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TRACES OF THE EARLY DEVELOPMENT OF MUNICIPAL ORGANIZATION IN THE CITY OF NORWICH.[1]

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I.—*The general circumstances of the City.*

Forms of municipal development various.

The early history of Municipal Institutions in England is confessedly a field of research which needs much working, and there are few ways in which local archæology can render more useful service than in helping on the work in its own locality. This is all the more necesssary, because every municipality has had its own history. The same general aims and aspirations after freedom may have animated the inhabitants of different burghs. They may have had the same ideas of self-government, and the same theories with respect to the regulation of trade and commerce; but, of necessity, each burgh was compelled to adapt its aims and theories to the particular circumstances, often not a little complicated, by which it was surrounded. Municipal institutions in early times were not, as now, the result of a permissive act of a central authority setting forth a fixed model, which any community might copy if it pleased. They were the outcome of a struggle between various rival influences, and the result was modified in different cases, according as one or other of these influences was more than usually in the ascendant.

Norwich an important field for study.

I think I may fairly claim for the city with which I have now the honour of dealing, that it presents in this respect a specially promising and important field for investigation. It was in the twelfth and thirteenth centuries that the burghs of England chiefly obtained their right of self-government from the kings,

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who, either from need or policy, continued to grant them increasing powers, till Edward I., by summoning their representatives to his Parliaments, recognized them as important members of the body politic. During this time, Norwich occupied a position scarcely second to any other borough in the kingdom. So far back as the time of King Edward the Confessor it was almost unsurpassed in the number of its burgesses, 1320. Though it suffered some drawbacks, the worst being through the rebellion of Earl Ralph against William the Conqueror, not long before the *Domesday Survey* was made, yet it soon recovered itself. Even in the troublous days of King Stephen, when he handed it over to his son William, it could boast of about fifteen hundred. How greatly it prospered after that time until it became in the reign of Edward III. the principal seat of the woollen manufacture, is a matter of history. Its early importance is indisputable.

Its advantageous circumstances.

I would further observe that, during this critical period of its history, it practically had but one person to deal with, viz., the king. From the earliest times Norwich had been part of the king's demesne. Even the modified alienation of lordship which had been granted to the Earls of East Anglia, as recorded in the *Domesday Survey*, ceased at the Conquest, when, by the death of Harold, who held the earldom, the whole jurisdiction of the city passed into the hands of the king.

The Prior and monks no real hindrance.

It may be as well here to clear away a misconception, which some writers have fallen into. Because Norwich was the seat of a Bishoprick, with a wealthy monastery attached to the cathedral having an independent jurisdiction of its own, and because frequent disputes, and at times violent collisions, took place between the monks and the citizens, it has been assumed that the citizens had to fight for their rights against the encroachments of the monks. It was certainly not so. The lands over which the Prior claimed jurisdiction were not originally (with one small exception) part of the burgh at all, but belonged to the adjoining hundreds of Blofield, Taverham, and Humbleyard. The aggressors were undoubtedly the citizens, and all the Prior and monks ever succeeded in doing was to hold their own. In the end

they had to give up even that. At all times they were powerless to hinder the political development of the city.

Nor the Castle.

The one great hindrance which the citizens might have had to combat would have been the presence of a powerful noble in the castle. Here again fortune favoured them. The chances of collision between the citizens and the holder of the castle were never great, either when it was held by an earl or by a constable in the king's name. On the one hand, the city was unfortified and not in a position to provoke a conflict; and on the other hand, neither king, earl, or constable had any occasion to interfere with the natural commercial growth of the city. When its career of self-government began at the close of the twelfth century, the castle had ceased to be a danger. The king did not want it for defensive purposes; he did not care to commit it to a powerful subject, who might hold it against him. It would have fallen into decay altogether had it not been converted during the thirteenth century into a gaol, which it continued to be till a few years ago.

Norwich, therefore, had always been specially free from external interference, and when it received the privilege of self-government it was practically unfettered, except by the ancient lordship of the king. It scarcely needs saying that a king at a distance chiefly concerned himself in matters which affected the royal exchequer, and, saving these, had no other interest than to promote the growth of a valuable source of income.

What is meant by having "the same liberties as London."

I desire to lay as much stress as possible on this feature of the municipal history of Norwich. because it must greatly affect our view of that history in one important aspect. The charter of 5th Richard I., its first real charter of self-government as I think, grants to the citizens of Norwich the "same liberties and free customs as the citizens of London have." Many writers have assumed that this or similar language used in charters to other boroughs implies that thenceforward those boroughs set themselves to assimilate not only their customs and liberties but their municipal organization to those of the City of London. From this point of view, it seems strange that Norwich with all its advantages of wealth and local importance, should

have been governed by bailiffs and not by a mayor and aldermen till the beginning of the fifteenth century. This view is thus expressed by Blomefield. When the city was finally provided with a mayor, aldermen, and common council in 1417, and had exchanged its old "tolhouse" for a new "guildhall." Blomefield observes:—"Thus the city was now peacably settled, having greater authority, and its state fixed in a much grander manner than ever it had been before, being exactly the same as to its *government* and ordinances as the City of London then was, *which was what this city from its first charter always aimed at.*"

Meant a similar confirmation of ancient liberties.

I feel sure that this view is not correct. King Richard's charter meant what it spoke of, "customs and liberties," not the special form of government. The citizens of Norwich were confirmed in the enjoyment of their privileges to the same extent that those of London were in theirs. These customs and liberties were called "the same," because substantially they were so. Most of them were the common inheritance of the two cities. In some valuable chapters of "Laws and Customs anciently in use in the City of Norwich," preserved in the "*Book of Pleas*," and dating back certainly to the thirteenth century, perhaps some of them still earlier, the custom of the City of London is only occasionally appealed to. In general, things are said to be done "according to the custom of the city of Norwich."

Not necessarily form of government.

With respect to the form of municipal government, it seems unreasonable to suppose that, if the constitution of the London municipality had from the first been regarded as the aim of other boroughs, Norwich with its chartered right to assimilate itself to London should have taken two hundred years to attain its end. Two other instances make this clearer. Oxford, like Norwich, was authorized by charter to imitate London, and it obtained a mayor in 1229; whereas Lynn, which was authorized to follow Oxford, had a mayor as early as 1204. The only explanation of Norwich retaining its older constitution two centuries later than Lynn, must have been that until towards the close of the fourteenth century the citizens had no desire to make the change. If this explanation is correct, it makes it all the more interesting to search as closely into

the character of the older organization as our existing records enable us to do.

Method of investigation.

I propose rapidly to work back from the present time to the point where it becomes necessary to appeal to hitherto unworked sources of information.

II.—*The modern Corporation.*

The present corporation of the City of Norwich derives its authority from the Municipal Reform Act of 1835, which, like most similar modern legislation, effected some salutary changes at the cost of destroying in some ways the continuity of the present with the past.

At the present time the city, which is also a county, is governed by a mayor, sheriff, sixteen aldermen, and forty-eight town councillors. It is divided into eight wards, numbered from one to eight; two aldermen and six councillors represent each ward. The official title of the corporation is "*the Mayor, Aldermen, and Citizens*," a title which I need not attempt to explain. I would only draw attention to the fact of the "aldermen" being denoted as a separate estate, though they are not really so. The previous history will shew how this arose.

III.—*The mediæval Corporation.*

This modern constitution of the municipal assembly is a mutilated relic of that which existed before the passing of the Municipal Reform Act, which was as follows:—a mayor, two sheriffs, twenty-four aldermen, and sixty councillors.

Four great wards, twelve small wards.

There were four great wards, Conesford, Mancroft, Wymer, and the Northern or Ward over the Water. Each of the four great wards was subdivided into three small wards, which also bore distinctive names. Conesford great ward was divided into South Conesford, North Conesford, and Ber Street; Mancroft great ward, into Mancroft, St. Stephen's and St. Giles; Wymer great ward, into East Wymer, Middle Wymer, and West Wymer; and the great ward over the Water, into Fybridge, Colegate, and Coslany.

Represented by twenty-four aldermen and sixty common councillors.

Each of these twelve small wards was represented by two aldermen elected for life. The common councillors represented the four great wards, but in unequal proportions,

Conesford having twelve, Mancroft sixteen, Wymer twenty, and the Ward over the Water twelve.

Some important officials, such as the town clerk, recorder, chamberlain, and others, I pass over, because they do not represent any principle of self-government, but are merely administrative officers. One deserves somewhat more prominent notice. There is now one coroner for the city: before the Reform Act there were two. To have a coroner was one of the earliest symbols of exempt jurisdiction. I do not, however, find that in Norwich the coroners ever took much part in the general government of the city, as they did in some places, and therefore they hardly fall within the scope of my present investigation.

Style of the corporation described the governing body.

The full title of this corporate body was *the mayor, sheriffs, citizens, and commonalty*. If this title was simply intended to describe the governing body (as I believe it was), and not the whole number of those in whose name they acted, then by the expression "citizens" must have been meant the twenty-four aldermen; by the "commonalty" the sixty common councillors. As we go further back we shall find support for this interpretation and some traces of the way in which these distinctions arose. It must be remembered in any case that this governing body did not pretend to represent the whole body of inhabitants, but the much more limited body of "freemen," who exclusively possessed the power of electing their rulers.

The organization in existence at the passing of the Municipal Reform Act was legally supposed to be derived from a charter of 15th Charles II. But practically it dated from the beginning of the fifteenth century, when some very important changes took place.

Revision of the organization at the beginning of the fifteenth century.

These changes were not effected all at once. They were the result of four distinct steps:—(1), a royal charter of Henry IV., in 1403; (2), an ordinance of the assembly, in 1404; (3), a composition between two dissentient parties in the community in 1415; (4), a royal charter of Henry V., in 1417. It is necessary to state these changes with precision, in order to understand clearly what the new constitution took the place of.

Charter of Henry IV City made a county. Four bailiffs replaced by a mayor and two sheriffs.

1. In 1403, the city obtained a charter, by which it was completely separated from the County of Norfolk and made a county of itself, and its municipal organization was settled thus :—

(*a*) The headship was to be vested in a mayor and two sheriffs. These were to take the place of the four bailiffs, who had previously held the headship of the community. Stated more precisely, while the mayor took the place of the bailiffs as chief magistrate of the city, he also added to this a new authority, which they had not possessed. He was the king's escheator. This was the chief difference between him and the bailiffs, and the chief aspect which his office assumed from the king's point of view. Accordingly, he is not looked upon as taking the place of the bailiffs, but as holding a new office. The office of the bailiffs, who (to the king) were simply the stewards of the king as lord of the city, was now transferred to two sheriffs, who acted as the king's officers, and who were the persons responsible to the king for the future, as the bailiffs had been before, for the payment of the fee-farm rent of the city. In strict accordance with this view we find that the first mayor was elected on May 1st, 1403, soon after the receipt of the charter; but the bailiffs finished out their year of office till Michaelmas, when two of them were chosen to be the first sheriffs.

The mayor the king's escheator.

The sheriffs instead of the bailiffs.

(*b*) Besides the mayor and two sheriffs the municipal body is only described generally in this charter as *the citizens and commonalty*, and the same expression is used of their predecessors. The new rulers have confirmed to them the same authority which "*the bailiffs, citizens and commonalty*, their predecessors, had, used, and enjoyed," before this alteration.

Ordinance of assembly in 1404.

2. In the following year an important ordinance was made by the assembly, with respect to the election of the two sheriffs. Eighty persons were to be elected yearly, who should be at all common assemblies by themselves. They were to nominate three persons for the office of sheriff, and present the names to the mayor and "probi homines,"

meaning, as will appear presently, twenty-four elected citizens, a body already in existence, and then the mayor was to name one sheriff, and the 'probi homines" the other. These eighty appear to be the first form of the future common council; and we may here observe for the first time in our investigation a divergence of sympathy between two portions of the municipal body, what we may call the oligarchical and the popular elements.

Composition made between two parties in 1415.

3. This arrangement lasted only a few years, and led to disputes, which were the subject of a Composition on February 14th, 1415. In this Composition the constituent portions of the municipal body are called by new names. The "probi homines" are called "the twenty-four" or "the twenty-four concitizens" or "the twenty-four of the mayor's council." The eighty now become sixty, and are called "the common council" or "the *commons*." They are to be elected from the four great divisions of the city, which now for the first time are called "*wards*," having previously been called "*leets*." The electors of the great wards are to choose a certain number for each of the sub-divisions of their own great ward.

The common council.

Imitation of London.

Throughout this Composition it is observable that constant reference is made to the constitution and practice of the City of London. The twenty-four "shall stand in Norwich as they do in London." The mayor shall have the same authority to challenge or restrain one of the twenty-four "as the meyr of London hath." The common council shall have the same power "as the common council of London."

Charter of Henry V.

4. This Composition did not settle the disputes between the mayor, sheriffs, and twenty-four on the one hand, and the commons on the other. The settlement was finally made by a new charter of 5th Henry V. (1417). The chief point of the settlement had reference to the election of the sheriffs, which had been the main subject in dispute. For the future, one sheriff was to be chosen by the mayor and twenty-four; the other by the commons. An important change however is made with regard to the twenty-four. For the first time they are now called "*aldermen*"; and they are to hold office *for life*.

Twenty-four aldermen.

The electors are described as "omnes cives habitantes et hospicia sua per se tenentes," all citizens who are resident and have separate households.

Various ordinances were made about the same time for the processions of the trade companies, and especially of the Guild of St. George, and the new municipal building which was now erected was called "the guildhall" instead of the "tolhouse," as the former one had been called.

Significance of these changes.

The sum total of these various changes and their rationale seem to be as follows:—(*a*), the mayor was new both in office and in name; (*b*), the two sheriffs were new as to their name, but not as to their office. Instead, however, of representing the four divisions of the city as the four bailiffs had done, they represented two parts of the municipal body, which were not quite in sympathy with each other; (*c*), the twenty-four citizens elected to form a council for the mayor, were not new in respect to their office, but they now assumed a new name, that of "aldermen," and entirely ceased to be representative by holding their office for life; (*d*), the common council was a new body, and had a new title, except so far as it inherited the old appellation of the "commonalty."

Copied from London.

It appears to me that the rationale of these changes is to be found in a desire not previously felt, to imitate the municipal constitution of London. I have pointed out how this is distinctly stated at one stage of the proceedings. It is still more apparent in the change of nomenclature, even when the substance remained the same. No other reason can be assigned for the introduction of the term "aldermen" for the twenty-four citizens. The word had been in use in the city to describe the warden of a trade guild, and one citizen had been called the "alderman of the city hanse." But it is quite plain that the aldermen of the assembly were not wardens of trade guilds. They were in theory intended to represent the leading citizens, the "probi homines" of older times. The name was simply copied from London.

The same explanation is to be given of the substitution of the term "wards" for the divisions of the city, in place of the earlier and more significant word "leets," and of

"guildhall" for "tolhouse." The new building had no more special connection with guilds than the old. The mayor of London held his court in a "guildhall." It was thought becoming to the dignity of the mayor of Norwich to do the same.

IV.—*The Older Constitution.*

It will now become my business to enter upon the more interesting subject of the older constitution which was thus replaced. We have already seen that in Henry IV.'s charter, by which it was altered, it was described as the "*bailiffs, citizens, and commonalty.*" and we have seen who the "citizens" were, the twenty-four assessors first of the bailiffs and then of the mayor, who became the "aldermen." Even at that time, however, the term "citizens" was usually omitted, and at a slightly earlier time the title exclusively used was the "*bailiffs and commonalty*," "ballivi et communitas." This was the earliest and simplest form of the municipal organization of Norwich, and it will be my endeavour to explain its origin and its character.

Three steps of development.

The propositions I hope to substantiate, or at least to give good reasons for, are these :—

(*a*) The external framework of the organization, viz., the four great divisions of the city, with which was connected the number of four bailiffs, and also the subdivisions of the four great divisions into twelve smaller ones, which ultimately became the twelve small wards of the city, arose out of the leet organization, governed by the requirements of the frankpledge system.

(*b*) The "communitas" originally meant the whole body of equal citizens. By degrees it came to be used for the community in its acting capacity and so for that portion which habitually acted on behalf of the rest.

(*c*) As a matter of public convenience this acting portion transferred its obligations, and in so doing transferred its power to a few, the elected twenty-four. The result was the formation of an oligarchical spirit, which led to an alienation of interest between one class and another, and manifested itself, as we have seen, in the more complicated but less healthy course of municipal development which we have already traced.

These three propositions can be conveniently treated

under the three heads of (*a*) the Bailiffs; (*b*) the Commonalty; (*c*) the Twenty four elected Citizens.

Three classes of original documents.

As the greater part of what I have to say is based upon unpublished documents, I may here mention three classes of documents, from which my opinions have been chiefly formed.

(1) The most important is a series of Leet Rolls, in the possession of the corporation of Norwich. They are seven in number, and their dates are, 16th, 17th, 18th, 19th, 21st, 24th, and 28th Edward I. (from 1288-1299).

(2) The next is a series of chapters of "Laws and Customs anciently used in the city of Norwich." These are preserved in the "Book of Pleas," a bound volume of special interest in itself from certain peculiarities of its structure. It was written in the time of King Henry VI., or somewhat later, and contains a valuable collection of Charters and Pleas relating to the public affairs of the city, the latter beginning with the Iter of 34th Henry III. The customs I have referred to appear from internal evidence to have been reduced to "capitula" towards the middle of the fourteenth century. On the one hand, the mention of freedom from "murder fines" and "presentment of Englishry," both of which were abolished in 1340, would place them before that date; on the other hand, the "twenty-four citizens" mentioned in two of the later chapters can hardly refer to a much earlier period. They resemble in general those of London, published in the *Liber Albus* and *Liber Custumarum*, and those of Ipswich in the second volume of the *Black Book of the Admiralty*, both of which are referred to the thirteenth century. The Norwich customs have a special value for my present purpose in the language they use with respect to citizenship.

(3) The third set of documents are the Enrolments of Deeds of Conveyance in the City Court, which was a Court of Record and answered in substance (and occasionally in name) to the Husting Court of London. The enrolments begin in the year 1285, and between that date and 1300 there are more than 1000 enrolments, the greater number of which run parallel with the Leet Rolls of the same period. The two together throw much light on the condition of the city at that time.

IVa.—*The Bailiffs and the early Organization.*

The office of Bailiff.

The *Bailiffs*. I will begin with the Bailiffs. The word in its common use implies subordination to a superior lord, and there is no reason to doubt that it does so in the case of a borough. At Norwich, at all events, the bailiffs were "ballivi domini regis," the representatives of the king's seignorial rights over the city. They were personally responsible to him for the payment of the fee farm rent. It is not, however, from this point of view that we have now to consider them, but as the chief magistrates of the city. They were the executive officers of a self-governing community. In this respect, their authority in the thirteenth century must have been very great, for till the following century there does not seem to have been any *definite* council to limit their action. Into the details of how this authority was exercised in the administration of laws and customs and privileges I cannot pretend to enter. The three sets of documents I have mentioned are full of interesting matter with respect to legal proceedings, but they require a legal training to appreciate their significance, and they do not belong to my subject, which is the development of municipal *organization*, not of rights and privileges.

I have stated that the expression "bailiffs and commonalty" describes the earliest form of municipal organization in this city. It might be more correct to say it is the earliest form in which we can recognize any organization. The office of *bailiff* was first instituted in Norwich in 7th Henry III. (1223). For thirty years previously, the headship of the city had been in the hands of a *provost* (prepositus), elected by the citizens from among their own number. This privilege was granted in 5th Richard I. (1194).

The "prepositus."

Date when self-government began.

There is some little difficulty in deciding at what exact time the burgesses of Norwich acquired the right of self-government. The first charter in existence is undated, but about the 29th Henry II. (1182). It is couched in general terms, confirming the "customs, privileges, and acquittances" enjoyed in the time of his grandfather, Henry I. This has been held by Blomefield and others to imply that

Not in time of Henry I.

Henry I. had previously granted a charter. Blomefield assigns a date for it, 1122; and specifies that from that time forward the city was governed by a præpositus chosen by the king, who accounted to him annually for "the fee-farm or annual profits." He admits that no such charter was known, but repeats on several subsequent occasions the same statement about the provost accounting for the fee-farm of the city. I cannot find that he refers to any reliable evidence, and if by "fee-farm," he means the consideration paid for the enjoyment of self-government, the statement is not in accordance with the claim of the citizens themselves. In pleading against the commonalty of Yarmouth in 6th Edward III., after a wild assertion that Norwich was a "villa mercatoria et civitas regni Anglie" before Yarmouth was inhabited, they come to more definite history, and say "Afterwards, before the time of memory, a certain King of England, Henry son of the Empress [Henry II.], granted to the citizens the city with all liberties, &c., rendering therefor annually £108," which sum is immediately afterwards spoken of as the "firma civitatis."

The citizens say that the city was granted by Henry II. Book of Pleas, fol. 21.

The monks say by Richard I.

Against this statement must be set another, originating with the monks of the cathedral priory. In the document (undated, but not earlier than Richard II.) called "Historia Fundationis Ecclesie Cathedralis Norwicensis," inserted in full by Dugdale and also in the city "Book of Pleas," (fol. 59) occurs this passage—"Afterwards, in the 17th year of the reign of Stephen, which was the year of the Lord 1152, the commonalty of Norwich made a fine and agreed, as it says, with the aforesaid king for having coroners and bailiffs of themselves; but concerning this they have no charter, nor did they produce one in time of need, because never before the Conquest nor after for one hundred years and more did they have coroners or bailiffs of themselves, but only one bailiff, who in the name of the king held courts and collected amercements, as it was in Beccles or in Bongey or in other places where merchandize is sold. And afterwards, when Richard I. was reigning, the aforesaid Commonalty of Norwich took to farm, from the hand of the said King Richard I., the City of Norwich with its

franchises and all its profits, as both the king himself had to that time held them in his own hand, and as the Charter of the aforesaid King Richard testifies, the date of which is on the 6th day of May, in the 5th year of his reign, which was the year of the Lord 1194."

These two statements agree in assigning the commencement of municipal independence in Norwich to the close of the twelfth century, and only differ as to time by an interval of twelve years.

Probably in 5th Richard I.

The balance of evidence seems in favour of the statement of the monks on this particular point, for Henry's charter makes no mention of any grant of the city at fee-farm, whereas Richard's does. The Pipe Roll of 6th Richard I. also states, "the Citizens of Norwich render account of two hundred marks for having confirmation of the liberties of their city by charter of the Lord King Richard, and for *having their city in their hand*, so that they should answer for the farm due at the exchequer."

"Præpositus" & "ballivus."

By Richard's charter they were allowed to choose a præpositus from among themselves, subject to the king's approval, for their executive officer. This they continued to do till 1223, when Henry III. allowed them to substitute four bailiffs for the præpositus. What advance of self-government was denoted by this change there is no direct evidence to show. Possibly it may have meant a real extension of jurisdiction in this manner:—"Præpositus" or "reeve" was the ordinary name for the head man of a "villa" or township, and "ballivus" was certainly used, amongst other ways, for the presiding official in a hundred court. I find, for instance, in the History of the Foundation of the Cathedral just referred to, that the monks complain that when license was granted to the citizens in 37th Henry III. to enclose the city with a foss, among other unwarrantable encroachments theye nclosed a place "where the bailiff of the Hundred of Taverham holds his courts until the present day." Possibly, therefore, the appointment of a "præpositus" marks the time when the free control of the *burgh* court and of "bailiffs" when that of the *hundred* court was granted to the citizens. I will explain this more fully when I speak of the leet jurisdiction with

which the bailiffs were associated, and which belonged to the business of the hundred court.

Why four bailiffs.

For my present purpose the most interesting feature in the appointment of bailiffs is the number four; for it constitutes the first trace of what I have called the framework of the municipal organization, which continued unaltered till the passing of the Municipal Reform Act in 1835.

Connected with four great divisions called "leets."

The earliest existing evidence as to the mode of election of bailiffs, is in an Assembly Roll of 39th Edward III. (1365). There was then one bailiff elected for each of the four great divisions of the city, which were still called "leets." But at the much earlier date of 1288, we find the courts of these leets presided over by the four bailiffs with an elaborate organization of sub-divisions subordinate to the four great divisions or leets. Although, therefore, the actual proof is not forthcoming, it seems impossible to doubt that from the very first the four bailiffs and the four leets were intimately connected with each other. I will endeavour to shew briefly what these leets were.

Meaning of the word "leet."

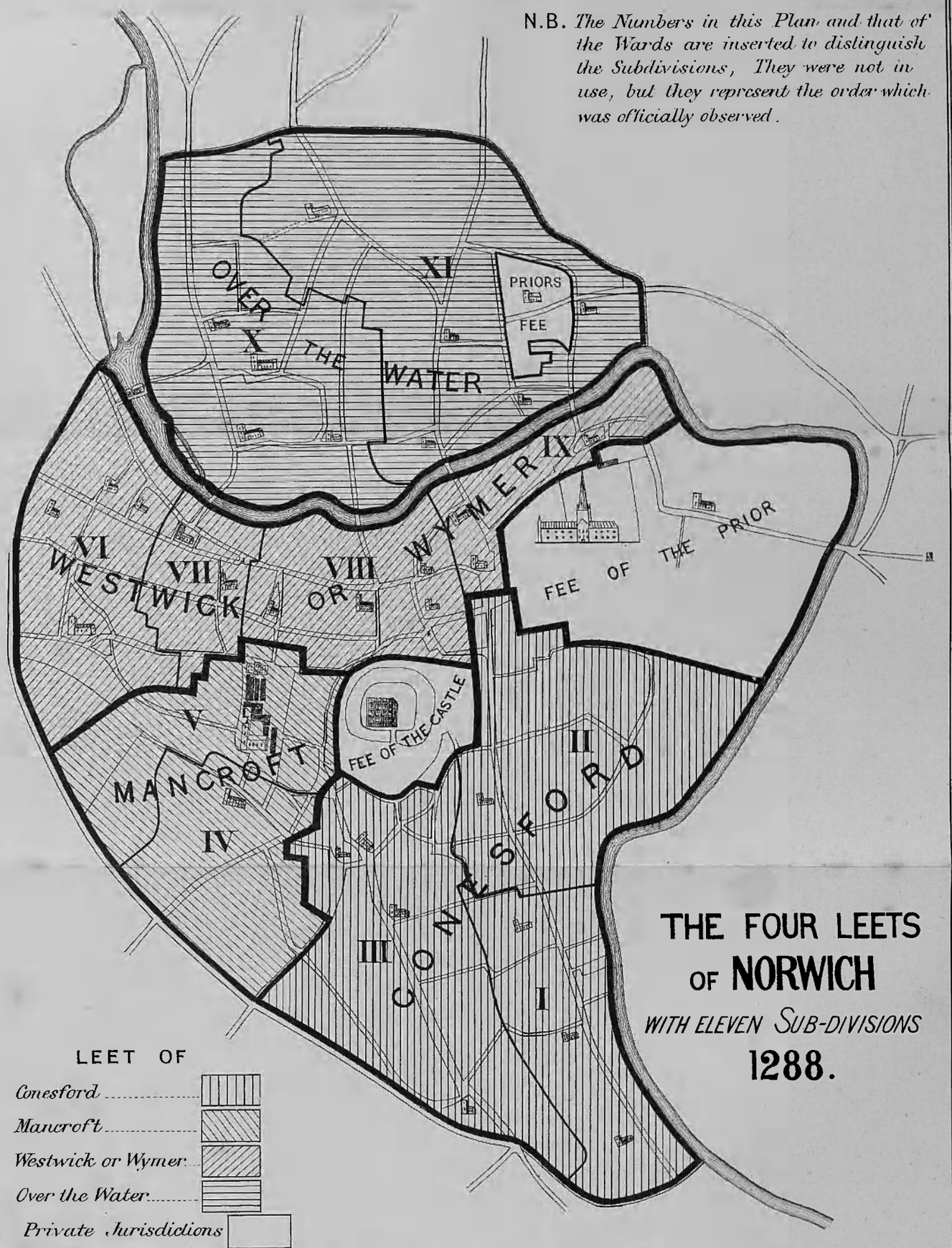
The subject has recently had some valuable light thrown upon it by Professor Maitland of Cambridge, in the introduction to a volume edited by him this year for the Selden Society, and entitled *Select Pleas in Manorial Courts*. To begin with; a note on the etymology of the word "leet," has a bearing on its use in the case of these four divisions so called in Norwich. In that note the authority of Professor Skeat is quoted for the statement that "Leet" must be derived from the Anglo-Saxon lætan, to let or permit, referring to the jurisdiction permitted within a certain district. In some of the earliest instances, however, of its use quoted by Professor Maitland, its meaning seems to be rather that of the geographical district than of the jurisdiction exercised within it. A similar sense is found in one of the "chapters of Norwich customs." The serjeant of the bailiffs is directed to serve summonses to attend meetings on certain leading citizens of each leet, twelve, ten, or eight, "pro quantitate lete," according to the size of the leet. I mention this because the four original leets in Norwich were not mere

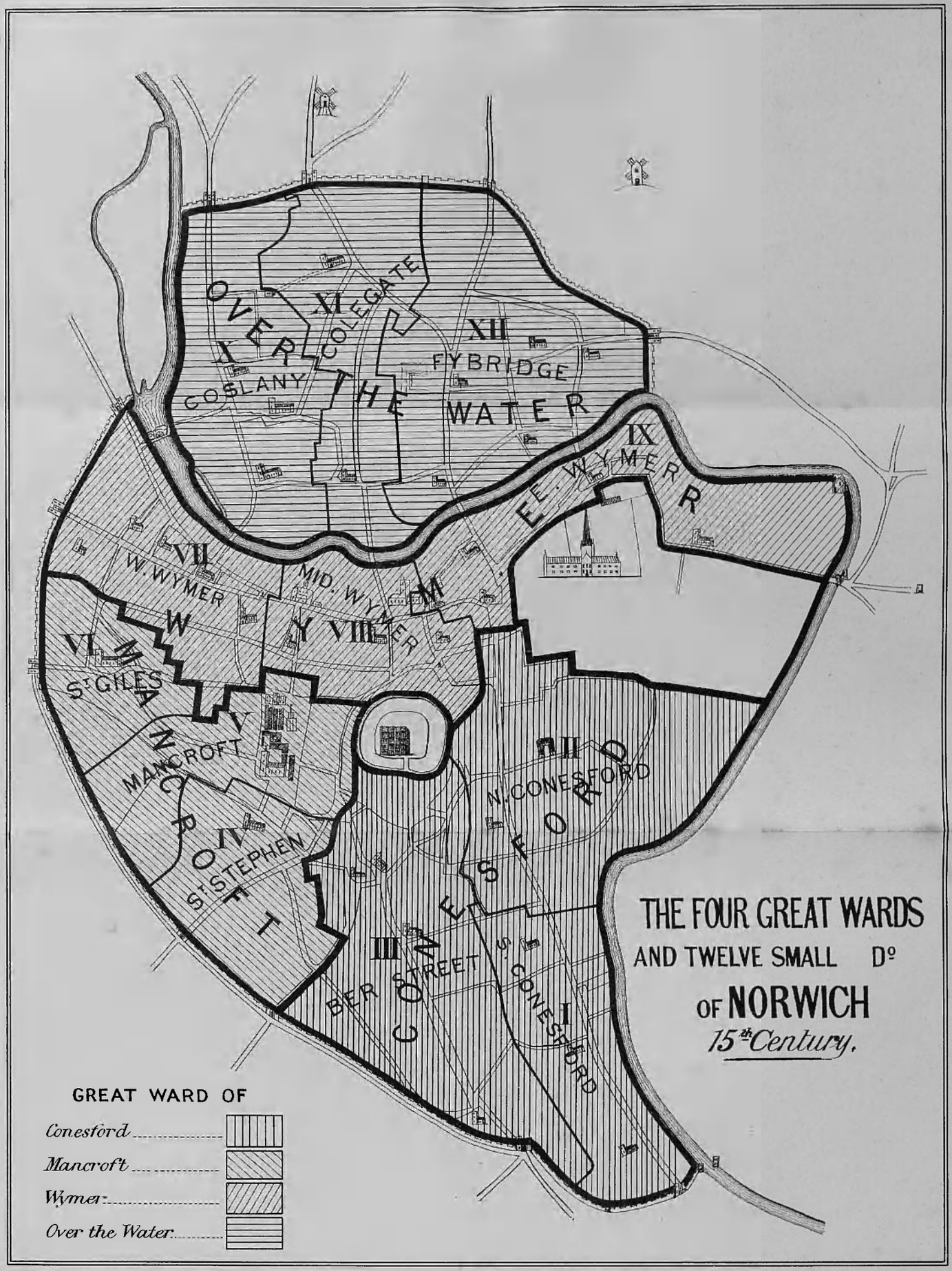
The four leets of Norwich.

arbitrary divisions made for convenience, but were topographically distinct portions of the city. In the earliest Leet Rolls they were, as they always remained either under the name of leets or wards; (1), Conesford; (2), Mancroft; (3), Wymer or Westwyk; (4), Over-the-Water. The first, third, and fourth of these constituted the "burgus" of the *Domesday Survey* (T. R. E.), and must even then have been distinguished from each other by their natural position. Conesford was cut off from Westwick by the Castle Hill and its enclosing earthworks, and both were separated by the river from the part on the northern side. The second, Mancroft, had a distinct origin. It was the "new burgh" added to the rest at the time of the Conquest. I do not mean to assert that before the establishment of leet organization, these divisions were definitely separated for administrative purposes. It may have been so. I should rather suggest that the organization was adapted to local circumstances, and was formed on the basis of four divisions, because there were four suitable natural divisions ready to hand.

The sub-divisions of the leets.

The origin of the *sub-divisions* of the four leets can be somewhat more clearly traced, especially by the light of Mr. Maitland's conclusions. Let me first briefly explain what these sub-divisions were:—The earliest existing Leet Roll is a roll of presentments of 16th Edward I. (Lent, 1288.) It begins with the "Leet of Cunesford," in which the presentments are made by three sets of capital pledges, the third being specified as for "Berstrete." Then follows the "Leet of Manecroft." The presentments are here made by only two sets of capital pledges, one for the parish of St. Stephen, the other for St. Peter de Manecroft. It is to be noted, however, that whereas in other cases the number of capital pledges is twelve, or one or two more, in Manecroft twenty-three are sworn, so that it may be taken as counting for a double sub-division. The name of the Leet of Westwick is omitted in this roll, no doubt by inadvertence. The presentments in it are divided amongst four sets of capital pledges, representing certain groups of parishes from St. Giles on the west to St. Martin before the Gate of the Bishop on the east. The Leet over the Water is divided between two sets of capital pledges,


N.B. The Numbers in this Plan and that of the Wards are inserted to distinguish the Subdivisions, They were not in use, but they represent the order which was officially observed.
XI
PRIORS
FEE
OVER THE WATER
X
WYMER IX
XI
WESTWICK
VII
VIII
OR
FEE OF THE PRIOR
FEE OF THE CASTLE
V
MANCROFT
IV
II
CONESFORD
III
I
THE FOUR LEETS
OF NORWICH
WITH ELEVEN SUB-DIVISIONS
1288.
LEET OF
Conesford
Mancroft
Westwick or Wymer
Over the Water
Private Jurisdictions


OVER THE WATER
XI COLEGATE
XII FYBRIDGE
X COSLANY
IX E. WYMER
VII W. WYMER
VIII MID. WYMER
VI ST GILES
V MANCROFT
IV ST STEPHEN
II N. CONESFORD
I CONESFORD
III BER STREET
THE FOUR GREAT WARDS
AND TWELVE SMALL Dº
OF NORWICH
15th Century.
GREAT WARD OF
Conesford
Mancroft
Wymer
Over the Water

one set answering for four parishes, the other for ten. In the third of these rolls, which only contains the presentments for the Leet of Conesford, two of the three sub-divisions of that leet are given more precisely. The first set of sworn presentors answers for six parishes, occupying the southern half of Conesford Street; the second for four parishes at the northern end of the street as far as Tombland. Berstrete and the rest of the city are missing.

Twelve the final number.

The number of sub-divisions thus specified is eleven, but if we count Mancroft with its double number of presentors for two, we have twelve, which became the permanent number. The only alteration subsequently made was by a slight re-arrangement. In the time of Richard II., according to a list in the *City Domesday* of tenements chargeable with the payment of landgable, St. Giles had been transferred to the Mancroft leet; and ultimately when the four leets became the "four great wards" of the revised municipality, each great ward was sub-divided into three smaller ones. To effect this the divisions of the ward of Westwick or Wymer were reduced from four to three, and those of the Ward over the Water were increased from two to three. These re-arrangements were doubtless arbitrary and done for the sake of symmetry, the whole municipal organization of aldermen and common councillors being based upon them, as we have seen. But the original sub-divisions were not arbitrarily made, but arose out of the requirements of the system of frankpledge.

Origin of the sub-divisions.

The Leet organization of Norwich in the thirteenth century seems fully to confirm Professor Maitland's conclusions, and those conclusions help to explain our municipal development. His conclusions are these. He points out that the term "court leet" is of comparatively late use. Originally, to claim a *leet* was equivalent to claiming *view of frankpledge*. Now, by the laws of Henry I., the sheriff was bound to hold a full hundred court to see that all were in frankpledge, *i.e.*, that all males of twelve years old and upwards (with certain permitted exceptions) were enrolled in tithings or associations of ten or twelve for mutual pledge or responsibility. Either the reeve and four men of the township, or in other cases the capital

Mixture of "view of frankpledge" and criminal presentments.

pledges, *i.e.*, the chief men of the tithings, were bound to appear at the hundred court to answer to this enquiry. At a later time King Henry II., by the Assize of Clarendon in 1166, ordained that in every county and every hundred either the justices or the sheriffs should make enquiry by twelve lawful men of the hundred and four of every township concerning robbers and other offenders. Somewhat later the more serious offences, as homicide, were reserved for the judgment of the crown, but the presentments before the sheriff were allowed to include encroachments, nuisances, and such offences. Mr. Maitland's theory is that to this Assize is to be referred the origin of the "sheriff's tourn," where such offences were tried, and that the two jurisdictions of the sheriff thus became mingled together. The capital pledges, or four men of the township, who came to certify to the carrying out of the law of frankpledge were utilized as the most suitable persons to make the presentments of offences required by the Assize of Clarendon. He thinks, further, that the lords of private jurisdictions who claimed to hold the view of frankpledge proceeded to imitate the practice of the sheriff, and receive from the capital pledges of their tithings presentments of offences similar to those presented to the sheriff at his tourn. It was to these private courts that the term "leet" came to be applied, and it is interesting in this city to observe that he states that the word apparently had its origin in East Anglia, and in the thirteenth century was scarcely used elsewhere.

Two courts in Norwich. The city court.

This theory accounts very well for the institution of bailiffs in Norwich in the early part of the thirteenth century. There were towards its close, and no doubt long had been, two courts in Norwich. There was the city court called "curia theolonii" because it was held in the tolhouse or tolbooth. This was, I suppose, the "husting" mentioned in the charter of Richard I. This court may have been presided over in the twelfth century, as the monks affirmed, by the one bailiff who in the name of the king held courts and collected amercements. I have suggested that under the charter of Richard I. the control and profits of this court were granted to the citizens under a provost of their own election.

The Sheriff's or county court.

The other court was the sheriff's court, or county court, called "curia comitatus," and situated inside the enclosure of the castle. Here the sheriff would summon the hundred court for the view of frankpledge, and here afterwards he would hold his tourn, and the presentments ordered by the Assize of Clarendon would be made.

Possibly at appointment of bailiffs the leet jurisdiction of the hundred court was transferred from sheriff's court to city or bailiffs' court.

I would suggest then that the appointment of bailiffs meant this—that the hundred court business, the view of frankpledge and the presentments, was now placed under the control of the citizens and transferred to their own court. The four bailiffs took the place of the sheriff of the county, as the two sheriffs afterwards took the place of the four bailiffs. The citizens were allowed to hold their own leet, try their own offenders under their own officials, and place the amercements in their own common chest towards paying the king's fee-farm rent. I should conclude that the division of the city into four leets took place at that time. I should rest this conclusion on the fact that there were four bailiffs, and as I have pointed out there were four natural divisions of the city. It must be observed however, that though the business not only of each leet but of each sub-division of a leet was conducted on different days, the four bailiffs unitedly presided over the whole.

A sub-division included twelve tithings.

The sub-divisions are accounted for by the mixture of criminal jurisdiction with the law of frankpledge. The presentments were made by the capital pledges of the tithings. But the law of the land as interpreted by the Itinerant Justices required that there should in every case be not less than twelve presentors. If a lord could not produce twelve capital pledges, his claim to hold a "leet" was disallowed. Hence, when the four city leets were subdivided to bring the business within manageable limits, it was necessary to group together at least as many parishes as would contain twelve tithings, and could therefore produce twelve capital pledges.

The sub-division of the leets was therefore to some extent dependent originally on the density of the population in different parts of the city. It must not be supposed,

however, that the population was just sufficient to produce twelve sets of capital pledges, representing 144 tithings. At the Leet of 1288 the total number of capital pledges making presentments was 150 besides 12 others who were apparently present though not sworn. Nor did the tithings contain just 10 or 12 persons. There is in existence a roll (Leet Roll No. 9) containing the names of all persons enrolled in tithings in the Leet of Mancroft about the year 1307. The tithings are there of most unequal size, some of them very large. Probably from the first the number of separate courts of presentment was intentionally limited to twelve, each of which fulfilled the condition of including at least twelve tithings. As I have observed, the unit of association was the parish. Adjoining parishes were grouped together in larger or smaller numbers, according to the number of tithings they contained.

IV*b*.—*The Commonalty and Citizenship.*

The "communitas."

The Communitas. Having thus endeavoured to throw some light on the origin of the earliest executive officers of the community, and the framework of the system they were elected to administer, I have next to see what traces can be found of the origin and early history of the *communitas*, in whose name they were supposed to act. The question of the original significance of the expression is rendered the more difficult, at least here in Norwich (and I think the same is true elsewhere), because by the time it appears in existing documents it already has two different meanings. Sometimes it is used in what, no doubt, must have been its original sense of "the common body of citizens," between whom no distinctions are as yet recognised. But side by side with this general meaning is plainly a more restricted one, according to which it means that particular portion of the body which *at the time* was acting for the rest. There is not indeed, as yet, the deliberate election of a small number to represent the rest, which did not take place in Norwich till towards the middle of the fourteenth century. By that time a decided distinction between two classes of citizens, the higher and the lower, had developed itself and thenceforward took a permanent form, and the expression "communitas," which in its first change was restricted to the higher class became finally attached to the lower.

Its broader meaning, "communitas civium."

If we look at one or two of the earliest occurrences of the word, we shall see how the meaning was in its first stage of transition. In a deed of conveyance, for instance, of 13th Edward I., a piece of land in St. Peter Mancroft was granted by John Page to John de Ronhale. It abutted on the well-known stream called "the Cokeye," and leave was granted to John the grantee to build over the Cockey, preserving its due course, according to the tenor of a deed which John the grantor held "ex communitate civium Norwici." Here the "communitas civium" would naturally mean "the general body of the citizens." The same must be the meaning when the "communitas" is said to have a seal. In November, 1285, letters patent of a person acting in Norwich as attorney for one at Leicester are sealed "sigillo communitatis Norwici" in witness of his seal. In June, 1286, an agreement between "the bailiffs and other citizens" of Norwich and some foreign woad merchants is sealed "sigillo communitatis Norwici." In the same roll of deeds is a specially interesting memorandum of 9th March, 1290, recording how Roger de Tudenham delivered "to the communitas" all the charters and other valuable public documents then preserved among the city archives (all specified by name). And the same day he delivered to the communitas "sigillum suum sue communitatis" their seal of their commonalty. And all these above written were by the assent of the "communitas" delivered to James Nade and three others. In all these cases "communitas" can mean nothing short of the whole body of citizens. There was no limited portion of them which could possibly be said to have a seal.

Its narrower meaning, "communitas civitatis."

But, when we turn to another early entry we find this meaning must be modified. In the Assize Roll of 14th Edward I. is an account of a certain Walter Eghe, who had been hung, but, on being taken to be buried, was found alive. He is stated to have been indicted at the leet of the city, and afterwards charged with theft—"coram Ballivis et tota communitate totius civitatis in Tolboth." It appears, by the 4th chapter of Customs, that thieves caught with stolen goods were to be judged "in Curia Civitatis coram

Coronatoribus et Ballivis." This agrees with the above description, "tota communitate totius civitatis," which would mean that, whereas at the leets the business of the city was sub-divided into eleven sections, the persons who were ordered to be arrested were brought before a court of the whole city. But plainly, in this case, the "tota communitas" can only mean those persons who either chose to come or were specially summoned. The "tolbooth" or "tolhouse" was a small building which preceded the present guildhall, and no great number of citizens could have been present in it at one time. It will be noticed that the expression is not "communitas civium," but "communitas civitatis."

Gradual evolution of a governing body.

Beyond, however, the evidence of merely isolated expressions, there are, I believe, in the three classes of documents I have alluded to (the chapters of Ancient Customs, the Leet Rolls, and the Rolls of Deeds), valuable traces to be found of the way in which a distinct governing body, in addition to the executive officers, evolved itself by a natural process from the general body of citizens, and finally became entirely separate from them.

The "probi homines" marked off naturally.

In the first place there was the natural tendency to leave the administration of affairs in the hands of the few who were able and willing to bear the burden. Moreover, as self-government embraced a more extended sphere of action it involved more pecuniary responsibility to the Crown. The more substantial merchants and citizens therefore naturally formed the administrative class. They were the "probi homines," so often mentioned in early documents; the men whose integrity and financial credit marked them as best fitted to lead their fellow-citizens, and to be dealt with by the king or merchants of other communities. The distinction thus naturally created was emphasized by the Law of Frankpledge. That law was not imposed upon every one. Its object was to retain a hold on an offender. In the case of clerks (perhaps only those in ecclesiastical orders) this responsibility was transferred to their ecclesiastical superiors. There was also another privileged class of persons of indefinite character, whom Bracton and other authorities call

Still further. by law of frankpledge.

"magnates." The theory was that these persons were so publicly known that there was no occasion for others to answer for them, There are traces of such a class in Norwich in the thirteenth century, though it is difficult to furnish any very definite proof of their existence. Some such trace may be found in the early Leet Rolls which seem to disclose the presence in Court of persons who were independent of and apparently superior to the capital pledges. It may, indeed, be shewn by a comparison with the contemporary Conveyance Rolls that as a rule the capital pledges did not belong to the highest class. With some exceptions they were not among those who held the office of bailiff, or possessed a large amount of property in the city. The way in which the names of several leading citizens occur in the leet rolls is curious and suggestive. Frequently, when a person is amerced for some offence, a marginal note says "condonatur ad instantiam A. B. or C. D.," the names of the persons who exercised this privilege being those of the best known substantial citizens. They were not of equal authority with the bailiffs, for when the bailiffs pardoned anyone the entry is "condonatur per ballivos." But they appear to occupy a position between the bailiffs and the sworn presentors.

Glimpse of the process at work.

The process of the natural selection of the few to do the work belonging to the whole is actually illustrated for us in the 45th chapter of customs. A complaint is made that when occasion arose to hold an assembly for the common good of the city and the country, the "concives civitatis," although summoned, did not take the trouble (non curant) to come, to the great hindrance of public business. It was therefore ordained that for calling together the commonalty (convocando communitatem) the sworn serjeant of the bailiffs should serve summonses for particular days on "melioribus et discretioribus" of each leet. The serjeant of the leet was to come with a panel prepared, and read out the names of those summoned to appear for that day. Absentees were to be cited to appear "coram ballivis et aliis bonis viris de civitate ad hoc intendentibus" to purge their default. If they had no sufficient excuse to offer,

they were to be fined two shillings, one to go to the bailiffs, "pro eorum labore," and the other to the "communitas." From this system of special summonses to the annual election of a few representatives from each leet was only a reasonable process of development.

Growth of changes of feeling with regard to citizenship.

Meanwhile, another influence had been gradually working in the same direction. There had grown up a change of idea with regard to citizenship. This is apparent by a comparison of the language used in the three sets of records I am now quoting from.

A citizen in the Leet Rolls a privileged trader.

Although in this respect the Leet Rolls represent the intermediate stage between the other two, I will take them first, for they require little explanation. In the Leet Rolls the "civis" or "concivis" is a privileged trader. A man is presented and fined, "quia emit et vendit tanquam concivis nec est de libertate nec unquam fecit introitum," because he buys and sells as a fellow-citizen, and is not of the freedom, and has never made his entrance, *i.e.*, has never paid his admission fee. The "freedom" here is freedom to make money by trading, to the exclusion of others who are not members of the privileged community. This is the ordinary notion of citizenship, which expressed itself afterwards in the technical term "freeman."

In the "customs" an enfranchised equal.

If now we turn to the chapters of Customs we find some most valuable traces of an earlier stage of thought and feeling. In those customs, besides the words "civis" and "concivis," a citizen is frequently called a "par civitatis." In chapter xxvii. a "par civitatis" is distinguished from a "forinsecus." In chapter xxxix. it is ordered that a servant should not be allowed to trade as partner with his master, until he has made his entrance solemnly and become a "par civitatis." The word occurs in several other chapters, but by far the most important is chapter xxxvi., the title of which is "De Introitibus ad Parem Civitatis," where the word "par" seems to be used for "equality" and to answer to the "libertas" of the Leet Rolls. No one, it says, who has become a resident in the city, is to merchandize in it

unless he is at lot and scot of the city, and contributes to its common aids. And, forasmuch as all who are received "in parem civitatis" are *free, and not the servants of any one*, "non servi alicujus," they are to make their entrance in solemn form in the presence of those who are assigned for that purpose by the whole "communitas," twelve of whom must be present or the admission will not be valid. Inquisition on oath is to be made with respect to the candidate's property. If he has not been an apprentice he is to pay at least twenty shillings; if an apprentice, one mark, and produce a testimonial from his master and his neighbours. The new citizen "ille novus par civitatis" shall give security that he will within a year of his reception "in parem," provide himself with a fixed dwelling-place for himself and his household, if he has not got one already; otherwise, when the year is complete, he is to be reckoned as an "extraneus" as he was before.

The view of citizenship here expressed has something of the same spirit of exclusiveness which appears in the Leet Rolls, but it is not the prominent feature. A citizen is one who takes his common share in the common burdens of freedom. And the "freedom" is distinctly defined as freedom from feudal servitude. This must certainly be the meaning of "liber et non servus alicujus." We may observe in passing, that here is apparent the origin of the qualification of municipal electors given in Henry V.'s charter, "omnes cives habitantes et hospicia per se tenentes." To have a house did not give a man a claim to citizenship, but every citizen was required to have a house as a security that the "communitas" could distrain upon him in case of default.

With respect to the use of this expression "par civitatis," it must, of course, have been of Norman introduction, but I have no doubt it is to be assigned to a date antecedent to that of our existing documents, *i.e.*, to the very earliest times of self-government. It was certainly not in common use at the close of the thirteenth century or later. It is found two or three times in the Ipswich Domesday (*Black Book of the Admiralty*, vol. ii.; Introduction xxiii. and p. 136 n.), and Sir Travers Twiss, the editor, remarks on its use in that town as equivalent to citizen. Its translation in other cases as "peer" has led to the supposition

that it meant a "magnate" of the city, but its use in Norwich as the equivalent of "civis" is even more unquestionable than at Ipswich. It is possible it may have been used in some form of admission to the freedom of the city, and so have lingered on long after it was disused elsewhere. So late as 19th Edward III. it was found by an inquisition that Richard Baa and Henry Stok were "cives et pares," civitatis Norwici through their parents who had been admitted long before (*Old Free Book*, fol. xii).

Thus in the Chapters of Customs and the Leet Rolls we may trace the citizen exchanging his first simple sense of freedom from the burden of feudal service for the trade exclusiveness, which not only then but long afterwards was reckoned the only safe road to prosperity.

In the enrolments a member of the ruling class.

In the third class of documents, the Enrolments of Deeds, there is still another stage of development to be traced. If I am not mistaken the term "civis" is beginning to be exclusively applied to a limited oligarchy, from which the rulers of the city are taken, or, to reverse the proposition, the limited body of substantial citizens into whose hands the public business naturally drifted, areseen falling into the position of an oligarchy and appropriating to themselves exclusively the title of "civis." The evidence for this statement is as follows:—In these enrolments the entries mostly run thus—"Be it observed that on such a day, A. B., merchant, draper, tanner, fishmonger, baker, &c., (as the case might be,) came into the full court of Norwich, and acknowledged that he had granted to C. D. (similarly described as of some trade) a piece of land, or house, or shop, &c." Now, as we have seen in the Customs that none but citizens were allowed to trade, and in the Leet Rolls that persons were fined for trading without being citizens, it seems necessarily to follow that all these traders who passed or received various pieces of property must, according to the language of those documents, have been "citizens." But in the Conveyance Rolls we find the title "Civis Norwici" used in a peculiar manner. Sometimes, both the grantor and grantee will be so described in addition to their occupation, as "merchant, citizen of Norwich," or "tanner, citizen of Norwich," and

so on. Sometimes one has the addition and the other not; sometimes neither has it. Moreover, on further investigation, it appears that there are certain persons constantly occurring, who are scarcely ever mentioned without this addition. Again, in a considerable number of cases "citizen of Norwich" stands alone, certain persons being habitually so described without any trade or occupation being given.

After consulting any large number of deeds, an impression is left on the mind that the title is intended to mark some distinction between those to whom it is given and others. This is confirmed by a systematic examination of the cases in which the title is used. An index of several hundred names, occurring in about 900 enrolled deeds between 1285 and 1298, gives the following results on this point. Rather more than 150 persons have this title—"citizen of Norwich"—attached to their names: of these, about one-third are not otherwise described. Of the remainder, numbering about one hundred, no less than thirty-two are described as "merchants," and twenty-four as drapers and lyndrapers. Possibly some of these latter may be included among the "merchants." It is not quite clear what is meant by a "merchant." Probably they were the persons who travelled about to the various fairs, which were the great centres of exchange, and who would naturally be the wealthiest traders in the city. The rest of those called "citizens of Norwich" are distributed among a great variety of occupations, but very few among the lower and unskilled handicrafts. From another point of view a still more suggestive result is obtained. Of forty-nine "merchants," at least thirty-two are described as "citizens of Norwich"; thirteen out of nineteen "lyndrapers"; eleven out of fourteen "drapers." On the other hand, out of fourteen "fabers" not one is so described; out of twenty-eight "pistors" or bakers, only five; out of thirteen butchers, four. Once more: during this period twenty-seven persons held the office of bailiff, and of these, seventeen are found among the number of those described as "citizens."

I think these facts are sufficient to warrant the conclusion that in these Conveyance Rolls a political idea of citizenship as specially belonging to the ruling class is expressed.

In one instance the word seems to be thus applied to the class. In an enrolled deed of 19th Edward I. (1290) license to build a stall is granted by the "Communitas Norwici et Cives ejusdem Civitatis." The explanation of the difference on this point between them and the contemporary Leet Rolls is that the leet was the popular court, and used the popular language; while the enrolments, which were in the hands of the sworn clerk of the bailiffs, were expressed according to the sentiments of that upper social stratum which had appropriated to itself the name of citizen.

IVc.—*How the "Commonalty" became "Citizens and Commonalty."*

The twenty-four representative citizens

The *twenty-four citizens.* The social and political development already traced resulted in the course of the fourteenth century in the definite establishment of a small representative body, representing nominally the whole of the citizens, but practically only the upper class. By this further development the term "communitas," which had originally meant the whole body of citizens, and then had come to be restricted—though only informally and in the expression of official acts—to that portion which habitually acted for the rest, assumed a new phase. It became parted into two. Instead of "communitas" it became "cives et communitas." And with this new expression the same process took place as before. For a time it is merely informal, the "cives" being the class from whose ranks the administrators are habitually drawn, the "communitas" the rest of the community of citizens. But as a permanent representative body becomes a definitely realized institution in the city, the term "cives" becomes restricted to the twenty-four elected citizens, who at a not much later period become an entirely distinct estate of the municipality, the court of twenty-four aldermen.

Meanwhile the "communitas," thus cut off from its leading members, rapidly passes through a similar process itself. It evolves out of its own body a second set of representatives, the common council, apparently a some-

what sudden introduction into the city of the practice of London. This second set of representatives, like the first, was officially denoted by the name of the body it represented, the "communitas"; and the official title of the revised municipal organization became "mayor, sheriffs, citizens, and commonalty."

Their probable date of origin.

At what precise time twenty-four citizens were first annually elected to form a council of assessors to the bailiffs by way of representation of the "Communitas" is not easy to determine. Blomefield gives a definite statement on this subject. He says:—"In 1368, at an assembly held in Whitsun-week, it was ordained, by universal consent of the city, that the bailiffs should be yearly chosen at Michaelmas by the bongentz, or the commons of the city, who shall also then choose twenty-four out of themselves as common council to represent themselves in all assemblies .... and no common seal shall be set to anything without the twenty-four consenting and the chief of the commons." Unfortunately, the book from which he quotes is the *Customs Book*, and no such book is now in the possession of the corporation. The statement reads like an authoritative one, but it is necessary to reconcile it with other evidence. At the commencement of the *Old Free Book*, fol. 5, at Michaelmas, 18th Edward III. (1344), after the names of the four bailiffs come the "names of the twenty-four in the same year elected and ordained by the whole communitas, in the presence of whom, or of the greater part of them if all cannot be present, the business of the city touching the communitas "deducerentur in actis." I think this last expression means "might be enrolled," for in the first Conveyance Roll each deed is said to be "inactitata," for which is afterwards substituted "irrotulata," enrolled. These twenty-four are made up of six from each leet of the city, Conesford, Mancroft, Wymer, and Ultra Aquam. In the following year (fol. 12) the twenty-four are said to be elected "de civitate Norwici, pro communitate et negotiis eiusdem ordinandis et custodiendis per idem tempus." These entries certainly seem to refer to a representative body elected for a whole year.

This would agree with references to the "twenty-four" in two of the chapters of Customs. In chapter xlvi. it is ordained that for the prevention of fraud in trades there

should be chosen from each trade two, three, or four supervisors, according to the importance of the trade. These supervisors are to be chosen "per ballivos et viginti quatuor de civitate communiter electos," and they are sworn to make a visitation of each trade four times a year, and report every case of fraud to the twenty-four. If the supervisors failed in their duty it was the business of the twenty-four to depose them as consentients to the fraud. I may remark that this sitting to receive reports of fraud is exactly what the court of twenty four aldermen were doing in 1492, as recorded in a book rather miscalled the *First Book of Worstead Weavers;* and I suspect that this was one of the ways in which the "twenty-four," at first naturally and afterwards intentionally, absorbed by degrees the judical authority of the earlier and popular "Leet" Courts. The following chapter (xlvii.) relates to the just assessment and collection of tallages and other costs as between rich and poor, and orders that the collectors and receivers and the chamberlain of the city should render an account annually on the Feast of the Nativity of the Virgin Mary and at other times if thought requisite "in the presence of the twenty-four, or the greater part of them who should be in the city." Here again we have the "twenty-four" as an organized body, and perhaps at even an earlier date than the entries in the *Old Free Book.*

On the other hand there is also evidence which seems to point to a later origin. The earliest "Assembly Roll" is of 39th Edward III. (1365) and there are several others of a few years later. They contain minutes of proceedings at Assemblies. Most of the meetings are called "Communis Congregatio," but that held in September for the election of bailiffs is called "Magna Congregatio." Instead of the commons electing the bailiffs, and then also choosing twenty-four to represent themselves in all assemblies, as in the statement quoted by Blomefield, all these early Assembly Rolls agree in recording the first business of this great assembly as being the election by the "communitas" of twenty-four persons (six from each leet) for the special purpose of chosing bailiffs. The six of each leet appear to have chosen a bailiff for their own leet. The names of the twenty-four are always given, but there is no record of their acting for any other pur-

pose. In 2nd Richard II. (1378) the citizens of Norwich petitioned parliament, that, by reason of "many defaults and mischief," and because "of late many of the commonalty had been very contrarious," they might have a charter, granting to the bailiffs and twenty-four citizens to be elected yearly by the commonalty "power to make or amend ordinances for the common profit of the people." A charter to that effect was granted the same year.

First appointed towards the middle of the fourteenth century.

The conclusion I should arrive at from all this evidence is that the annual election of a representative body of twenty-four citizens came into existence by an informal practice of the city before the middle of the fourteenth century; that in 1368, as quoted by Blomefield, it was more formally recognised as an established institution, and finally on the accession of Richard II. it was confirmed by royal charter, the confirmation evidently at that time being sought for by the "Cives" or upper class of citizens, as against the "Communitas" or lower class.

From that time the style of the municipal body became "Ballivi, Cives, et Communitas," by which style it is described as we have seen in the charter of Henry IV. in 1403, the "cives" being the twenty-four and the "communitas" the whole body of citizens, who retained rights of election and probably of presence at some of the assemblies, though they had little or no power of government. That this is the right interpretation of "cives" in this expression as used in the Charter I take to be proved by the consideration that, however much the upper class might have appropriated to themselves the name of "citizen," and however true it may be that the "twenty-four" practically represented only the substantial citizens or "probi homines," such a distinction between one class of citizens and another was unknown to the royal authority which granted charters. In the official language of a charter the "cives" represented the "communitas," and the only distinction the royal authority or parliament would recognize was that "twenty-four citizens" were set apart from the rest and added to the bailiffs as a part of the executive. The "ballivi et cives" theoretically administered the affairs of the city in the name of the "communitas."

Subsequent development already described.

How the "twenty-four" became under the charters of Henry IV. and V. the "twenty-four of the mayor's council" and then the "twenty-four aldermen"; and how the "communitas" obtained a more direct share in the government of the city by the annual election of sixty common councillors, I have already related in speaking of the revision which the municipal constitution underwent at the commencement of the fifteenth century, when it assumed substantially the same form which it held until the Reform Act, and I have thus completed the line of my historical investigation.

V.—*Was the development influenced by a Merchant-Guild? or by Craft-Guilds?*

No Merchant Guild in Norwich.

Such an investigation would, however, be incomplete without some inquiry into an important question,—Was the early municipal development of the City of Norwich influenced by any mercantile guild organization, such as existed in some other places, and which some writers have thought to be the foundation of all municipal organization? If by a Merchant Guild is meant an organization of traders for the control of trade, independent of what is more strictly called municipal organization for the management of the general business of a community, the answer must be,—it was not. What may have been the case before municipal self-government and written records begin, we do not know. No doubt many of the "liberties and privileges" confirmed by Henry II had reference to trade and commerce and imply some internal organization. But so far back as recorded evidence goes, there is no trace of any divided jurisdiction. All the evidence points in the other direction. From first to last the whole control of trade in all its details has in Norwich been in the hands of the civic rulers of the city, the executive of the municipal constitution whose history I have endeavoured to trace.

Trade under the control of the city authorities.

Some of the evidence bearing on this point has already come before us. We have seen how, in the fourteenth century, the supervision of each trade was placed in the hands of certain persons chosen by the bailiffs and twenty-four elected citizens, to whom all cases of fraudulent work were to be reported. In the thirteenth century violations of trade regulations were among the presentments made at the leets, at which courts the bailiffs acted as the presidents, and the amercements were made by "affeerers" chosen by the capital pledges. Perhaps the most important piece of evidence is a document entered in the *City Domesday*, fol. 77. It is a commission, in the name of the bailiffs and citizens of Norwich, dated 13th Edward I. (1285), appointing Adam de Toftes Alderman of the Hanse. It recites that, among the liberties and customs granted to the ancestors of the Citizens of Norwich and confirmed to them by the king then reigning was one which had been in use for a long time, viz., "that the Citizens of Norwich should elect one of themselves Alderman of their Hanse, to execute that office in the fairs of St. Botulph, Lenn, and Jernemuth and in other divers fairs and markets established in divers places." The former Alderman Symon called Palmer having become incapacitated, they have removed him, "et dilectum concivem nostrum Adam de Toftes Aldermannum hansie predicte fecimus et loco nostro constituimus." They therefore pray those whom it concerns that when the said Adam should come into their parts to execute his office they would receive him favourably. To this writing they set their common seal. The importance of this document consists in the fact that, so far as I know, it is the only one till far down into the fourteenth century in which any word implying the existence of a merchant guild is used, and it here has reference solely to dealings with other communities in fairs and markets. In the second volume of the Selden Society's publications, already referred to, are some pleas held at the Fair of St. Ives, which may illustrate the exercise of Adam's office. In the Introduction, p. 134, Professor Maitland points out how it was the custom to make all the members of the same communitas liable for the debts of anyone. A case in point

So also the "Hanse."

actually occurred there in reference to some Norwich traders. In May, 1275, Robert de Dunwich, Burgess of Norwich, was sued for debt, and it was ordered that he should be attached if he be found, and if not, that the whole "communitas" of Norwich should be distrained. Thereupon, goods were distrained belonging to Walter le Troner, Reginald de Wreningham, and Katerine de Norweye. At a later court Walter and Reginald were sued as "pares et participes et communares (*sic*)," *i.e*, members of the same communitas with Robert, and it comes out that the debt had been incurred at Boston in 1273, and that the aggrieved creditor had already endeavoured in vain to get his money both at Boston and at Norwich. I suppose the office of Alderman of the Hanse at fairs was to protect the interest of his fellow-citizens and to deal and be dealt with as their recognized leader. The word "hanse" would seem to mean the "communitas" in its foreign mercantile dealings. In any case, its control clearly rested in the hands not of the merchants but of the municipal authorities. The same conclusion is to be drawn from one other mention of the "hanse." It is of much later date—42nd Edward III. (1369)—in an early Assembly Roll. At a congregation held in the Tolhouse on the feast of St. Matthew it was discussed "that the bailiffs should follow out the business touching the hanse ('le hans') at the cost of the communitas." The subsequent connection of the Guild of St. George with the corporation has no bearing upon this question, for it was a religious and not a mercantile guild.

Early craft guilds prohibited.

Though there was certainly no merchants' guild, there were craft guilds at an early period, and they may eventually have led to the mediæval idea of a "freeman," viz., one whose admission to the freedom of the city is obtained through admission to a certain trade. The early history of these craft guilds, however, only further proves that the whole control of trade was in the hands of the civic authorities. They were, in fact, prohibited as contrary to the well-being of the city. This meant that they tended to deprive the city chest of some of its fees and dues. At the Leet of Wymer in 16th Edward I., the jurors "say that the tanners have a guild among themselves, so

that if any of the "confratres" forfeits to another he should complain to the alderman, by which the bailiffs, &c. (*i.e.*, amittunt custumam)." Again at the Leet of Wymer and Westwyk, 19th Edward I. a large number of tanners are amerced, the first entry running thus:—"of Richard de Stalham, because he does fradulently in his work in tanning his hides with bark of ash, and it is called stalsitelether, and because they have a guild hurtful to our lord the king in buying hides; and because they correct transgressions which ought to be pleaded before the bailiffs, one mark." Two years later, in the Leet of Conesford, the sutors (coblers) are fined twenty shillings, because "they have a guild contrary to the prohibition of our lord the king, so that they take of their apprentices two shillings, and of those who exercise their business by themselves, they give (*sic*) ten shillings to the aforesaid guild." The saddlers are also fined one mark, "because they likewise have a guild hurtful to our lord the king"; and the fullers, half a mark "for the same." The last entry on this leet roll is the amercement of forty tanners (two shillings each) for the same offence. The "prohibition of our lord the king" can only, I think, refer to a clause in a charter of 40th Henry III. (1256), which grants "that no guild shall for the future be held in the aforesaid city to the detriment of the said city." On this clause Merewether in his *English Boroughs*, p. 437, remarks "an irresistible proof that guilds [meaning merchant guilds] were separate from the citizens." The quotations from the leet rolls show that it was private guilds of separate trades which were prohibited as being to the damage of the common interests of the citizens.

By Charter.

In spite of this, however, these trade-guilds must have continued to exist, for in chapter XLVII. of *Ancient Customs* it is ordained that "tallages and costs should only be imposed by the more discreet of each trade practised in the city, specially elected by common consent and sworn, and not by others except in default of them." This implies some organization and later on, when the great changes took place in the time of Henry IV. and Henry V., we find them fully organized. Still they were never chartered like those of London, and their influence on the municipal constitution

Continued in spite of discouragement.

And were the origin of "freemen."

solely consists in their being, as I suppose, the origin of the class of "freemen" in its technical sense. I have already expressed an opinion that the earliest sense of the word "liber," as applied to the condition of a citizen, meant freedom from feudal servitude. A citizen, however, was never described as "liber" or "liber homo." At a later time, at the close of the thirteenth century and onwards, a citizen was described as being "de libertate," of the freedom,—the freedom referring to the trade privileges and to the freedom from restraints by which others were bound. There was as yet, however, no distinction of trades in this matter. There is nothing to shew that a man need have been a trader at all in order to be admitted into citizenship, even in the fourteenth century. The earliest lists of citizens beginning in the reign of Edward II. in the *Old Free Book* are not entered with trades. The order to do this is first mentioned in the Composition between the two dissentient portions of the community made in 1415, and seems to be part of the movement of the commons against the twenty-four citizens. It runs thus—"It is accorded . . . . that all manner of men now citizens of the city shall be enrolled of what craft he be of, within a twelvemonth and a day, upon pain of forfeiture of his franchise, paying a penny for the entry: and that all manner of men that shall be enfranchised from this time forth shall be enrolled under a craft and by assent of a craft, that is for to say the masters of the same craft that he shall be enrolled of shall come to the chamber and witness that it is their will that he shall be made freeman of their craft, paying to the craft there that he shall be enrolled under XL*d.*, and paying to the chamber at least XX*s.* and more after the quantity of his goods, as he may accorde with the chamberlain; and six men shall be chosen for to be of counsel with the chamberlains in receiving of burgesses." The earlier practice had been that half the admission fee should go to the bailiffs and half to the commonalty.

From 1415, every name of a newly admitted citizen is followed by a trade or craft. It was not however till the mayoralty of Thomas Aleyn in 1450, that the trades were separated and all of one trade entered together. It was

some time later than this before a citizen thus duly qualified and admitted was called a "freeman."

VI.—*Concluding Summary.*

I have thus endeavoured to trace with as much accuracy as possible, the municipal history of the City of Norwich in its earliest stages of development.

The story begins at just the time to which legal memory is said to extend. Before that period the burgesses of Norwich were no doubt in the enjoyment of those liberties and customs (whatever they were) which they possessed in the time of Henry I., and probably long before, and which were confirmed to them by Henry II., but they were after all only feudal servants of the king, who appointed their governors, took the profits of their court, and looked upon the city as a private possession of his own.

From Richard I., as I have shown reason to think, they received their first charter of independence. Their first step in self-government was to have the free control of their old borough court, under the presidency of a provost of their own chosing.

The next step was a still more important one, when Henry III. gave them bailiffs and with them, as I have suggested, the control of their Hundred Court independently of his sheriff, the two jurisdictions when combined together including nearly all social, commercial, and criminal affairs. This change was accompanied by the formation of those divisions and sub-divisions of the city which formed the basis of its administration almost to the present day.

Perhaps this form of municipal organization, a simple executive of four persons presiding over the deliberations and carrying out the resolutions of a community of free and equal citizens, was at its best at the close of the thirteenth century, when our records for a time are unusually voluminous. But it could not withstand the tendency of various influences. Aided by a combination of several causes,—the leading position naturally assumed by the fittest, the working of the Law of Frankpledge, the selfishness of successful trade,—there was gradually

formed during the fourteenth century an oligarchical party, which aimed at monopolizing the administration of municipal affairs, and probably brought about the civic revolution of the beginning of the fifteenth century, when the older constitution was remodelled after the fashion of London.

At first they appeared likely to succeed altogether. The twenty-four "probi homines" were by Henry IV.'s charter to be the practical rulers of the city, with the mayor and the two sheriffs as their nominees. A sharp struggle between the two parties ended in a compromise. The commonalty obtained the choice of one sheriff and what was much more important a representative body of their own, the sixty common councillors. On the other hand, the oligarchical party secured no slight advantage in the formation of the Court of Aldermen, who not only inherited such administrative authority as had belonged to their predecessors, the twenty-four elected citizens or "probi homines," but received in addition a permanent judicial power, being appointed for life, and when once they had served the office of mayor being invested with all the extensive powers which belonged in former time to a city magistrate.

The changes which took place after the time of Henry V. were rather matters of detail than of principle, and cannot be said to belong to the subject of early development. My desire has been to throw light, where it is most wanted, upon the origin and influencing causes of the municipal development of this one city of Norwich, and to confine myself strictly to it, without attempting to compare it with other municipalities. My hope is that I may have added a small contribution to the stock of materials accumulating in various quarters for the use of some future historian of the municipal institutions of our country.