparking of 200 acres of land in which, from time immemorial, they had enjoyed common of pasture, the right to dig and carry away chalk and flint, and from which

part of the fee farm rent had been paid. No petition from Windsor survives, but so careful a list of misfortunes suggests that these letters patent must have relied on the wording of a local draft or schedule. The king then brought Windsor into line with the many other boroughs which, during the 'Classic Age of Incorporation' had, from about 1440 onwards, acquired the gift of formal incorporation. The burgesses and inhabitants of Windsor were incorporated in the name of the mayor, two bailiffs and burgesses;⁹³ an unusual feature is that he granted this incorporation to the mayor, Edmund Pury, and to the two bailiffs, Thomas Sherman and William Stephen, by name (although the burgesses and inhabitants associated with them are not named). Three of the five points of incorporation are enumerated—perpetual succession, the right to have and purchase lands, the right to sue and be sued; the possession of a common seal and authority to issue by-laws being omitted. Finally, £7 of the fee farm was released for ever, leaving the borough £10 to pay. There was to be one fair a year, on the feast of Edward the Confessor.

Windsor had now acquired legal incorporation, with all that it entailed.⁹⁴ The new body, the corporation, consisted, according to the letters patent, of the mayor, the bailiffs, and the burgesses; as we shall see this corporation, within a decade, was defined as 'the fraternity', and limited in numbers to 28 or 30. The rest of the townsmen were presumably now merely inhabitants, although many could become freemen with the privileges which this brought. The 28 or 30 forming the body corporate were the exclusive and select club which ruled the borough, seeking for instance during the 17th century to limit to themselves the right to elect in parliamentary elections; there was

⁹¹ Wi. I. C. 1, now the earliest royal letters patent to survive among the Windsor archives; translated in *Annals*, i, 311-2.

⁹² Wi. I. C. 3; translated in *Annals*, i, 361-2. There were confirmations dated 4 December 1499 (Wi. I.C.4); 10 March 1515 (*Annals*, i, 472, where

details are given of the costs); and 23 February 1549 (Wi. I. C.5).

⁹³ This phrase is used as early as 1380 (*Annals*, i, 234), when they leased waste in the borough for the building of the market cross.

⁹⁴ M. Weinbaum, *The Incorporation of Boroughs* (1937), esp. 98 ff.

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frequent dispute whether the franchise lay with them, or with the wider group of the mayor bailiffs, burgesses, and inhabitants at large.⁹⁵

Within a decade of the grant of legal incorporation, the new body corporate was organising itself. 'Statutes for the Order and Regiment to be hadde, used and contynued in the Corporacion or fraternitie' of the guildhall were issued on 14th July, 1474, William Bullock being mayor, Thomas Nesse and James Grace being bailiffs, and 'the hole corporacion present consenting and accepting the same to continue for ever.'⁹⁶ These statutes, or by-laws, fall into four groups: three of the clauses define the constitution of the fraternity; one describes the method of election of the mayor and bailiffs; three lay down penalties for disobedience and the machinery for punishment; and two relate to the procedure for 'consultations' and the issuing of ordinances.

The first group, clauses 2, 3, and 4, define the constitution of the fraternity, which was to be limited to 28 or 30 persons at the most. Of these 28 or 30, there were to be 13 benchers (called burgesses), of whom seven were to be known as aldermen, being drawn from the ranks of ex-mayors. If ex-mayors were lacking, the mayor and aldermen could co-opt burgesses to bring the numbers up to six, besides the mayor. Similarly, the mayor and burgesses could call upon the brethren (those who were not benchers) who had served as bailiffs, to sit upon the bench and to fill the vacant places among the burgesses—the process is clarified by the term 'elected to the Bench to be a burgess', found in the Boarded Book of Enrolments.⁹⁷ Admission to the lowest rank of the magic circle was also by co-option: the mayor and brethren could

call upon, and appoint, wise and honest persons, commoners of the town, to serve as brothers and to bring the numbers of the brethren up to 15 or 17. These were then said to have been 'elected into the fellowship of the brotherhood';⁹⁸ and the admission to freedom was a prior requisite—an admission limited by the middle of the 16th century to those skilful in a trade.⁹⁹ Finally, those who were not inhabitants of Windsor could be chosen as brethren (or brothers assistant as they were later known), by the mayor and aldermen, although they were not able to serve as mayor or bailiff.¹⁰⁰

Several points emerge from this careful definition of the fraternity. Numbers were limited to 28 or 30; service was, in practice, for life; admission to the corporation was by co-option; and, moreover, it was a co-option with its choice of candidates limited to those who were both free and skilled in a trade. Furthermore, the mayor with the aldermen and burgesses sat upon the bench and formed what was later called an 'upper company'; the brethren formed a 'lower company'. These, as at Leicester, seem to have represented the commonalty at large.¹⁰¹ Finally, within the upper company, there was an inner group, consisting of the mayor and aldermen, who had special power to co-opt the assistant brethren.

Secondly, another clause in the by-laws describes the method of election of the mayor and bailiffs. The brethren (those who were not benchers) 'assembling themselves to their usual place'¹⁰² nominated two aldermen; one of these was then elected to serve as mayor, by the burgesses and aldermen. The brethren, furthermore, chose one bailiff themselves. The other bailiff was chosen by the aldermen

⁹⁵ Shelagh Bond, *The First Hall Book of the borough of New Windsor, 1653-1725* (1968), xxvii-xxviii; *Annals*, i, 314, 319, 365, 371; Pote, *op. cit.*, 23-8.

⁹⁶ *Annals*, i, 400-3; Ash. 1126, 34b contains the names of the aldermen and burgesses, 1474.

⁹⁷ Ash. 1126, 36b.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*, 35a, 45b. Admission to freedom was usually for a reasonable fine, at a common speech or

consultation, by the mayor and six aldermen. Cf. Tait, *op. cit.*, 241: trade was the usual qualification for entry to the gild.

¹⁰⁰ For example, the clerk of the peace for the county, Ash. 1126, 37a.

¹⁰¹ *V.C.H., Leics.*, iv, 27-9: the mayor and '24 of the bench' chose 48 'inhabitants'—the new comburgesses.

¹⁰² Ash. 1126, 38a, 37a-b.

and burgesses. Once again, there is a clear cut division between the two companies, who are here seen meeting separately.

Thirdly, in clauses 7, 8, and 9, the arrangements for punishing disobedience and offenders are laid down. The mayor and aldermen were responsible for punishing the brethren who struck, or mocked, other brethren and burgesses, as well as those strangers and other inhabitants who offended the aldermen, burgesses and brethren. In the absence of the mayor, the aldermen had power to imprison. These clauses, distinguish, yet again, the special position enjoyed by the inner company of the mayor and aldermen.

The fourth group of clauses in the by-laws, numbers 5 and 6, relate to the procedure for holding 'consultations', and to the method of making statutes and ordinances. The mayor, or his deputy, could command the brethren, burgesses and aldermen to the guildhall, for a consultation. After the matter at issue had been propounded by the mayor, 'the burgesses and brethren shall lovingly debate, Reason and declare there wysdome and discretion before the saide Maior or his deputie and the Aldermen'; and then the mayor and aldermen 'shall ordre, determyne finish, and conclude all the Matters, Cawses or Busynes'. With regard to the making of statutes, or by-laws, clause 6 specifically refers to them as 'made by the Maior and Aldermen' and infringement might lead to amercement and punishment 'by the discretion of the Maior and Aldermen after the matter heard, debated, and Reasoned as before is expressed'. Once again, these two clauses reveal the inner group of the mayor and aldermen, with special power and privilege.

What is the origin, and what is the significance, of the existence of an inner group consisting of the mayor and six aldermen, within an already dual framework of an upper

company of benchers and a lower company of brethren? It exhibits a striking resemblance to the organisation at York.¹⁰³ There the mayor was surrounded by what have been called 'concentric circles of counsel. The innermost ring was the council of twelve, beginning to be called aldermen by 1399'. These may be considered as the equivalent of the mayor and six aldermen of Windsor. Next, at York, there was 'a second circle of 24, described as *probi homines*, in 1402, to distinguish them from the aldermen, although the aldermen themselves were sometimes so described'. These presumably, were the equivalent of the burgesses, or benchers, of Windsor. Finally, at York, 'there was an outermost circle of 48, often called the *communitas*, the representative element proper'; and it was likely that during the 15th century the first two groups were distinct from the third, which was convened only for special purposes. Similarly, at Windsor, the upper company was distinct from the lower company.

It is possible that the mayor's inner group of aldermen were already in existence soon after the middle of the 14th century at Windsor. In the 1580 issue of the by-laws, the date '1 R 2' is appended to the clause relating to consultations and to another clause (not in the 1474 promulgation) laying down fines for divulging the business transacted.¹⁰⁴ If these two clauses are correctly dated—and we have to rely here on the accuracy not only of the 1580 compilers, but also on Ashmole's care in transcribing—and if, furthermore, these two clauses are wholly of the date 1377–8, then they point to the existence of the mayor's group, or council, at this date. Moreover, to write down procedure, and to draw up a scale of fines for divulging decisions, implies that the meetings had been held for a little time at least; and, after all, Windsor had had a mayor from at least 1363.

¹⁰³ *V.C.H., Yorks., City of York* (1961), 78; Tait, *op. cit.*, 234, 280–5, 264.

¹⁰⁴ Ash. 1126, 112a–b, 12a. In 1474 it was the burgesses and brethren who debated; in 1580 (and apparently in 1377–8), the brethren. In 1380 John

Sadeler 'had bine of the company' (*Annals*, i, 234); and there is a recognizable Windsor hierarchy in existence by 1400 when the steward of the merchant gild and the bailiffs of the king acted with the consent of the aldermen, burgesses, and company (W.R., XV. 44.235).

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There seems to have been a further set of by-laws in 1499, nine clauses in the 1580 issue bearing that date.¹⁰⁵ Like those of 1474, they are concerned with the narrow corporation, the 28 or 30, and the new clauses of 1499 laid down still more detailed rules concerning conduct and privileges. Any alderman refusing to serve as mayor was to pay a fine of £4 and to accept office the next year; and no alderman was to be mayor for a third year running. It was, perhaps, becoming difficult to persuade men to take office, and some, upon admission to the brotherhood, were specifically exonerated from the duty.¹⁰⁶ The mayor and bailiffs were to take their oaths before the old mayor on the day before Michaelmas. As is seen elsewhere members of the fraternity were loath to attend meetings, for a scale of fines was established which was to be imposed in cases of non-attendance: 4d from a brother; 6d from a burgess; and 12d from an alderman. Brothers with sons or apprentices of full age were to present them at the guildhall, where they were to be sworn to the king, and to pay headsilver. Finally, a group of clauses relates to misconduct and the course of justice. No brother was to arrest another brother upon pain of 6s 8d fine; if he had cause of action, he was to go before the mayor, or the mayor and bench. A brother's amercements were to be affeered before the mayor and benchers. Brothers arrested were to have two days free, in which to reach agreement if they could; and persons making affray were to be brought to the guildhall before the mayor and bench.

And so, by the end of the 15th century, the machinery for the administration of Windsor by the Common Council becomes clearer, as does the nature of the specially privileged club itself.

There remains, however, one outstanding problem—that of the connection of the Fraternity of the Guildhall, the civic corporation, with the Gild of the Holy Trinity. This latter, according to 16th century evidence, had been 'founded by the inhabitants of the town there', by the licence of Henry VII; and it consisted of two wardens 'and certain Bretherne and systerne to thentent to have a prest to synge in the parishe churche of New Windsor for the ease of thenhabitants ther for ever. And also to have every yere five obits kept in the church of Windsor aforesaid for the souls of all the Brethren and systren of the Gyld or fraternity deceased, and divers times in the year to distribute to the pore people certain money'.¹⁰⁷ It seems, in fact, to date from before Henry VII's licence, which may have been a confirmation, or re-foundation, for the gild is mentioned as early as 1449.¹⁰⁸ In order to carry out its purpose, it owned property which had been granted by private charter or devised by will to the masters or guardians, or to the brothers and sisters of the gild; and in 1500 the rental of gild property amounted to £8 18s od; in the 1540s it had risen to £19 4s 4d.¹⁰⁹ The gild also held goods,¹¹⁰ and employed a priest.¹¹¹ In the 1520s a new house was built for the Trinity Gild; it was called the Trinity house and is traditionally regarded as the inn now called The Three Tuns, behind the Guildhall.¹¹²

The connection between the corporation proper and the Trinity Gild was close. Elections of the officers of both bodies were held at the same time, membership must have overlapped, and both legal and financial aid was forthcoming when the Trinity Gild ran into difficulties and when its existence was threatened

¹⁰⁵ Ash. 1126, 9a-14b.

¹⁰⁶ *Ibid.*, 35a.

¹⁰⁷ P.R.O., E. 301.51.30. In 1410, however, Alice Merwad left 2d for the Holy Trinity light, not the gild (ECR 12/703).

¹⁰⁸ W.R., XV. 45. 176.

¹⁰⁹ For example, *Annals*, i, 322, 456-9, 514-20. The mayor was sometimes associated with the wardens (or guardians) as in Ash. 1126, 30b. An incom-

plete list of wardens in Ash. 1115, 40a covers the years 1495-1548. For rental, see *Annals*, i, 450; Ash. 1126, 16b; P.R.O., E. 301.7.19.

¹¹⁰ Ash. 1126, 18a.

¹¹¹ *Annals*, i, 488, 498; his stipend was £7 6s 8d (P.R.O., E. 301. 51).

¹¹² *Annals*, i, 480-2, 511, 565; it was where the bucks were eaten. Note that the Trinity 'Howis' is distinct from the 'Gylde awle' (*Ibid.*, i, 511, 552).

under Edward VI.¹¹³ On the other hand, the accounts of the two bodies, and their rentals, were distinct, although entered in the same volume, and the accounts were made up at different dates.¹¹⁴ After the suppression of the chantries, the lands of the Trinity Gild passed to the Crown, whereas those of the corporation remained in their hands. There is no reference in the 1474 by-laws to the Trinity Gild; and the 1580 by-laws, which relied on earlier enactments, show that, in this respect, there had been no interim constitutional change. It is thus an over-simplification to say with Tighe and Davis, and with the *V.C.H.* that 'the governing body is often described as the gild of the Holy Trinity'; and it is misleading to follow the *V.C.H.* in its assertion that 'It may be doubted whether any burgess could reach any official position in Windsor without being a member of the Trinity Gild'.¹¹⁵ The Trinity Gild was rather a social, charitable, and religious group, whose membership included men—and women too—who were not members of the corporation, as well as men who were; and its origins may well be sought in the old merchant gild of the town which, when its former work was no longer needed, was adapted to new functions.¹¹⁶ The 'avenue through which the townsman sought office' was not this Trinity Gild, as the *V.C.H.* stated, but rather admission to freedom; and this was controlled by the corporation and limited to those skilled in trade.

Windsor, like many other boroughs, had acquired its constitution in a piece-meal way—partly under royal charter, partly by the issuing of its own by-laws, and partly in *ad hoc* response

to the demands of its developing administration and increasing duties. By the end of the 15th century this constitution had reached an important stage, and was apparently well enough suited to its function to remain the basis of the government of Windsor until 1603. Indeed, it remained the basis, with very little change, until 1835, although it became increasingly inadequate in its later years. Until that date, the corporation of 28 or 30, serving for life and co-opting new members as there was need, formed the common council of the borough and governed the town. It was a close-knit and inward-looking club, unlikely of its nature to seek change or reform. This only came in 1835 when the Municipal Reform Act, in one stroke, demolished the infinite variety and painstaking accretions which had made each borough a law unto itself, and virtually severed the connection between the modern borough and its medieval origins.

The loss of the earlier borough records of Windsor has meant that it is possible to do no more than trace the outlines of the borough's constitution during the Middle Ages. Ashmole, however, in the 1660s, transcribed and made extracts from two important Windsor records of the 16th century which have since disappeared. These extracts from the Boarded Book of Enrolments and from the Mayor's Book illuminate the functioning of Windsor's still medieval constitution during the 16th century and it is hoped, in a forthcoming number of the *Berkshire Archaeological Journal*, to publish some of this material.

¹¹³ *Ibid.*, i, 321, 580-1, 488, 498.

¹¹⁴ *Ibid.*, i, 450; Ash. 1126, 11b, 17a-22a: the gild on the monday after All Souls and the Chamberlains on the morrow after St Edward the Confessor. Wi.FAc. 1 (1514-60); and in 1541 it was ordered in the guildhall by the mayor, bailiffs and brethren that lands belonging to the guildhall, or to the fraternity of the Trinity, which fell void, should

be leased in turn to the aldermen who had been mayor, and so on, down the hierarchy (*Annals*, i, 520-1).

¹¹⁵ *Ibid.*, i, 321; *V.C.H.*, iii, 59-60.

¹¹⁶ Much the same happened at Ipswich (J. Wodderspoon, *Memorials of Ipswich* (1850), 155, 161, 164, 179).

THE MEDIEVAL CONSTITUTION OF NEW WINDSOR

APPENDIX

A LIST OF STEWARDS OF THE MERCHANT GILD, MAYORS, AND BAILIFFS OF NEW WINDSOR, TO 1500

This list has been mainly compiled from the names of witnesses recorded in the private charters preserved at Eton College, and St. George's Chapel, Windsor;¹ and, in a few cases, from entries in the Ashmole MSS, Bodleian Library, Oxford, and the Public Record Office.² By 1491, elections took place on the Sunday before St. Matthew's day (21st September) and in the 16th century oaths were taken on the day after Michaelmas (29th September), so that the year of office may be taken as running from early October.³

<i>Date</i>	<i>Steward of the Gild and/or Mayor</i>	<i>Bailiffs</i>
1299-1300		Edmund de Brumpton, Henry le Ledeyetere
1304-5		Roger le Porter
1308-9 ⁴		Edward ate Bakhouse, Richard Ketel
1316-7		John Jurdan
1317-8		Philip atte Hawe, John Jurdan
1321-2		Philip atte Hawe, John Edam
1325-6		John de Brumpton, John de Bedford
1327-8 ⁵		Philip le Marshal, Henry le White
1328-9		Philip le Marshal, Henry le White
1329-30		John de Bedford, Osbert le Taverner
1330-1		Osbert le Taverner, John de Bedford
1331-2		Osbert le Taverner, Hamo Smod
1332-3		Osbert le Taverner, John Godefray
1333-4		Philip le Marshal, Osbert le Taverner
1334-5		Philip le Marshal, Osbert le Taverner
1335-6		Philip le Marshal, Osbert le Taverner
1336-7	John Godfrey (S) ⁶	Osbert le Taverner, Philip le Marshal
1337-8		Osbert le Taverner, Philip le Marshal
1338-9		Osbert le Taverner, John Hurtle
1340-1		Osbert le Taverner, William Draspere
1341-2		Osbert le Taverner, William Draspere
1342-3		Osbert le Taverner, William Draspere
1343-4		Osbert le Taverner, William Draspere
1344-5		John de Hurtle, William Chesewyk
1346-7		Osbert le Taverner, William Draspere
1348-9		Osbert le Taverner
1349-50		Osbert le Taverner, John le Peyntour
1360-1		Nicholas Bernard, Robert Felleghe
1361-2		Nicholas Bernard, John Deyrer

¹ I am grateful to the Provost and Fellows of Eton College, and to the Dean and Canons of Windsor, for permission to use these records.

² Notably, Ash. 1115, 1126; Montagu Burrowes, *The Family of Brocas of Beaurepaire* (1886); P.R.O. Calendars; P.R.O., S.C. 6.753.3, 4, 7, 8; Crest. 38.81, 107; C. 219.15.4, 6, 7; C. 219.16.1, 2; C. 219.17.1, 2; C. 47.48.7; C. 66.516; *Annals*.

³ See note 41 above; Ash. 1126, 10a. This is true of the earlier period, as can be seen in those cases where different names occur in September and in October. References have not been given in the

list below, but a fully annotated list will eventually be placed among the borough records at Windsor.

⁴ The document (*Annals*, i, 131) is dated only 2 Edward II—i.e., between 8th July 1308 and 7th July 1309, so that these bailiffs could have served from either 1307-8, or 1308-9.

⁵ *Cal. Pat. Rolls*, 1327-30, 57 (30th March 1327) refers to late bailiffs, John Godfrey and Richard de Horesill—no year is given for their service, but it could be 1326-7, for which no names are known.

⁶ (S) denotes steward of the merchant gild or gild hall.

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<i>Date</i>	<i>Steward of the Gild and/or Mayor</i>	<i>Bailiffs</i>
1362-3		John Dyare, Nicholas Bernard
1363-4	John Peyntour (M) ⁷	Hugh Kyngeston, Robert Fellegh
1366-7		Robert Fellegh, Adam Caperon
1367-8		Adam Caperon, Robert Honesworth
1368-9		Adam Caperon, Robert Honesworth
1369-70		Robert Bongey, Henry Newenham
1371-2		Walter Sankhurst
1373-4		Robert Bongey, Adam Caperon
1374-5		Henry Newenham, Richard Wyngham
1375-6		Richard Wyngham, John Lausel
1377-8	Adam Caperon (M)	John Lausel, John Burgeys
1378-9		John Lausel, John Sadeler
1379-80	Adam Caperon (S)	John Lausel, John Sadeler
1380-1	Robert Honesworth (S)	John Sadeler, Simon Scy
1381-2	Robert Honesworth (S)	Simon Scy, John Burgeys
1382-3	John Lausel (M)	Walter Sanghurst, John Honesworth ⁸
1383-4		Walter Sanghurst, Richard Bongey
1384-5	John Lausel (M)	John Honesworth, Walter Sanghurst
1385-6		Simon Scy, John Gardiner
1387-8		John Gardiner, John Place
1388-9		John Gardiner, John Pynke
1389-90	Robert Honesworth (M)	John Pynk, John Kyngeston
1391-2	John Lausel (M) (S)	John Gardiner, John Honesworth
1392-3	John Lausel (M) (S)	William Bullock, Robert Avelyn
1393-4	John Lausel (M) (S)	John Burgeys, William Bullock ⁹
1394-5	John Gardiner (M) (S)	John Place, Adam Dove
1395-6	John Lausel (M) (S)	John Towe, Richard Skynner
1396-7	John Lausel (M) (S)	John Brown, Thomas Mullward
1397-8	John Lausel (M) (S)	Thomas Mullward, John Brown
1398-9	Richard Markham (M) (S)	John Haydon, John Pomfrey
1399-1400	Robert Wythele (S)	John Haydon, William Tyler
1400-1	Thomas Harpcote (S)	John Tough, William Tyghlar
1401-2	Robert Wythele (S) (S or M)	John Burgeys, William Bullock ¹⁰
1402-3	Robert Wythele (S)	John Bullock, John Page
1403-4	Thomas Harpcote (M) (S)	John Chestre, Richard Newbury
1404-5	Robert Wythele (S) (M)	John Chestre, John Bullock
1407-8	Richard Markham (S) (M)	Richard Skynner, John Pomfrey
1408-9	Thomas Harpcote (S)	John Mewes, Thomas Whyshle
1409-10	Robert Wythele (S) ¹¹	Thomas Wysshele, John Scriveyn ¹¹
1410-1	William Tyler (S)	Richard Newbury, Nicholas Clerk
1411-2	Robert Wythele (S)	Ralph Chippes, Richard Newbury
1412-3	Robert Wythele (S)	William Sherman, John Page
1413-4	Richard Markham (S)	Ralph Chippes, Thomas Fayrfeld
1414-5	Robert Wythele (S)	John Bullock, sen., Hugh Tangle
1416-7	Robert Wythele (S) (M)	Robert Avelyn, James Chaundeler
1417-8	William Sherman (S)	Thomas Fayrfeld, William Towe

⁷ (M) denotes mayor.

⁸ On 1st July 7 R. II (1383) and 16th June 7 R. II (1384), however, the bailiffs' names are given as Walter Sanghurst and Richard Bongey. The regnal year began on 22nd June and so the former date may be an error for 8 R. II (1384).

⁹ These names occur in September 1393, and in February, May, and July 1394; in March 1394, however, Robert Avelyn occurs instead of John Burgeys; cf. 1392-3.

¹⁰ These names occur in November 1401 and May 1402; in February 1402, however, John Bullock and John Page occur; cf. 1402-3.

¹¹ These names occur in October, November, and December 1409 and in April, August, and September 1410; in November 1409 and June 1410, however, William Tyler occurs as (S) and Richard Newbury and Nicholas Clerk as bailiffs; cf. 1410-11.

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Date	Steward of the Gild and/or Mayor	Bailiffs
1418-9	William Tyler (M)	John Sadeler
1419-20	William Sherman (S)	Ralph Chippys, John Perys
1420-1	William Tyler (S)	John Perys, Richard Jordan
1421-2	William Tyler (S)	John Grove, Robert Cotereil
1422-3	Ralph Chippys (S)	John Bullock, John Chestre
1423-4	Ralph Chippys (S)	Thomas Fayrfeld, James Chaundeler
1424-5	Ralph Chippys (S)	John Peris, William Towe
1425-6	William Sherman (S)	John Bullock, Stephen Wade
1426-7	William Hunt Sherman (S)	Stephen Wade, Robert Cotereil
1427-8	Ralph Chippys (S)	James Chaundeler, Robert Cotereil
1428-9	William Sherman (S)	Ralph Chippys, John Peris
1429-30	Ralph Chippys (S)	John Morere, Peter Tybaude
1430-1	William Hunt Sherman (S)	William Towe, Peter Tybaude
1431-2	Ralph Chippys (S)	John Perys, Thomas Fayrfelde
1432-3	Ralph Chippys (S)	Robert Cotereil, Stephen Wade
1433-4		Richard Jurdan, John Morere
1434-5	Ralph Chippys (S)	William Towe, John Morere
1435-6	William Hunt Sherman (S)	John Benet, John Perys
1436-7	John Benet (S)	John Perys, William Towe
1438-9	Ralph Chippys (S) (M)	Roger Sherman, Thomas Perys (<i>alias</i> Waferer)
1439-40	Ralph Chippys (M)	William Towe, Roger Sherman
1441-2	William Towe (M)	John Avelyn, Rober Hunt (<i>alias</i> Sherman)
1442-3	William Towe (M) ¹³	Thomas Plale, John Rowland ¹³
1443-4	John Avelyn (M)	Edmund Pery, John Rowland
1444-5	John Avelyn (M)	Edmund Pury, John Kempale
1445-6	William Sherman (M)	John Bithewode, Thomas Swan
1446-7	John Avelyn (M)	Roger Wayte, John Notewey (Otewey) ¹³
1447-8	John Avelyn (M)	John Otwey, Thomas Symonett ¹⁴
1448-9	William Towe (M)	Roger Sherman, Thomas Symnet
1449-50	William Towe (M)	Roger Sherman, John Otwey
1450-1	John Otwey (M)	Hugh Aylwin, Thomas Perys
1451-2	John Otwey (M)	Hugh Dyer, Edmund Pury ¹⁵
1452-3	Hugh Aylwyn (<i>alias</i> Dyer) (M) ¹⁶	John Fuller (<i>alias</i> Brewer)
1453-4	Hugh Aylwyn (<i>alias</i> Dyer) (M)	Roger Wayte, John Bythewode
1454-5	Hugh Aylwyn (<i>alias</i> Dyer) (M)	Thomas Symnet, Roger Fassenham
1455-6	Hugh Aylwyn (<i>alias</i> Dyer) (M)	Roger Fassenham, Thomas Brown (<i>alias</i> Sherman)
	William Towe (M) ¹⁷	
1456-7	William Towe (M)	Thomas Clyfford, Thomas Brown (<i>alias</i> Sherman)
1457-8	John Avelyn (M)	Roger Sherman, John Batell
1458-9	John Avelyn (M)	William Bullock, Edmund Pury
1459-60	Roger Wayte (M)	Roger Fassenham, John Brewer
1460-1	Roger Wayte (M)	Roger Fassenham, John Brewer
1461-2	John Godeman (M)	William Kemsale, John Josepp

¹³ But, on 20th September 1443, John Avelyn occurs as (M) and John Rowland and Edmund Pury as bailiffs; cf. 1443-4.

¹³ Cf. *Annals*, i, 314 (3rd February 1447), where the description 'bailiffs' apparently applies to four names: William Scherman, William Towe, Roger Wayte and John Noteweys.

¹⁴ *Ibid.*, three bailiffs mentioned, 18th February 1448. On 8th September 27 H. VI (1448) William Towe occurs as (M), with Roger Scherman and Thomas Symnet as bailiffs; the regnal year began on 1st September, which may account for this discrepancy; cf. 1448-9.

¹⁵ These names occur on 25th May and on 30th September, 1452. On 17th April, 1452, however, Hugh Aylwyn occurs as (M), with Roger Fassenham and Thomas Brown as bailiffs.

¹⁶ On 26th April 1453, [*blank*] Forster occurs as 'steward of the merchant gild'; in 1448-9, however, Richard Forster occurs as 'steward', together with William Towe as mayor: i.e., he was steward of the court. It seems likely that, in 1453, as Forster is not recorded as mayor or bailiff, his description should be 'steward'. See notes ⁷¹ and ⁷² above.

¹⁷ Hugh Aylwyn occurs in January and February 1456; William Towe in April, May and June, 1456.

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<i>Date</i>	<i>Stewart of the Gild and/or Mayor</i>	<i>Bailiffs</i>
1463-4	Roger Hunt (M)	John Scotte, William Fraunceys
1464-5	John Avelyn (M)	Richard Grenewey, Edmund Pury
1465-6	Edmund Pury (M)	Thomas Brown (<i>alias</i> Sherman), William Stephens
1466-7	Edmund Pury (M)	John Scott (<i>alias</i> Cony), William Kemsale
1467-8	John Godeman (M)	William Fraunceys, Richard Grenewey
1469-70	William Bullock (M)	Richard Grenewey, William Stephens
1470-1		William Kemsale
1471-2	Edmund Pury (M)	Richard Grenewey, John Josepp
1472-3	William Bullock (M)	John Bernard, John Toller (<i>alias</i> Hampton)
1473-4	Edmund Pury (M) ¹⁸	John Toller (<i>alias</i> Hampton), William Hether ¹⁸
1474-5	Edmund Pury (M)	Thomas Nesse, John Grace
1475-6	Edmund Pury (M)	Thomas Nesse, John Grace
1476-7	William Hether (M)	Robert Legatt, William Stevyns
1477-8	Edmund Pury (M)	Thomas Nesse, Robert Legatt
1478-9	William Hether (M)	Robert Garard, John Toller
1479-80	Thomas Engele (M)	John Toller, Robert Garard
1480-1	Thomas Engely (M)	John Todd, John Pury
1481-2	Thomas Engely (M)	Robert Legat, ¹⁹ John Buknell
1483-4	Thomas Engely (M)	John Toller, John Buknell
1484-5	Robert Legat (M)	John Pery, Richard Dawe
1485-6	Robert Legat (M)	John Squyer, John Pury
1486-7	John Toller (M)	John Squyer, Henry Aythorpp
1487-8	John Tod (M)	William Canon, Nicholas Larewood
1488-9	John Tod (M)	John Baker, Thomas Ryder
1490-1	Nicholas Larewood (M)	Thomas Hunt (<i>alias</i> Brotherton), Thomas Bowlond
1491-2	John Todde (M)	Thomas Bowlond, William Pury
1492-3	John Baker (M)	William Pury, John Wells
1493-4	William Cannon (M)	Richard Heyward, Thomas Buknell
1494-5	John Todde (M)	Hugh Lyonell, John Bekynsfeld
1495-6	Thomas Wheteley (M)	Richard Heyward, John Carr
1496-7	Thomas Wheteley (M)	Nicholas Pownser, John Wells
1497-8	Andrew Bereman (M)	Thomas Brammelton, Robert Avelyn
1500-1	John Todde (M)	John de la Launde, John Scott (<i>alias</i> Cony)

¹⁸ But cf. *Annals*, i, 400, where, on 14th July 1474, William Bullock is described as mayor, and Thomas Nesse and John Grace as bailiffs.

¹⁹ Robert Legat occurs in February, March, and April, 1482; Robert Gyrkyn in August, 1482.