

Original Documents.

ANCIENT CONSUETUDINARY OF THE CITY OF WINCHESTER.

AN old certificate or exemplification of the customs of the city of Winchester has been found by Mr. Gunner among the muniments of the College there, and been brought by him under the notice of the Institute. It is very clearly and neatly written, in a formal hand and in a character by no means common. The handwriting appears to me to be *consistent* with the date which, on other grounds, I should assign to the document, namely, the 13th century. A double seal of the city is attached to it; and an indorsement on it implies that it was obtained by a custos or warden of some house, probably one of the old hospitals or eleemosynary establishments at Winchester, which were afterwards absorbed by William of Wykeham in his great foundations in that city and at Oxford.

I have called it a Consuetudinary, because it may be properly so described, and also because it is probably a certified copy of one which, under the name of "*Consuetudinarium commune civitatis*," is referred to in the books of the Corporation at a later period, and was consulted when a question arose as to the ancient ordinances or customs respecting the local contributions of persons trading within the liberties. The Inquest, which I had the pleasure of communicating in a recent volume of the *Journal* (No. 28), and this Consuetudinary, will be found to throw mutual light on each other.

The document is one of considerable interest. A conspectus of the constitution and customs of a provincial city at this date is rare. I have no difficulty in saying that it contains more real information respecting the municipal organisation of the city and its trade-guilds in the 13th century than is to be found in any work yet published under the name of a history of Winchester. The work of Dr. Milner consists of little but selections from the general history of England so far as the public transactions of the kingdom are found to have some connexion with the city or neighbourhood of Winchester. These selections, together with copious memorials of the bishops who have occupied the see, and a careful survey of the ecclesiastical edifices, compose nearly the whole of his history. Of the secular history of the city, its government, its mysteries and guilds, the growth, fluctuations, and decay of its commerce, its municipal constitution and local polity, there is to be found in it only the scantiest measure of information.

I am, therefore, glad to be able to furnish a transcript of this instructive document, and to append to it a summary of its contents and some observations that may assist the reader in understanding its import and appreciating its value as a contribution to local history.¹

E. SMIRKE.

¹ The original is written with only one break, and with few points or stops.

"Ces sunt les anciens usages de la cite de Wincestre ke unt este uscés entens de nos ancestres. Sûnt e deivent estre a la franchise sauver et sustener ce est a saver ke il iert¹ en la vile mere eleu par commun assentement des vint et quatre jures e de la commune principal sustenur de la franchise, le quel mere soit remuable de an en an et li quel mere nul plente ne receive ne nul plai per soi ne plede de chose ke tuche la provoste de la vile.

Derechef en la cite deivent estre vint et quatre jurez esluz des plus prudeshomes e des plus sages de la vile e leaument eider e conseiller le avandit mere a la franchise sauver et sustener. Les queus vint e quatre deivent a la convenable summunse le devant dit mere venir et si il soi absentent senz rennable encheson chescun per soi est en la merci de un besant al preu de la cite a chescune feiz.

Derechef dous baillifs jurez deivent estre en la cite esleuz a leaument la provoste garder e a tute gent comune dreiture fere, dunt le mere e les vint e quatre a le Burchmot de seint Michel deivent eslire quatre prudeshomes, e la commune de ces quatre eslire les dous avandiz.

Derechef quatre serjanz deivent estre en la vile jurez verges portanz a fere les comandemenz le mere e les baillifs avandiz.

Derechef nul des avandiz vint e quatre ne doit sustener partie en curt de la cite, ne estre cuntur ne enpernur de parole en prejudice de la franchise de la vile.

Derechef dous coruners deivent estre en la cite jurez de par nostre seignour li rois v² ses justises a fere lur office tant en la sokne³ cum en la cite avant dite.

Derechef les baillifs avandiz deivent al chef del an rendre sus lur roulles de plai e de terrage a mettre en comune garde pourcas ke en püst avenir.

Derechef nul de la cite ne doit fere uverer⁴ bureaux ne chaluns de hors les murs de la cite sus peine de perdre le avoir v la value. E fet a savoir ke chescun grant util dunt len ovre les bureaux doit a la ferme de la vile cinc soz par an, mes ke il ne uvere fors un sul drap. E fet a savoir ke nul ne doit estre franc ki ke unkes le tienge en sa mesun v ailleurs fors pris un [an⁵] alus le mere e un autre al hospital e li tierz al clerc de la vile. E fet a savoir ke les telers ke uverent les bureaux deivent prendre de la Tuz Seinz pour le uvere del drap xviii deners dreke⁶ a la Annunciaciun notre dame, drekes⁶ autrefeiz les Tuz Seinz dous soz. Et fet a savoir ke nul de doit fere burel uverer si il ne soit de la franchise de la vile, for pris ke chescun fulir face un par an, e chescun teler un a rendre a ferme le rois.

Des petiz ustilz dunt len uvere les chaluns est issi, ke chescun util turs doit a la ferme de la vile xii deners par an, util sengle vi d', mes ke il ne uverent fors un sul drap par an. Et fet a savoir ke nul ne est franc ke tant ne rende. E ke les draps soient de longur e laur⁷ sulump la ancienne asise del mester sus peine de perdre les draps ke serunt atenz pour autres v la value. E fet a savoir ke li chaluns de quatre aunnes lung sera de dous verges leez devant li tapener. Li chaluns de trois verge e demie la lungur avera dous verges un quartrun meins de laur devant li

¹ i. e. il y aura, &c.

² The letter *v* represents *ou* throughout, in the sense of *or* or *where*.

³ The *sok* is without the city.

⁴ i. e. ouvrir.

⁵ "an" is marked as inserted by mistake.

⁶ "Dreke" and "drekes" are equivalent to *jusque* and *jusques*.

⁷ largeur;—width.

tapener. Li chaluns de trois verges e un quartrun lung sera aunne e demie e demi quartrun leez devant li tapener. Li chaluns de trois aunnes la lungur sera de aunne e demie devant li tapener. E fet a savoir ke nul en prentiz ne doit estre mis sur ustil de tapener a viler^s si il ne doint x soz al rois si il ne soit fiz de celi ke sus le met v fiz de sa soer. E ke nul del mester ne face covenant ove serjant de autri dreks li jurn seint Andreu soit passe sus peine de demi marc al us li rois. E ke nul del mester de tapeners ne uvere nuitantre⁹ fors de la feste seint Thomas le Apostle dreks le Nowel sus peine de la merci de vi d' tante feiz cume il sera ataint. E fet a savoir ke nul del mester as burillers ne doit uverer nutantre⁹ fors del jor seint Nicolas dreks le nowel sus memes la peine. E ke dous prodes homes del mester as tapeners soient eleuz e jurez a garder tut les anciens usages al mester apendanz et a gages prendre sur ceus ke il trouverunt en defaute, les quels gages il deivent presenter as baillifs de la vile a la procheinne curt sus peine de la merci li rois. E iceus dous jurez garderont la sende v len vent li fil ke nul regrat ni soit fet avant la hure de terce. E si il truvent nul¹ regrater, li avoir ke il avera akate avant la ure avantdite sera forfet v la value a la ferme de la vile. E ke nul regrater neit en la sende avandite li wiche ne fermme par unt il pusse ses regraz conseiller². E si iceus dous jurez truvent chose muillee v autre fausine, la liverent tant tost a baillifs a fere le juwise cume de chose fause.

Derechef nul macecren ne autre home ne put avoir estal en la grante rue de Wyncestre si il ne face a la vile le pour quei.

Derechef nul homme ne put achater quirs verz ne peau verte en la vile si il ne soit de franchise sus peine de perdre le avoir a la ferme de la vile. E ceus ke sunt en franchise per unt il les pount achater ne les deivent pas verz hors de la franchise mener.

Derechef nul pessuner ne puleter ne achatera pessun ne puletrie a revendre avant ke terce soit sune.

Derechef nule manere de vitaille ke vient en la vile a vendre ne soit hors de la vile porteie des³ vendue senz cungie de baillif de la ure ke ele soit une feiz mis a vente sus peine de perdre li avoir.

Derechef nul regrater⁴ ne voist hors de la vile encontre la vitaille a achater la avend⁵ ke el vienge en la vile pour encherir la vitaille sus peine de estre quarante jurs en la prisun li rois.

De la custume de pessun est issi, ke nul home ne ipust avoir bord fors sulementes li rois. E chescun bord doit a la rente li rois un ferthing li jur ke il iad pessun sure⁶. E ce ne pust nul home forclose per nule manere de franchise.

Derechef chescune carecte ke vient en la vile ove pessun a vendre, quel pessun ke ele porte, de quele franchise ke ele soit, doit a la vente li rois une maalle tante feiz cume ele vient pur le bord ke li esta devant.

Derechef chescune carecte hors de franchise doit al rois de custume dous deners e maalle quel pessun ke ele port a vendre. E chescune somme de chival ove pessun freis, ke vient en la vile a vendre e soit hors de franchise, doit al rois treis maalles de custume e de pessun sale maalle.

^s i. e. huiler.

⁹ noctanter.

³ d'estre ?

¹ "nul" is used indifferently for *none* or *any*.

⁴ "nul regrater" is written twice by mistake.

⁵ avant.

² The "i" is marked as redundant.

⁶ sur le, or sur ce ?

Derechef chescune carecte hors de franchise venant en la vile ove saumun doit al rois de custume III^{or} deners, mes ke ele ne porte fors un sul saumun. E summe de chival, mes ke il ne porte fors un sul, II deners. E sus dos de home un dener.

Derechef chescun cent de lampruns venant en la vile doit cinc lampruns de custume as baillifs de la vile a lur propres us, e nule autre custume.

Derechef chescun vendur de harang en quarame⁷ a detail doit al rois de custume VI d', e as baillifs un picher de vin de quele franchise ke ele unkes soit.

Derechef li usage des macecrens est tel ke chescun macecren hors de franchise ke tient estal doit al rois de custume XXV deners per an.

Derechef tuz ceus ki sunt hors de franchise ke achatent aumailles⁸, berbiz, v porcs, e revendent senz tuer, doivent al rois V d' par an de la custume de parrocs, e al clerc de la vile un dener pour son nun enrouller mes ke il ne le face fors de une sule beste. E tuz les marchans de aumailles, berbiz, v porcs ke sunt hors de franchise e hantunt la vile mes ke il ne viengent fors une sule feiz per an si doivent memes la custume. E doivent aster⁹ les bestes de hors la porte de West de Wincestre al lew des parrocs de la feste de seint Michel dreks la feste seint Nicolas del matin del jur dreks haute terce, e apres terce al Menstre stret. E ilec par tut li an forspris li terme e la ure avandiz.

Derechef chescun pestur de la vile ki fet pain a vendre doit al rois de custume II soz par an e al clerc de la vile un d', e doivent fere blanc pain e bien quit' sulump la vende del ble e solump la asise de la marchaucie li rois, ce est a savoir ke si li pain de ferthing est en defaute de rien utre duze deners li pestur est en la merci. E si pur chescune defaute dedenz la summe de trois soz sulump la quantite de trespas. E quant li pain de ferthing est en defaute de rien utre trois soz le pestur porte le juwise² de la vile.

Derechef chescune venderesse de pain en la grant rue de Wincestre ke est hors de franchise doit al rois de custume par an II soz. e al clerc de la vile I d', si il vendent par an. Esi ele vendent meins sulump la quantite. E as horbes rues VI d' v trois deners sulump ce ke sanz mainuure³ est. E fet a savoir ke nule de eles ne doit quere pain fors la v les corbailles esterrunt sus peine de la merci del vendur e del akatur avant la hure de nune. E ke nule de eles ne querge pain de nul pestur dunt ele ne pusse avoir sun garent. E si ele le fet, ke ele memes le garentisse. E ke chescun pestur eit sun sel cunu sur sun pain ke il ne le pusse dedire si il soit ataint autre ke bon.

Derechef chescun braceresse del poier de la vile ke brace a vente face cerviceise bone sulump la vente del ble e sulump la asise donee, e si autrement le funt soient a la merci li rois tante feiz come baillifs les pourunt atendre.

Derechef nule braceresse hors de franchise ne pust bracer de denz le poier de la cite a vente si ele ne face gre as baillifs sulump la quantite deson fet.

Derechef nul home hors de franchise de quel mester ke il soit ne pust sende tenir, vendre ne akater de denz le poier de la vile senz gre fesant as baillifs de la vile.

Derechef chescun carette vendue en la vile a home hors de franchise doit al rois de custume une maalle.

⁷ careme.

⁸ Animals, or neat cattle.

⁹ Ester ?

¹ cuit.

² Judgment ;—judicium.

³ son manœuvre ?

De menue custume est issi ke une pierre de leine ke vint en la vile severaument e soit hors de franchise doit al rois de custume un ferthing, e dous ensemble un ferthing, e trois ensemble uue maalle, e quatre une maalle, e cinc une maalle, e sis ensemble trois ferthing', e set trois ferthing', e wit un denier, ce est a savoir de ceus ki sunt hors de franchise. E si il iad noef pieres ensemble v severaument a un home et a une feiz si doit al rois 11^d de pesage de quele franchise ke il soit ke la porte. De furmage, bure, oinct e siw est en memes la manere en tuz poinz si cum dit est avant de la custume de leine. E fet a savoir ke de leine, furmage, bure, siw, e oinct, v le pesage li rois apent, doit en prendre tant de la demi poise severeie cume de la poise entere. E fet a savoir ke chescun manere de avoir v li pesage li rois apent, ke soit mene dedenz le poier de la vile a vendre, doit le pesage li rois par ki pois il soit pese e de quele franchise ke il soit a ki le avoir est. E si il iad nul prive v estrange ki le pesage doit e le cuncele utre nuit, il est en la merci li rois sulump la quantite de trespas.

Derechef quant taillage doit estre leve en la cite par le commandement li rois v pur commun busung de la vile, sis prodeshomes doivent estre esleuz per commun assent e jurez trois des vint e quatre e trois del commun a asser cel taillage e a recevoir e a leaument despendre e leal acunte rendre. E quant mere v baillifs v autres prodeshommes vunt hors de la vile pur commun pruv sus commun burse si doivent a lur retourner rendre leal acunte a ceus sis avantdiz sanz delai. E si aukun dedome de la vile preste son avoir al commun busung de la vile per la main de ceus sis jurez avantdiz soit enprompte per taille e per mesmes ceus renduz.

Derechef kant len purvoit bever⁴ gilde markande, len doit per commun assent par les mesters de la vile enquere genz ke covenable soient e de bone fame a requiller⁵ en gilde markande. E ke chescun de ceus eit en chatel quatre libres vaillant v plus. E ceus ke si serrunt aquilliz⁶ serunt hlotez a quatre meisuns cume soleient estre a tuz tens. E kant len avera beu gilde markande les quatre mesuns soi assemblerunt a voier ce ke il averunt leve e ce ke purrunt lever. E si trespas iad fet, per commun assent soit amende. E si nule mesun vaillio⁷ plus de autre, soit charge a sa value. E ke li argent ke sera leve des quatre mesuns avantdiz soit baille as sis prodeshomes avantdiz esleuz e jurez par commun assent a leaument garder e leaument despendre e leal acunte rendre as prudeshomes de la vile dous feiz per an per taille v per escrit.

Derechef si nul des vint e quatre truve nul forein dedenz le poier de la vile ke dette li deive, il list a li memes fere la destresce sus son detur desks il⁷ puisse as baillifs venir. E nul de la franchise de la cite ne doit rien donner as baillifs de la vile pur fere destresce sus ses deturs prives v estranges, dementers ke il offre wage et plege sur ceus ke la dette li deivent.

Des portes de Wincestre dunt les baillifs de la vile enpernent la custume de ceus ke hors de franchise sunt e custume deivent est issi:—

Ke chescune carecte ke porte ble a vendre doit une maalle de custume tantes feiz cum ele vient. E summe de chival, ferthing.

Derechef chescune carecte ke porte fer v acer ii^d. E summe de chival, i^d.

Derechef chescune carecte ke porte neues seles a carecte, peruns v peruneles, cordes v trez, doit de custume ii^d. E summe de chival, i^d.

⁴ boire.

⁵ Recueillir.

⁶ acueillis.

⁷ jusques il, or jusq' a ce qu'il, &c.

Derechef summe de carecte ke porte piere a mulin iiii^d. E chescune carecte ke porte mul a aguser ii^d.

Derechef chescune carecte ke porte esteim v plum a vendre iiii^d. E summe de chival, ii^d.

Derechef chescune carecte ki porte korc dunt len teint ii^d. E summe de chival, i^d.

Derechef fauces e faucilles ke venent en carecte deivent de custume i^d. E summe de chival, oñ.

Derechef chescune carecte ke porte quir tane a vendre doit ii^d. E summe de chival, i^d.

Derechef warence ke vient en carecte a vendre ii^d. E summe de chival, i^d.

Derechef chescune carecte ki porte weide a vendre iiii^d. E summe de chival, i^d.

Derechef chescun cutere ke meine en la cite cendre ke affert a weide doit al rois de custume vi^d per an, e al clerc i^d pour son nun enrrouler, mes ke il ne vienge fors une feiz per an.

Derechef usage est del mester de teinterie en la cite ke dous prudeshomes e leaus soient esleuz par commun assent et jurez a asser^s le weide de estranges merchanz ke vient en la vile a vendre a⁹ fere leaument la assise al vendur e al akatur.

Derechef chescun tanur ke tient bord en la grante rue de Wincestre doit pour la rue ke il purprent ii^s per an. E al clerc l^d en nun de tangable. E chescune venderesse de siw v oinct a detail doit la veille de Pasks i^d en nun de smergable.

Derechef chescun suur ke fet soulers de vache nouveaux doit memes la vile ii^d en nun de scogable.

E ces usages sunt de ceus ke sunt de franchise ausi bien cume des autres.

Derechef il iad en la cite avant dite un sel commun e autentie dunt len sele les chartres des feffemenz de la vile, les quels chartres averunt este en la garde des Aldermans ke averunt fetes les seisines un an e un jur sanz chalenge de nulli; al quel seler len crie li^{ban} parmi la vile li tierz jur avant ke len sele. E les chartres ke si serrunt presentees per les Aldermans avantdiz, ki temoinrunt la seisine bone e la garde de la chartre sanz nulli chalenge, serrunt selee e sauves per cel sel a remanant. E fet a savoir ke chescune chartre, ke serra de cel sel selee, doit pur le enseler vii^d pur cire e pur tut. E fet a savoir ke le sel avant dit serra garde de suz trois clefs, dunt dous prudeshomes des vint e quatre jurez garderunt les dous, e un prudome del commun la tierce. E cel cofre ove trois les clefs serra mis en un greingnur cofre ferme de dous locs, dun un prudome des vint e quatre gardera la une clef e un del commun l'autre.

Lordre des pleis ke len pleide en la cite de Wincestre si est icel per usage, ke chescun homme de la franchise de la cite ke est enpleide pust avoir trois rennables sumunses avant apparance si avoir les veut, v atachement ne apent; e pur sun meinpast autretant. E fet a savoir ke celes trois sumunses deivent estre fetes par trois jurs continuez si feste sollempne nel disturbe v ke curt ne soit de jur en jur tenue, issi ke li pleintif a chescune

^s or, "assar" ?

⁹ "a" seems to be written for "e" here, or should be preceded by it.

curt soi purhoffer a la sumunse procurer. E si home est attache v sumunse apent a la procheine curt, soit la destresce delivere, e il eit ses rennables sumunses sulump li usage de la vile. E si il ne est truve en vile kant len comande fere la primere sumunse, nule ne li soit fete avant ke il vienge en vile, si ce ne soit de plai de tere per bref. E si home hors de franchise soit enpleide, il ne averat ke une sumunse utre une nuit, e si il soit en vile truve. E si il soit enpleide per bref de plai de tere, si pust avoir, si il veut, trois continueles sumunses cume ceus ke sunt en franchise. E si home ki est de franchise a la primere sumunse v a la secunde en curt aperge, il est tenu respundre cume a la tierce. E kant il appara sanz destresce li quel ke il soit de franchise v nun, e soit de la vile, si pust avoir jur de la vile a respundre si rennablement le demande. E pur le jur de la vile de denzain a de denzain delai utaine; e si per essoigne v per apperance est pleide, tut le plai de utaine en utaine dreks¹ il soit chevi. E si forein enpleide de denzain, ne at ke le tierz jur apres apparue per le jur de la vile ne per autre delai. E kant de denzain enpleide forein, li forein at ses delais de utaine en utaine sanz jur de la vile; e a apparue apres essoigne de plai de tere la wue, si ke nul exceptiun ne la toille, si ele ne tuche droit. E ke commune loi soit entre li demandant e li defendant a bref de Droit en constant e en defendant forpris langur, bataille, e grant asise, issi ke enqueste prise per duze prudeshommes jurez trenche droit a remanant.²

E fet a savoir ke les brefs ke len pleide en la cite par devant justises v pardevant les baillifs de la vile sunt ceus:—bref de Novele Deseisine, e tuz maneres di justizes forpris annuele rente, e bref de Droit de Duere, e de Rennable partie, e de Droit droit³—E ke demandant e defendant pust fere aturne a tuz maneres de plai per bref e sanz bref en presence de partie. E ke essoigne de utremer ne soit aluee en nul manere de plai jete pur celi ke soit truve a sumunse; et si il ne est truve, soit jete la essoigne sur la primere summunse v nient aluee; e si eit quarante jurs; e si dedenz les quarante jurs vienge en vile e li pleintif voile siwere,⁴ soit resumuns sus la sumunse avandite; e pust duncke, si il veut, geter une essoigne del mal de venue e avoir delai utaine, issi ke devant respuns ni gist nul autre delai si ce ne soit par furcheure⁵ de plusurs parceners de plai de tere par bref. E a plai de Dete sus chef respuns est issi, ke si li demandant porte taille v escrit e demande le aport entierement, nul jur de acunte ne soit grante par la curt sanz asentement del demandant, mes li defendant alegge sa paie fete per taille v per escrit v per siwte, issi ke si il porte taille v escrit, les pruffe sulump lur nature, e si il meine siwte, son aversere eit son defens sulump lei de tere.

Derechef apres la morte de chescun tenant en fe deivent les baillifs de la cite simplement seiser les tenemenz des quels il murt seise pour saver mun⁶ ki soit plus prochain heir; e a la procheine curt al plus prochain

¹ *i. e.* until the end of the suit.

² *i. e.* a writ of right is to be prosecuted as at common law, except that the essoign of illness, trial by battle and by the Grand assize, are not to be allowed, but a jury of twelve are to be substituted. This provision was usual in cities and boroughs; where the forms of process, pleading, and trial had been reduced to reason some centuries before the legislature followed their example.

³ The writs specified are, the writs of right, of dower, assise of novel disseisin, and writ de rationabili parte.

⁴ Suivre.

⁵ The process of *fouching* by coparceners and joint-tenants is the subject of the Statute of Westminster, 3 Ed. I. Being abolished by that statute, it should seem that this custom is older than 1275.

⁶ This may be *num* (nom) or perhaps *hum* (homme).

aparont soient les avantdiz tenemenz renduz ; issi ke si nul pur plus prochein allege, v pur parcuner ki entere⁷ soit, eient les amis jur de fere li venir sulump les destance des leus ; e si hors de tere, quarante jurs. E si a sun jur vient, eit memes li estat ke il eust eu si il eust este en present le jur ke son ancestre murust. E si a son jur ne viengne, e quide droit avoir, eit son cleim sulump lei de tere.

Derechef del an e del jur useez en la cite fet a savoir ke ki ke unkes eit tenu teres v tenemenz per decete v per purchaz, dunt il eit seisine per baillifs v per certain tesmoinage de vinue⁸ un an e un jur sanz cleim v chalenge de nulli, soit li demandant forclos a remanant, si il ne fust de denz age v hors de la tere v en prisun v ke ce soit rennable partie en owl genuil,⁹ ce est a savoir, frere a soer, uncle a neveu, aunte a niece.

Derechef usage est del an e del jur avantdiz, ke si nul soit ke preinge rente de nul tenement en la franchise de la cite avandite, e sa rente enterement soit arere un an v plus, e il ne itruve ke destreindre, e il ieit edifice e gent habitanz, per cungie de baillifs de la vile prenge les us e les fenestres, e si par ce ne pust son tenement justiser ne autre destresce ne itruffe, per agard de la curt e la veue del alderman de la rue e de un ser-jant soit mis [soit mis¹] estage v loc v il iad us, et soit enroule en la curt et si vi per utaine e autre utaine et tierce utaine e quarentaine un an e un jur acumpli del premer jur de la siwte, et si dunc nul ne vienge pur fere gre, perde le tenant sanz recoverer, li quel ke il soit de age v nun² ; issi ne purkant ke devant ke li jugement passe³ purra tuzjurs gre fere ; le quel jugement ne soit pas delaie al damage del demandant. E autele siwte soit fete de tere vende v enblaure ni ad.⁴ E ke nul home main ni mette en terres ne en tenemenz avantdiz dementiers ke li sequestre li rois iest."

[A pointed oval seal and counter-seal, suspended by a four-cord plat. Indorsed in a very different hand are the words "Adquis' p' J. de Hol custod."]

The following is an abstract of the above document :—

The mayor is chosen annually by the twenty-four jurats and commonalty to be the chief upholder of the franchise. He has not, per se, jurisdiction on any plaint or plea touching the provostry of the city.

There ought to be twenty-four jurats chosen from the "plus prudes homes et plus sages" of the city, to aid and counsel the mayor in maintaining the franchise. They may be convened by summons, and, in default, are liable to be fined one besant.

Two sworn bailiffs are annually chosen to keep the provostry and to do justice to the commonalty. The mayor and twenty-four select four prudes-homes at the Michaelmas Burgmote, of whom the commonalty choose two to

⁷ *i. e.* en terre.

⁸ *venue* ; *i. e.* the neighbourhood.

⁹ "En owl genuil" is in equali genculo or generatione. If the claimant was next of kin to the tenant, the adverse possession would not bar him ; for it was presumed that the tenant held for the benefit of his relation.

¹ These two last words are repeated by mistake.

² *i. e.* of age or not.

³ "So nevertheless, that before judgment passes," &c.

⁴ *i. e.* like suit lies for recovery of land sold, but unsown :—for if there are crops, there is security for the rent or purchase-money without seizure of the land. Such appears to be the meaning.

be the bailiffs. Four city serjeants are sworn verge-bearers to execute the commands of the mayor and bailiffs.

None of the twenty-four are to maintain any party in the city courts, or to act as advocates to the prejudice of the franchise.

Two coroners are sworn in the King's name to execute their office as well in the soke as the city.

The bailiffs annually return their rolls of pleas and terrage into the public custody of the city.

So far the instrument sets forth the fundamental constitution of the corporate government. The regulations affecting the trade and manufacture of the city follow :—

No citizen shall cause burells or chalons to be made without the walls, on pain of forfeiture of the article made, or its value.

Every great loom for making burells pays 5s. per an. towards the farm of the city, unless¹ it makes only one cloth.

No one ought to be free who keeps in his house, or elsewhere, more than one to the use of the mayor, one to the use of the hospital (i. e. St. John's) and a third to the use of the city clerk.

The telers of burells ought to take 18*d.* for the working of cloth from All Saints to the Annunciation of our Lady, and thence again to All Saints, 2*s.*

None but freemen can make burells, except that each fuller may make one every year, and every teler one towards the King's farm.

Of the small looms for making chalons, each turs loom pays to the city farm 12*d.* a year, and each single loom 6*d.*, unless¹ only one cloth be made in the year. And no one can be a freeman who does not at least render this amount.

Cloth must be of the length and breadth required by the old assise of the mystery on pain of forfeiture; chalons 4 ells long must be 2 yards wide "before the tapener;" chalons $3\frac{1}{2}$ yards long must be $1\frac{1}{4}$ yard wide. If $3\frac{1}{4}$ yards long they must be an ell and a half, and half a quarter wide. If 3 ells long, they must be an ell and a half wide.

An apprentice put to work at the loom of a tapener to oil must pay 10*s.* to the king, if he be not the son, or sister's son, of the master.

None of the mystery may engage the servant of another until after St. Andrew's day, on pain of a half mark to the king.

None of the mystery of a tapener may work at night except from the feast of St. Thomas to Christmas, on pain of 6*d.* for every offence.

None of the mystery of buriller may work at night except from St. Nicholas to Christmas.

Two prudeshomes are to be chosen from the mystery of tapeners and sworn to maintain the ancient usages of it, and to take pledges from defaulters, and present them at the next court of the bailiffs. They are also to have the care or oversight of the *send*, or shop, where the yarn (*fil*) is sold, so as to prevent regrating before the hour of tierce. Articles so sold are forfeited to the city farm.

No regrater is to have there a box² or locker by which such regratings may be concealed; and if they find an article wetted, or any other fraud practised, it shall be delivered to the bailiffs for adjudication and punishment.

¹ The expression *mes ke ne* seems to be here and elsewhere used for *excepté*, or *à moins que*, &c. See Orelli, p. 339.

Ducange, Gloss. Franc.

² *Wiche* in the orig. See Halliwell, Arch. Dict. verbo *whiche*.

No butcher or other is to have a stall in the High Street except upon payment of a consideration to the city.

No one can buy undressed leather or skins if he be not of the franchise, on pain of forfeiture ; and no one of the franchise can take them in the same state out of the liberty.

No fishmonger or poulterer can buy for resale before the hour of tierce has sounded.

No victuals brought into the city, and once put up for sale, can be taken out of it for sale without leave of the bailiff.

No regrater is to leave the city for the purpose of buying victuals on their way to the city, in order to raise their price, on pain of 40 days imprisonment.

The custom as to fish is, that no one may have a board except of the king ; and each board is charged towards the king's rent a farthing for every day on which there is fish on it to sell. No franchise can exempt from this charge.

Every cart bringing fish for sale into the city pays a halfpenny to the king's rent for the board which it stands before. And if the cart be not of the franchise, it pays to the king $2\frac{1}{2}d.$; and every horse-load of fresh fish not of the franchise pays $1\frac{1}{2}d.$, and of salt fish a halfpenny.

A cart, not of the franchise, bringing salmon for sale pays $4d.$, unless it brings only one salmon : and a horse-load, $2d.$, unless there be only one fish ; and if on a man's back, $1d.$

From every 100 lampreys there are due 5 lampreys to the bailiffs to their own use, and no other custom.

Every seller of herrings in Lent by retail is to pay $6d.$ to the king and a pitcher of wine to the bailiffs, of whatever franchise he be.

The usage of butchers is that every butcher not of the franchise, who keeps a stall, is to pay to the king, of custom, $25d.$ per annum.

All persons not of the franchise, who bring cattle, sheep, or pigs, and sell them alive, are to pay $5d.$ a year to the king for custom of paddocks, and to the city clerk, $1d.$ for enrolling their names, provided the number sold exceeds one. And to this duty all dealers in those animals, not being freemen, who frequent the city, are chargeable, if they come more than once. And they are to stand their beasts in the paddocks without the West-gate from Michaelmas to St. Nicholas from morning till high tierce, and afterwards in Minster Street, where they are to stand all the rest of the year.

Every baker of bread for sale is charged $2d.$ per an. to the king and $1d.$ to the city clerk ; and he must make white bread, well baked, according to the vend of corn and the assise of the king's marshalsea ; that is to say, if the farthing loaf be at all deficient beyond $2d.$, he is to be amerced, and so in proportion for every default within $3s.$ If the deficiency exceeds $3s.$, he is subject to the judgment of the city.

Every woman selling bread in the High Street, not having the freedom, pays to the king $2s.$ a year, and to the city clerk, $1d.$, if she sells by the year ; if less, then in proportion. If she sells in the *blind streets*, $6d.$ or $3d.$ according to her handiwork ; and she is not to procure bread except where the baskets shall stand, on pain of amercement both of buyer and seller, before the hour of noon ; nor shall she procure bread of any baker from whom she cannot have security. If she does, she shall herself be security for him.

Every baker is to have his known seal on the bread, so that he may not gainsay it when found bad.¹

Every woman who brews for sale within the jurisdiction of the city is to make good beer according to the price of corn and the appointed assize, on pain of amercement to the king on conviction by the bailiffs.

A brewer not free of the city cannot brew within the city jurisdiction without compounding with the bailiffs.

In like manner no man, whatever his trade, not free of the city, can keep a shop, or sell or buy within its jurisdiction, without compounding with the bailiffs.

Every cart sold in the city to a non-freeman pays to the king a halfpenny.

The following are the petty customs of the city, viz.—

A stone of wool brought separately into the city by a non-freeman pays a farthing to the king ; two together a farthing ; three a halfpenny ; four or five, the like sum ; six or seven, 3 farthings ; eight, 1*d.* ; and if one man brings nine stone, either separately or together, at one time, he shall pay 2*d.* to the king for pesage, of whatever franchise he be. And the like duty is payable for cheese, butter, lard (*oinct*) and suet, as in the case of wool. In these cases as much is due for each separate half weight as for whole weight ; and where pesage attaches to articles brought for sale, it is payable by whatever weight it may be weighed, and whatever be the franchise of the owner. If any private person or stranger conceals the pesage due from him beyond a night, he is liable to amercement in proportion to his offence.

When tallage is levied in the city by command of the king, or for the common business of the city, six sworn prudeshomes are to be chosen by common assent, three from the twenty-four and three from the commonalty, to assess the tallage and to collect and lawfully expend and account for it. And when the mayor, bailiffs, or other prudeshomes, are absent for the common profit of the city, and at the common expense, they must account to the above six without delay on their return ; and if any prudeshome of the city advances money for the use of the city, it is to be lent by tally, and repaid by the hands of the same six.

When provision is to be made for “drinking the gild merchant,” the trades of the city are by common assent to seek suitable persons of good repute to collect the gild (or to entertain the gild ?), each of whom ought to have goods to the value of 4*l.* or more ; and those who shall be so chosen (?) shall be lotted into 4 houses (*hlotez a quatre meisuns*) according to the immemorial usage. And when the gild merchant has been drunk, the 4 houses shall assemble themselves to see what they shall have levied and can levy ; and if any trespass has been done, amendment is to be made by common assent ; and if any house be worth more than another, it is to be charged according to its value. The money so levied on the 4 houses is to be paid over to the above-mentioned six prudeshomes, who are sworn to account to the prudeshomes of the city twice a year by tally or writing.

If any of the twenty-four finds a foreigner within the city jurisdiction who owes him a debt, he may himself compel him by distress to come before the bailiffs. And no freeman of the city ought to give anything to the bailiffs

¹ See the charter to Winchester, 5 John, in 1 Rymer, 88 ed. 1816.

of the city for making a distress on his private or foreign debtors, provided he offers gages and pledges to prosecute his suit against them.

The following customs are taken by the bailiffs at the gates of Winchester from persons who are not freemen of the city :—

Every cart carrying corn for sale pays a halfpenny every time it comes : a horse-load pays a farthing.

A cart with iron or steel, *2d.* ; a horse-load, *1d.*

A cart carrying new cart-gear, *2d.* ; a horse-load, *1d.*

A cart carrying mill-stones, *4d.* ; whet-stones, *2d.*

A cart carrying tin or lead for sale, *4d.* ; a horse-load, *2d.*

A cart carrying kore for dyeing, *2d.* ; a horse-load, *1d.*

Scythes and sickles in a cart pay *1d.* ; a horse-load, $\frac{1}{2}d.$

A cart with tanned leather for sale, *2d.* ; a horse-load, *1d.*

A cart with madder for sale, *2d.* ; a horse-load, *1d.*

A cart with woad for sale, *4d.* ; a horse-load, *1d.*

Every cotter (?) who brings ashes for woad is to pay *6d.* a year to the king and a *1d.* to the clerk for enrolling his name, unless he comes only once in the year.

The usage of the mystery of dyeing is that two prudeshomes are to be chosen by common assent, and sworn to assay the woad brought by strange merchants for sale, and to enforce the assise as against buyer and seller.

Every tanner who has a board in the High Street is to pay *2s.* a year for the space occupied by him in the street, and *1d.* to the clerk in the name of *Tangible*; and every woman who sells suet or lard by retail pays *1d.* at Easter in the name of *Smergable*. Every shoemaker who makes new shoes of cow-leather pays to the city *2d.* in the name of *Scogable*.

These usages (that is, I presume, the usage of *Tangible*, *Smergable* and *Shoegable*) are binding on freemen as well as others.

The city has a common and authentic seal, with which charters of feoffment of the city are sealed. Such charters are to be in the custody of the *aldermen* who shall have delivered seisin under them for a year and a day, and if after that time the charters are presented by the aldermen, who testify due livery of seisin and the keeping of them without challenge or objection by any one, then, after bans or proclamation made in the city three days before the sealing, they shall be sealed by the above seal and made good for ever.

For the sealing of every charter with this seal there is due *7d.* for wax, which shall include everything. The seal itself shall be kept under three keys, of which two are to be kept by two prudeshomes of the twenty-four, and one by a prudehome of the commonalty ; and the coffer, containing the seal, shall be put into a larger coffer closed with two locks, and the key of one kept by a prudehome of the twenty-four, and the key of the other by one of the commonalty.

The rest of the document contains a detailed account of the pleadings and procedure in the city courts. The tenure in the city seems to have been of the nature of copyhold tenure. Seisin by livery of the bailiffs, or by other public testimony, for a year and a day unchallenged, gave an indefeasible title if the rightful owner was under no disability. If rent was in arrear for a year, and there was nothing to distrain on the premises, the landlord could recover possession of them in a year and a day by a process analogous to that of *Gavelet* or *Shortford* in the City of London, Exeter, and other cities.

The following remarks occur to me upon the different parts of this document :—

I.—MUNICIPAL CONSTITUTION OF THE CITY.

The governing body were the mayor, two bailiffs, and the twenty-four jurats, commonly called “The Twenty-four ;” and this continued to be the basis of the government down to the recent parliamentary change. We are not clearly informed who were the general body of electors called “la commune,” or the commonalty of the city ; and this obscurity has, in almost every period of our municipal system, occasioned controversy respecting the normal constitution of the elective bodies. There seems, however, to be little ground for doubt that, at Winchester, the traditional election by all the freemen, the sworn men of the merchant gild, was the original and regular form of election. The defect of it was, that there was no adequate provision for securing the admission into the franchise of all those who were reasonably entitled to it.

The aldermen did not, strictly speaking, form part of the ordinary government of the city until they were made so by late charters. Here, as in other cities, as Exeter, &c., they were local officers of wards or districts, whose functions related chiefly, but not wholly, to the police and preservation of order, health, and cleanliness within their several limits.¹ It is remarkable that in the Soke liberty, a suburban manor of the See of Winchester mentioned in the Consuetudinary, each of the several districts or tithings, into which it is divided, has an officer still called, indifferently, the alderman, or the tithingman.

The bailiffs of Winchester were the *prepositi* or *provosts* of the city. Hence the “provostry” mentioned in the document designates the functions or office of the bailiffs. They were in the nature of sheriffs, and also presided over the court of pleas jointly with the mayor.² The original identity of provosts and bailiffs is very apparent in other towns, as at Exeter, Bristol, Salisbury, Yarmouth, Tenby, &c. They are sometimes called also *seneschalli*, or stewards, as at Exeter and Bristol. In the last city these two officers successively held each of the three names, and finally became the sheriffs.

As sheriffs, the bailiffs of Winchester accounted annually and delivered up their court rolls and rentals, or “tarrages,” of the city. Under this last name were included the rents called *landgable*, of which there is a list in the Inquisition already printed in this Journal (No. 28, Orig. Doc.) There is also a very detailed list of “tarrages,” tempore Henry V., among the additional MSS., British Museum, No. 6133. When fines were levied for the benefit of the city under bye-laws, they were paid to the “provostria civitatis.”³

The two bailiffs are also called the two peers—“*deus peres*,”—of the mayor ; instances frequently occur in the registers of the city ; and the practice is noticed by Mr. Wright in his report on the corporation records.⁴

But the bailiffs are not the only persons called peers. The Twenty-four,

¹ The aldermen are not named in the early charters of London, or New Sarum, or Bristol.

² As early as Henry IV., the style was “*coram majore et ballivis*.”—Vid. Rot.

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Cur., 14 Henry IV., &c.

³ Winchester Black Book, Add. MSS., No. 6036, fol. 22, Brit. Mus.

⁴ Archaeol. Assoc., 1845.

or whole council of the city, are also called by this name; and ordinances by the mayor and his "24 pares," or "compares," are not uncommon.⁵

The election of bailiffs at the Michaelmas "Burchmot" is mentioned. The municipal commissioners, who reported on this corporation in 1834-5, were informed that this was a court of criminal jurisdiction. It was confirmed by the charter of Elizabeth to Winchester, but was not in active operation, as such a court, at the time of the above inquiry. It is very evident from the earlier records extant that the Burghmote, or Boromote, was a term sometimes applied to a general corporate meeting, and many of the bye-laws were established at such motes or meetings. At Canterbury the word still designates the corporate assembly, summoned by the burghmote-horn. Portsmouth, also, had its *Curia*, or *Burgomote*. (Madox. Form. Pref. 25.)

Ordinances by the mayor and commonalty, or mayor and his "compares," at the Burghmote, occur in the Winchester register already referred to.⁶ We also find there an order at a "common convocation and colloquium in common Burghmot."⁷ In 53 Henry III., we find a lease of mills granted "in pleno Burghmot' de Hock;" and in 9 Henry IV., the representatives of the lessees surrendered their tenure to the mayor and commonalty at the same Burghmote of Hock.⁸ In 31 Henry VIII., the "Boromote jury" perambulated the city bounds.⁹ In 4 Edward VI., an order was made that two of the quarter sessions for the city should be held on the same days as the "two Boromote and Law-dayes" between Michaelmas and Christmas, and between Easter and Pentecost; and this order is noted in the margin thus,—“The two sessions to be kept at the two law-dayes.”¹ Since this order the Burghmote or Lawday, evidently then identical, has become merged in the Quarter Sessions, and has consequently become practically extinct; though mentioned in the charter of Elizabeth as held twice a year.

I infer from the above facts either that certain great corporate assemblies had been always held *concurrently* with two great Tourns or Leets, at Hocktide and Michaelmas, and that the latter was the occasion on which, as elsewhere, the annual corporation officers were elected; or else that the functions of this Leet or Burghmote were not, originally, of an exclusively criminal or judicial character, and that the general assembly for the government of the city had its root in the Leet itself.

The term *Burghmote*, as applied to a regular corporate assembly, seems to have been dropped about the reign of Edward IV., at which time also the English language began to be habitually used in the ordinances promulgated by the city.

The only specimens of court rolls observed by me among the city records are headed *Curia Civitatis*, or *Curia domini regis Civitatis suce de W.*, and these contain weekly pleadings on complaints, &c. Unfortunately the earlier records of the city, extending to a period which negatives the current tradition of a recent general conflagration, are in such a state as to be practically inaccessible; not from any want of courtesy on the part of the

⁵ See a convocation, "coram majore et paribus suis," 10 Henry V., Winchester Black Book, *supra*, f. 22; another by the mayor, "et 24 paribus suis," 6 Henry VI. *Ibid.*, f. 25—"comperes jurez de la cité." *Ibid.*, f. 12, &c. In the same volume I find that even where the convocation is a general one of all the commonalty or

freemen, the meeting is often styled as held "coram majore et comparibus suis."

⁶ See fol. 8, 12, 17, &c.

⁷ See *ib.*, fol. 23, an ordinance, 1 Henry VI., on the watch.

⁸ Black Book, fol. 85.

⁹ *Ib.*, fol. 72.

¹ *Ib.*, fol. 82.

corporation officers, but in consequence of the inconvenient mode adopted of stowing them away. From a cursory inspection of them I am led to believe that they would clear up all doubts as to the constitution and courts of the city. But I refrain from further conjectures in the hope that we may hereafter be admitted to a clearer knowledge of the contents of that capacious and ancient chest over the West-gate, which I have referred to, before time and the rodentia shall have destroyed its membranaceous treasures.

II.—COMMERCIAL POLICY AND TRADE.

The customs respecting trade and manufacture manifestly had several objects in view:—(1) To protect, in some degree, the interests of the public in general; (2) In a still greater degree, to secure to the citizens, or at least to those among them who enjoyed the franchise, exclusive monopolies and advantages; (3) To confine each trade to its exclusive occupation, free from mutual interference; and (4) To raise a revenue for the local government.² The provisions for these purposes differ but little from the contemporary customs of most other towns. Indeed, the commercial policy of Winchester reflects that of the supreme legislature, and would probably be pronounced at this day very sound and sagacious by the mysteries and gilds of Winchester, if any such had now existed in that city.

For a citizen to establish a loom without the walls was a ground of forfeiture of the article woven or its value; because this would have evaded the municipal tax on looms, and tended to benefit only the weaver or the suburban landowner, and not the city. We have seen the complaints against this practice in the inquest of Edward I.³ The principal trades were monopolised by the freemen, and the monopoly was, it seems, maintained as against freemen of a different occupation. If I understand the rules rightly, a fuller could not weave, nor a weaver of chalons, or, as he is called, a tapener, make burells. The terms of remuneration for a burell-weaver were fixed, and varied only with the time of year. Neither tapeners nor burillers were allowed to work by candle-light, except during a few of the shortest days in the year. The same custom or bye-law prevailed in London among the telarii,⁴ and in Paris in the thirteenth century.⁵ The alleged reason was to prevent inferior workmanship;⁶ but as the rule originated (in London at least) in a bye-law of the gild of weavers themselves, and was there complained of as a law "*ad damnum et dispendium populi*," it is more probable that it was the result of the jealousy which has in all ages, down to our own, sought to dictate the times and terms of labour among fellow-workmen. In London the gild prohibited all work between Christmas and Candlemas, and ordered that no piece of cloth should be made in less than four days, though two or three might be sufficient.⁷ The result of such rules was to reduce the number of looms in London from 280 to 80 in less than 30 years. The same spirit prevails throughout the Winchester regulations.

Regrating or forestalling are, as usual, the object of stringent penalties

² The rents, tolls, &c., originally belonged to the crown, or lord of the city; but the city was the farmer of the crown dues.

³ Arch. Journ., No. 28, Orig. Doc.

⁴ Madox. *Firma Burgi*, p. 286 (n).

⁵ Boileau's *Livre des Metiers de Paris*, pp. 125, 127.

⁶ *Ib.*, p. 127.

⁷ Madox, *ubi supra*.

applied to all sorts of articles of sale, and not to victuals only. The regulation as to the sale of yarn is curious. The *prudeshommes*, or wardens of the mystery of tapeners kept watch over the sellers of yarn to prevent purchases before 9 a.m. and nothing was allowed to be kept on the premises in which a regrater could conceal his purchases.

There is a parallel provision in the old laws of the Scotch boroughs, "Regratarii, qui emunt et vendunt ad lucrum in burgo, non emant aliquam rem ad revendendum ante tertiam pulsatam, neque lanam operatam nec filetum Et qui super hoc convictus fuerit dabit octo solidos, et rem sic emptam amittet."⁸

If the wardens found "chose mouillée," i. e. any woollen article wetted, it was to be seized and delivered to the bailiffs to adjudicate upon. This provision is illustrated by the *Iter Camerarii* of Edinburgh,⁹ "cum [textores] accipiunt pannum per pondera, et per pondus eundem restituunt, [debent calumniari et accusari] quod faciunt eum humidum, et aspergunt cum urinâ et aliis, ut sit majoris ponderis," &c.

The manufacture which occupies the most important place in the Consuetudinary is that of weaving, or rather of drapery in general. At the time of the certificate before us this was probably in a declining state; but the regulations themselves are, of course, of older date, and may be reasonably referred to its more flourishing condition in the twelfth century. It would be interesting to retrace the vicissitudes of this manufacture; but the materials for its earlier history are scanty. The conjecture of Camden and others, who would assign to the textile fabrics of Winchester an antiquity coeval with the *Notitia Imperii*, is, at least, a very plausible one, though the late learned compiler of the "*Monumenta Historica Britannica*" has inconsiderately robbed the city of this honour, and converted the Imperial *textrinum* into a dog-kennel.¹ The two principal guilds of the *Telarii* and *Fullones* appear in the earliest of the pipe rolls, 31st Hen. I.; and in the subsequent reign of Henry II. the liberties of the former are extended and their payments to the Crown increased.² In the survey A.D. 1148, recorded in the *Liber Winton*, the activity of the "*ustilia*," fullones, tinctores, and the drapery business is apparent; much more so than in the earlier survey of Henry I. I believe that Sir Matthew Hale had good warrant for saying that the woollen cloth trade principally flourished in the reigns of Henry II. and Richard I., and that it declined in the subsequent reigns.³ It is certain that the city emerged from the barons' war of Henry III. with impaired lustre, and obtained a reduction of

⁸ *Leges Burgorum*, cap. 73.

⁹ Cap. 25.

¹ Mr. Petrie has adopted the reading *Cyngeti*, instead of *Gynæcii*, in the passage of the *Notitia* which mentions the "Procurator Gynæcii Bentensis in Britannia." Gothofredus, in the *Paratitlon* to A^c Cod Theod. Tit XX, and Bocking, the latest editor of the *Notitia*, have given *Gynæcii* without a doubt. The last editor, also, locates the Gynæceum at Venta Belgarum without hesitation.

² Madox's *Exch.*, p. 323; also Pipe Rolls, 2 & 4 Henry II., and 1 Ric. I.

³ Sir M. Hale is not speaking of Winchester only, but generally of the

cities of Lincoln, York, Oxford, &c. He says that the trade revived through the liberal policy of Edward III. and his "fair treatment of foreign artists." Primitive Origination of Mankind, ed. 1677; p. 161. — This work of the eminent chief justice is quoted by Macpherson in his *History of Commerce*, and the profound learning of the judge in our ancient records makes his opinion of great value on this matter. Milner mentions a great manufacture of caps in the reign of Henry I. Trussel, his authority for this, has probably mistranslated the word *capa*. 1 Miln. 157, 8vo. ed.

its fee-farm rent in consequence of its "poverty and ruined state."⁴ In the later notices of the city I perceive few signs of any increased prosperity in this particular branch of industry. The duties payable by weavers had fallen into disuse, when the citizens in the beginning of the reign of Henry VI. inspected the ancient records of municipal taxation, and "*viso communi consuetudinario civitatis*," revived the old charge of *Is. per an.* on every tapener who made "*chalones et keverlytis*," which is stated to have been long unpaid. (Bl. Book, f. 23.b.) I think it may be safely conjectured that this "*commune consuetudinarium*" was the very instrument of which a copy is now before us.

In the fifteenth century, the city authorities seem to have become sensible of the necessity of inviting, instead of discouraging, the access and settlement of strangers within its walls, and to have relaxed their doctrines of exclusive dealing by giving to all merchants, &c. free liberty to buy, sell, and work within the city without the payment of toll or custom.⁵ In the reign of Henry VIII. an attempt was made to re-establish the favourite maxims of protection to domestic industry, and a convocation in 2 Henry VIII. forbade all strangers or aliens to sell any wares, except to freemen of the city.⁶ In the same reign, no person except a freeman was allowed to take an apprentice.⁷ In the previous reign a fine was imposed on all able citizens, who were unwilling to accept freedom.⁸

It is plain that the manufacturing and commercial prosperity of Winchester was irrecoverably gone when this experimental and preposterous system of municipal legislation was adopted. "Free trade," "Organisation of labour," and "Protection of native talent," were all equally unavailing. The funds of the corporation failed. Its officers obtained compensation for the deficiency of fees by fixed salaries. The mayor was relieved from the burden of public breakfasts and "*boromote bankets*,"⁹ and Winchester finally saw its favourite looms and cloth halls transferred to more successful rivals.

Of the different classes of weavers two are specified; viz. the burellers and the tapeners. The former wove burells and the latter chalons which are mentioned, as we have seen, in connexion with coverlets. The word *Tapinum* is noticed by Ducange, who supposes it to be a mistake for *tapicium*; but the word is probably the parent of the word *tapenarius*, which occurs in other instruments besides the one before us.

The looms are described as great looms for burells, and small looms for chalons; and these small looms are again subdivided into *turs* looms and *single* looms, corresponding with the looms for great or double chalons, and the looms for small or single chalons respectively, mentioned in the inquest of Edward I. already referred to.

I am unable to propound any authentic explanation of the *Turs* looms; but I suspect them to be Turkish looms. The word may relate to the Turks or to Tours; but as an article of cloth called *Turkins* is known in our old statutes,¹ and the "*tapis de Turquie*," is noticed by Ducange in

⁴ 49 Henry III., Madox's Exch., 231; and 13 & 14 Edward I., *ibid.*

⁵ See an ordinance, *temp.* Gylmyn, mayor, 8 Henry VI., Black Book, fol. 28.

⁶ Black Book, fol. 51.

⁷ *Ib.*, fol. 58. Ord. 17 Henry VIII.

⁸ *Ib.*, fol. 46. Ord. 22 Henry VII.

⁹ See Black Book, *temp.* Edw. VI., fol. 83, and elsewhere.

¹ Stat. 1 Richard III., c. 8.

his "Glossary,"—I conceive that my conjecture is well founded. In the language of the twelfth century the Turks were classed among Saracens,³ and the weavers of Paris, who wove the tapis de Turquie, were called tapisseries de tapis Sarrasinois, as distinguished from the weavers of tapis nostrez⁴ (tapicium nostras?); the one being a naturalised foreign, and the other a native, manufacture. The tapis Sarrasinois was for the use of the Church and of the higher classes, as Boileau's Livre des Metiers informs us.

Perhaps we shall be justified in concluding that the burellers were weavers of broad cloth; and that the tapeners wove chalons of two classes; the one being the tapisserie of double fabric, such as carpets, tapestry, coverlets and the "*panni pieti qui vocantur chaluns, loco lectisternii*," forbidden as a luxury to the Sempringham canons (Capitula de Canonicis, Art. 7);—the other being single stuffs, which, under the various names of *shaloons*, *serges*, *ras de Chalons*, &c., were in extensive use, and derived their generic name of *panni Catalaunenses* from one of the most noted seats of the manufacture, Chalons-sur-Marne.

All the classes of weavers were doubtless included under one original head of Telarii. We know too that manufacturers of linen, as well as woollen, cloth were comprehended under this title at Winchester; for the "*seldæ ubi line ipanei venduntur*" are noticed in the "*Liber Winton*," p. 544, and were probably near the Church of St. Mary de Linea Tela.⁵ In London it was once contended that *Telarii* in the old charters imported only woollen cloth weavers; but the court held that linen weavers were also comprised in the description.⁶ It is remarkable, however, that, although there was a municipal tax on wool, neither flax nor hemp appear by name in the list of chargeable imports.

The tariff of gate tolls specifies three sorts of articles for dyeing,—madder (*warence*); orchil or lichen, under the name of *korc*, by which name it is also mentioned in statutes 4 Edward IV. chap. i., 1 Richard III. chap. 8., and 24 Henry VIII. chap. 2; woad (*weide*), together with the potash (*endre*), used in scouring and dyeing. The sale of the woad was supervised by two *prudes hommes* elected and sworn to assay it and to cause the assise or regulations of the trade to be observed by both seller and buyer. Similar officers called "*assayatores waidæ*" were annually elected at Exeter.⁷ I do not perceive *weld* used in the process; but the old as well as the modern names of this plant are so little distinguishable from those given to woad, and the two so often confounded, that, perhaps, both may have been imported under the same name.

² Verb. Tapicium.

³ Assises de Jerusalem, cap. 64—Ducange v. Turcomanus.

⁴ See Boileau's Métiers de Paris, p. 126, 129, where the editor seems to be puzzled with the name *tapis nostrez*. That a Turkish carpet should be made at Paris will not be objected to by those who know that Brussels carpets are made at Kidderminster.

⁵ Arch. Journ., No. 28, Orig. Doc., p. 10.

⁶ Madox Firma Burgi, pp. 197, 204—206. *Toile* (tela) is in modern French confined to linen.

⁷ See Receivers' accounts, Exeter, temp. Edw. III., &c. The woad was imported from Toulouse, as appears by the records of that city. See also statute 4, Henry VII., ch. 10.

III.—TRADE GUILDS.

The corporation of the city, or whole body of freemen, constituted a gild or guild and is so designated in the earliest charters. The freemen continued to be sworn "of the gild of merchants" until the Corporation Reform Bill; but there had been no distinct gilds, or exclusive trading, for many years before that date.³ It is, however, certain that the trades, or mysteries, of Winchester were once separately associated in gilds or fraternities. We read in the Black Book of the Corporation, as well as in the Pipe Rolls mentioned above, of the Telarii, or "ars textoria," and its four magistri or stewards sworn in before the mayor;⁴ of the Fullones, and two stewards of the art of fullers,¹ and of the art of corvesers,² and of the fraternity of cissores.³ At the end of the seventeenth century the companies of carpenters and cordwainers are mentioned in an ordinance, and there were doubtless other companies.

The growth of these subordinate gilds and their original connexion with the governing body is obscure. The telers and fullers, we have seen, paid annual rent to the king for their gilds as early as the twelfth century. The charter of Elizabeth gives, or perhaps only confirms, to the corporation the right of creating such gilds, and this power may possibly have been implied in the old grants to towns of the franchises of a gild merchant; but distinct gilds, so created, would still be deficient in some corporate capacities.

The survey of 1148 speaks of the place in Colebrook Street "*ubi probi homines potabant gildam suam.*"⁴ The Consuetudinary, too, provides for the occasion of the "drinking of the gild markand." This feast seems to have been a meeting of the general gild merchant, and not of any one trade gild. The process by which the collection was made for defraying the expense of the potation is described in a manner which is now hardly intelligible. It should rather seem that the persons charged with the management of it had to indemnify themselves, as far as they could, by a collection from the members of the gild, and to pay the rest themselves, like the stewards of some public dinners at the present day; and this construction is rendered probable by the like usage in other gilds. Thus, the costs of the gild feast at Yarmouth were formerly defrayed by four of the brethren on whom the lot fell.⁵ In the gilds at Lynn, the four bailiffs, stewards, scabins, or skevins, of each gild, seem to have been liable, in the first instance, for the dinners and drinkings on the day of the *morning-speech*, or general colloquium.⁶ From the days of Tacitus to our own the convivial element of the old municipal and co-operative system has been a prominent part of it. "*Plerumque in conviviis consultant. Gens non astuta aperit secreta pectoris licentia joci,*" &c. Such were the maxims of our Teutonic ancestors, transmitted to us through a long succession of gilds, fraternities, sodalities, and companies, which, in their various vocations, secular or sacred, have never lost sight of their aboriginal duty of compotation. Nor can we refrain from applauding the precautions taken to prevent excess, and the indulgent tests of moderation which they established:—"Nullus eorum tempore convivii, quod Gildescap dicitur, se inebriare debebit adeo

³ Municipal Report printed 1835.

⁴ Black Book, fol. 22, 31, 32.

¹ *Ib.*, 39.

² *Ib.*, 31.

³ *Ib.*, 44.

⁴ Lib. Winton.

⁵ Swinfen's Yarmouth, p. 55.

⁶ Richards' Lynn, vol. i., p. 422, *et seq.*

ut in lutum cadat" was "the rule and righteous limitation of the act" by which the gild of *Allutarii*, or shoemakers, of Bremen tried to reconcile social enjoyment with the graver objects of their reunion.⁷

The first Survey in the Liber Winton (f. l.b. 3) mentions a "chenic-tehalla ubi chenictes potabant gildam suam." Winchester, therefore, like London, once possessed a knighten-gild; but such a gild was unconnected with the trade, or perhaps with the corporation, of the city.

IV.—REVENUES.

The gross revenues of the city (without deducting the king's fee-farm, &c.) consisted of terrage, *i. e.*, quit and rack rents; the tax on looms; the tolls paid at the city gates; the customs on wool, fish, and some other articles brought into the city; the tax on cattle-dealers, butchers, bakers and retailers of bread, brewers, (who, as well as the dealers in bread, were women); on non-freemen buying, selling, or keeping shops in the city; on tanners, dealers in lard and suet, and shoemakers. Some of these taxes were payable by freemen; but generally only by strangers and non-freemen.

Besides these there were the profits of the city fairs, fines, escheats and forfeitures in, or out of, the city courts, talliages or town rates raised for special purposes, and other sources of casual revenue.

V.—THE COMMON SEAL.

One common and authentic seal only is mentioned. It remains appended to many surviving documents, as well as to the document before us, and it has some notable peculiarities about it. The seal and counterseal do not coincide either in size or curvature. The ogival form is rare, though not unparalleled, in secular seals, except those of females. The castellated obverse is of a type sufficiently common; but the reverse (if it be properly so called) is quite unprecedented, so far as I can learn. The words on it are written horizontally, and the only question upon them is how to expound the last word? I read the words "*Confirmatio Sigillaris*."⁸ Perhaps the document itself may be thought to throw light on the matter. The more ancient form both of attestation and of confirmation was by subscription; the later was by sub-sigillation. In the present case the seal was used to authenticate and confirm conveyances of property in the city. I apprehend that the feoffments referred to in the text were not merely feoffments of the corporation lands, but also of private lands or tenements within the city and subject to its local customs. These tenements were of the nature of customary or copyhold tenure. They were seised on the death of the last tenant till the heir came in to claim them. Seisin was delivered by the officers of the city. The city court granted probate of them. A married woman could join her husband in the transfer of her own, and it was valid if she had been duly examined by the court.⁹ It also appears that when such lands were conveyed by charter of feoffment,

⁷ "They held," says Wilda, (*Das Gil-denwesen im Mittelalter*, p. 333) "2 or 3 times a year an assembly, *wobei ein feierlicher Gottesdienst und gesellige freuden vereint waren*;" and thereupon he cites this regulation of the Bremen guild.

⁸ *Sigillis* or *Similis* would equally satisfy the letters of the last word. I should prefer the latter, if I could find any apposite meaning in it.

⁹ This appears by the deeds and records still extant.



SIGILLUM CIVIUM WINTONIENSIVM.

Common Seal of the City of Winchester.

(Date, probably circa 1240.)

the feoffee was put into possession by the alderman of the ward, who kept the charter for a year and a day. If the grant was unquestioned during that time, it was duly presented by the alderman, and, upon such presentment and after proclamation made in the city, it was sealed with the city seal, and became firm and indefeasible for ever.

It is therefore apparent that the seal had the remarkable effect of ratifying and confirming transfers of property *inter alios*, and of excluding all claims after the lapse of a year and a day ; and I am inclined to attribute this uncommon inscription on the counterseal to its very unusual and anomalous operation upon private feoffments. By these most reasonable and useful provisions the common-law fictions of fines and recoveries, and the slow remedy of statutes of limitation must, in many cases, have been dispensed with.

Representations of the two sides of the seal accompany this paper.

Upon this seal my friend, Mr. A. Way, observes that Dr. Milner, in his History of Winchester, vol. i., p. 374, describes the "New Seal," granted to the city by Elizabeth, in 1589, of which, and of the reverse, he gives representations, reduced to half-size, in his Miscellaneous Plate. These appear to be identical with the seals here represented, the ancient matrices having undergone a slight modification, the letters and date, 1589, A V G, being introduced under the castle on the obverse, and the same date inserted on the counterseal at the sides of the cross at top. Other examples of municipal seals might be cited, on which some alteration was made in the sixteenth century, the original matrix being retained. It is not known whether the seals thus described by Dr. Milner now exist, or until what period they were preserved at Winchester.

Inquiry has been made, without result, to ascertain any further particulars regarding them, and no impressions of the seals, thus altered, have been produced. These seals were not comprised in the collection of city and mayoralty seals, of which impressions were exhibited in the Local Museum formed during the meeting of the Institute at Winchester, in 1845 ; and Mr. Gough Nichols in his memoir on the seals of that city, published in the Transactions of that meeting, states that the ancient seal has yet to be discovered, and points out the inaccuracy of Dr. Milner's account.



Counterseal of the City of Winchester.