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**TWO CHAPTERS**

ON THE

**Mediæval Guilds of England.**

BY

**EDWIN R. A. SELIGMAN, Ph. D.**

ADJ. PROFESSOR OF POLITICAL ECONOMY,

SCHOOL OF POLITICAL SCIENCE,

COLUMBIA COLLEGE.

**AMERICAN ECONOMIC ASSOCIATION.**

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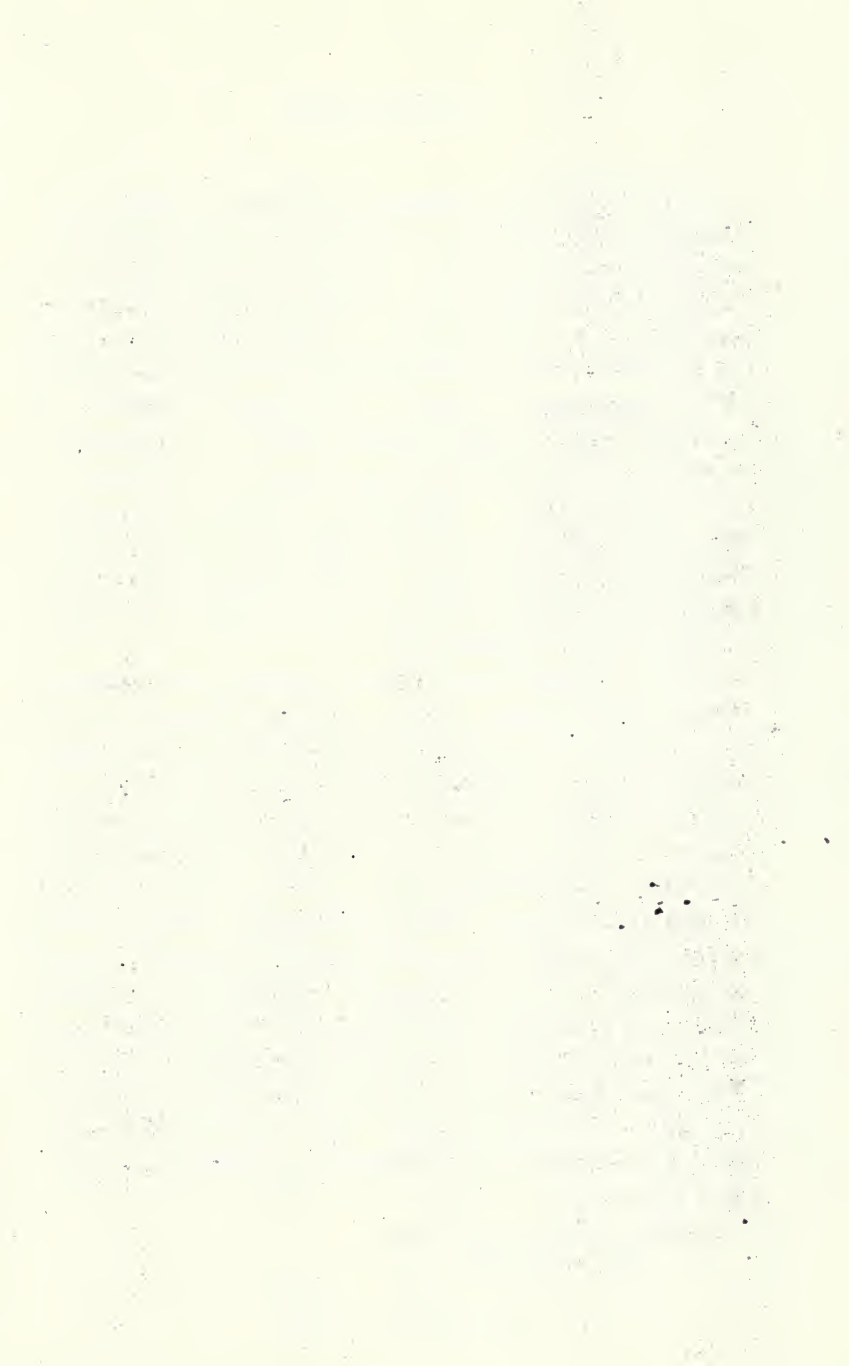
## PREFACE.

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This essay was originally written in 1882-3 as a doctor's dissertation in the School of Political Science, Columbia College. It is here reprinted in its original form, with a few additions and alterations, mainly of a verbal nature. This explains the lack of all reference to publications of the past four years. The monograph is only a condensed fragment of a much larger work, already partly in manuscript, which is to treat of the social history of England to the present time. The press of other occupations has compelled me to lay it aside for several years, but at some future day I trust to continue my investigations in England itself, and to complete the task that has been marked out.

In the original essay much assistance was derived from two German works. In the chapter on the craft-guilds attention should be called to Ochenchowski's essay on "England's Wirthschaftliche Entwicklung" (1879), with many of whose conclusions this essay is in harmony. As to the merchant-guild, especial acknowledgment is due to the scholarly thesis of Dr. Gross, "Gilda Mercatoria" (1883), which treats the subject far more elaborately than has been attempted in this monograph. Although the chapter had been practically completed before the appearance of Dr. Gross's thesis, he was nevertheless the first in the field, and deserves all the credit for setting the subject in its proper light. As we differ, however, in a few points I have thought it permissible to publish the chapter.

COLUMBIA COLLEGE, NEW YORK,  
November, 1887.





## INTRODUCTION.

### THE ANGLO-SAXON GUILDS.

The early guilds had no connection with trade or industry, but were voluntary associations formed for a variety of purposes—political, social and religious. Endeavors have been made to trace their origin to the pagan customs of the primitive Teutons at the sacrificial banquets and funeral festivities, which often degenerated into the wildest orgies, ending in violence and murder.<sup>1</sup> But this is clearly inadequate. The common banquets were not peculiar to the Scandinavians, but on the contrary were an institution of the most wide-spread character. They occur in the early history of every nation from the Asiatic joint families to the Roman *collegia*, Russian villages and Irish septs.<sup>2</sup> Still more unsatisfactory is the statement, elaborated by Brentano into an ingenious theory, that these drinking bouts contained in germ the essence of all guilds. Occasional survivals of the practice are still found to-day on the islands of the Baltic, and it would require a peculiarly lively imagination to connect these casual festivals with the mediæval unions. There is absolutely no evidence that any of the Anglo-Saxon guilds were founded on such a basis,<sup>3</sup> nor is there

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<sup>1</sup> Wilda, cap. 1; Lappenberg, II-350.—The foot notes in this essay contain only abbreviated references. For full titles see the list of Authorities printed at the end of the monograph.

<sup>2</sup> Maine, *Early Hist.*, 79; *Village Comm.* ch. 4.

<sup>3</sup> *Ordinances*, xvi. (Note of Smith.)

any more reason to assert a similar origin for those of the continent. In fact, the attempt to discover any one particular source is idle. Combined efforts of individuals have always existed to supplement the defects of government and to afford mutual protection in case of need. Indeed the social instinct of man, the impulse to work or worship in common, has shown itself in all nations and at all times. The names of these associations naturally varied with the different countries, and the ends they sought to attain bore a fixed relation to the changing needs of the society in which they existed. But the idea that all guilds are derived from one fountain head is plainly erroneous, and this vain attempt to discover the impossible explains the one-sided, divergent views of so many historians.<sup>1</sup>

The earliest Anglo-Saxon guilds are of three kinds — religious or ecclesiastic, social, and protective guilds. The introduction of Christianity gave a strong impulse to the rapid formation of abbeys, and from the sixth century on the associations of priests occur in increasing numbers. These meetings of the clergy gradually received the name of guilds or guildships from the fact of each member being held to contribute a fixed sum. For the word guild originally denoted a common payment. In the time of Edgar the *gyldscipes* of the priests are mentioned as an insti-

<sup>1</sup>Sybel, 19, finds their origin in the tribal constitution; Maine, *Early Hist.*, 232, in the primitive brotherhoods of co-villagers; Winzer, in the Scandinavian confederacies for plunder; Sullivan, I-cvii., in the Irish grazing partnerships; Wilda, ch. 1, in the sacrificial feast and Christian church; Hartwig, in the early communions; Brentano, in the family; Coote, *Romans*, 383, Pearson, 274, Wright, 425 in the Roman *Collegia*. Cf. Thierry, 311, Marquardsen, 43; Kemble, *Saxons*, I-239; Gierke, I-222.

tution of frequent occurrence,<sup>1</sup> and we possess the statutes of several combinations from the charters of a slightly later date. The guild at Woodbury was founded by Bishop Osborn, and other guilds at Evesham, Chertsey, Bath, Pershore, Wynchcombe, Gloucester and Worcester were united by Wulfatan into a still larger association.<sup>2</sup> Contributions to the common treasury, masses for the living, and funeral rites for the deceased brethren, observance of a mutual charity, and the bathing, feeding and clothing of one hundred poor men, are among the obligations of the members, who promise to conduct themselves as righteously as possible, and be of "one heart and of one soul."<sup>3</sup> These guilds of the clergy, existing in every populous district and thoroughly imbued with the teachings of the early church, were probably identical with the later guilds of Kalenders, for in one case at least—that of Bristol in the fourteenth century—the fraternity may be traced to a so-called college of presbyters of the year 700.<sup>4</sup>

A like spirit actuated the laymen in their social guilds, although the influence of religious conviction was soon overshadowed by the secular aims. The ordinances of the Abbotsbury, Exeter and Cambridge unions, which are still preserved, afford a clear insight

<sup>1</sup> § 9 Thorpe, *Anc. Laws*, II-247. Cf. "urum gegyldscipum" in *Judicia Civitatis Lond.* 8. § 6, which shows that societies and not districts are meant.

<sup>2</sup> Printed in Hickes, 18—20; Woodbury in Thorpe, *Dip. Ang.* 608. Brentano and Stubbs ignore them.

<sup>3</sup> "Quasi cor unum et anima una."

<sup>4</sup> Lingard, 246; Corry, II-64; *Ord.* 287.

into their constitution.<sup>1</sup> The members give yearly donations of money or wax to preserve the candles at the religious services, bring malt, honey, wheat, wood and corn as well as bread to be distributed in alms. Stated assemblies, common banquets, care for the sick and the dead, prayers and masses, penalties for "misgreeting" the brethren or neglecting to pay the dues, provisions for assistance in misfortune, and the formation of a fire insurance fund, are among the features. The Thane's guild at Cambridge contains the further principle that the society is responsible in case a member slay a man, unless the act be committed "with folly and deceit," in which case the culprit alone is answerable. On the other hand the murderer of a guild-brother must pay the society eight pounds, in default of which the whole guildship takes vengeance into its hands; but if any associate kill a co-member, he must not only pay the *wergild* to the victim's family, but also suffer a heavy fine or be expelled from the association. The influence of the religious idea is manifest in the preambles, all of which state that the union was founded, or held its assemblies, for the love of God and their soul's need, both as regards the present and the future life. The principle of mutual responsibility again is seen in the words "Let all bear it if one misdo, let all bear alike."

In addition to these unions we meet with traces of slightly different societies in which the idea of protection comes to the foreground—the so-called frith

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<sup>1</sup>Printed in Thorpe, *Dip. Ang.*, 605-617; Hicke, 21; Kemble, *Cod. Dipl.*, No. 492. Translated in Kemble, *Saxons*, I-511; Eden, I-591. Cf. Turner, III-98; Thierry, App.; Stubbs, *Hist.*, I-412; Hartwig, 136. They date from the eleventh century.

guilds. They are first mentioned in the laws of Ine, or at least the word *gegilda* is used both here and in the laws of Alfred.<sup>1</sup> Provision is made for the liability of members in case a thief be slain, and for the division of the *wergild* among the relatives and guildsmen:—if the member slay a man and have no paternal relatives, his maternal relatives and guild-brothers share the penalty with him, or if there be no relatives he pays one-half, the guild-brethren one-half. On the other hand the guild receives half the *wergild* if the murdered man be a member, the other half going to the king if there be no surviving relatives. Nothing further is told us of these guilds, but the provisions often recur in the later ordinances as long as mutual defense remained one of the objects, and thus afford a strong presumption of their being true guilds.<sup>2</sup>

A few decades later we find under Æthelstan the statutes of a fully developed frith-guild in the *Judi-*

<sup>1</sup>Ine 16, 21, 23, Alfred 27, 28 in Thorpe, *Anc. Laws*, I-113-117, 78-81. Ch. 21 refers to the "far coming man, or stranger," but ch. 16 is in general terms. Waitz, I-464; Brentano, lxxiv.; Stubbs, *Hist.*, I-89, hence err in restricting these guilds to strangers. Thorpe, *Glossary*, asserts that the Gebeorscipes were guilds, but incorrectly, for the word simply means a feast, and in Ine 6, Thorpe himself so translates it. Cf. *Leges Henrici Primi*, c. 87 § 9, 10; Schmid, *Gesetze*, 587. As to the *convicia* of Tacitus see Waitz, I-90.

<sup>2</sup>The exact meaning of *Gegildan* is still disputed. Kemble, *Sax.*, I-239, 260; Hartwig, I-151; Schmid, 588, translate it "those who mutually pay for one another," but do not explain it; Wilda, *Strafr.*, 389, "a wider family union;" Maurer, *Krit. Ueberschau*, I-92. "traveling companions;" Marquardsen, 29, "robber-bands;" Stubbs, *Hist.*, I-89, "associates of strangers," but he doubts his own conclusions, I-414. Phillipps, 99, 104 says they are the later frankpledge. Waitz I-462 reviews the subject and defends the view adopted in the text. Cf. Palgrave, I-196; Gierke, I-224; Cox, 135; Salvioni, 9; and general discussion in Gross, 91.

*cia Civitatis Londoniæ*.<sup>1</sup> This was no union of smaller guilds, as has been asserted, but a combination of associations of one hundred men, subdivided into smaller groups of ten, subject to common rules, but otherwise independent of each other. The duties consisted in mutual protection of property and the pursuit of thieves, for whose destruction a reward was offered. The members each gave a shilling to defray the expenses of the search, and were pledged to go to the adjacent riding in pursuit, while compensation was made for losses or injuries incurred. Mutual assistance, masses and fine bread for the souls of the dead, and charity were commanded. But, curiously enough, only the eleven (the heads of the smaller groups) and the *hyndenmen*,<sup>2</sup> and not all the members, enjoyed the repast, although all assembled to discuss the guild concerns. All the members were declared to be in one friendship as in one foeship.<sup>3</sup> Some have thought that we have not to deal with any voluntary union here, because the preamble states that the statutes were ordained by the bishops and reeves of London, and confirmed by the pledges of the *frith-gegildas* or guild-brethren. But this only proves that the guild was expressly authorized by the governmental officers, probably because of their inability to execute the laws and provide a suf-

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<sup>1</sup>Printed in Thorpe, *Anc. Laws*, I-229, II-496; Wilkins, 65. Translated in Kemble, *Sax.*, II-521, and partly in Stubbs, *Charters*, 6.

<sup>2</sup>The head of the 100. The contrary opinion of Thorpe, *Glossary*, is disproved by Kemble, I-243; Waitz, I-466; Marquardsen, 39. As to the eleven, see Kemble, I-242, note 2.

<sup>3</sup>"Swa on ánum freondscype, swa on ánum feondscipe." *Judicia Civ.* ch. 7.

ficient police. Similar provisions appear in all the later guilds in so far as the semi-religious and charitable regulations are concerned. We are thus warranted in declaring it a true guild, but one in which the object was primarily to preserve the peace rather than to promote good fellowship and cultivate the fraternal sentiment.<sup>1</sup>

Traces of other guilds are also found. One is said to have existed in Winchester in 856, and although nothing is told about its nature, it was probably the same as the Cnighthen-guild mentioned in Domesday.<sup>2</sup> We hear of several other Cnighthen-guilds at Canterbury, London, and Nottingham.<sup>3</sup> What these Cnighthen or Knights were is not certain. The word originally denoted a servant, and although sometimes employed in the sense of child or young man it frequently occurs in the sense of a subordinate member of a nobleman's retinue. It is apparently used in this sense in the guild statutes of Exeter and Cambridge, where the knight contributes less honey than the full member, and where his lord is responsible if he draw a weapon or wound another. Their rank and importance, however, increased until at the Conquest they became the equals of the thanes

<sup>1</sup>Cf. Palgrave, I-633; Norton, 24; Thorpe, *Dip. Ang.*, xvii; Walford, II-283; Gross, 13; Green, *Conquest*, 422.

<sup>2</sup>Milner, I-92; *Domesday*, IV-531, fol. 1, 3: "Chenictehalla ubi chenicetes potabant gildam suam."

<sup>3</sup>"Ego Æthelstan and ingan burhwara, ego Æthelhelm and cniahta gealdan." Kemble, *Cod. Dip.*, No. 293, attesting a charter in Canterbury. For Nottingham, Domesday I-280, Domus Equitum—house of the Knights. Cf. Freeman IV-199, Green, *Conquest*, 442; Ducange s. v. A Gihalla also occurs in Dover; *Domesday*, I-1.

or nobles.<sup>1</sup> The Anglische Knighten Guild of London was founded under Edgar, and a fabulous account of its origin is given, the king granting thirteen well-beloved knights what was afterwards known as the Portsoken ward on condition of their victoriously "accomplishing three combates, one above ground, one under ground, and one in the water." In 1115 the Knytte-gilda conveyed its lands to the Trinity Priory and disappears from history.<sup>2</sup> In 956 three guilds are mentioned at Canterbury, one of these probably the Knighten-guild, the other perhaps the religious guild of Domesday, and the chapmanne guild of the time of Anselm.<sup>3</sup> Some have endeavored to connect the Knighten-guild with the later guild-merchant, but this is negatived by the fact of their concurrent existence at Nottingham.<sup>4</sup> It is of course true that membership in the one did

<sup>1</sup>For the various meanings see Ine, ch. 2; Thorpe, *Index*; Kemble, *Cod. Dip.*, VI-155: *Charters of Oswald* 557; Oswald 622; Aelflaed 685; Wulfaru 694; Æthelstan 722; Eadsige 1336. Turner, III-373; Schmid, 528; *Anglo-Saxon Chronicle*, 1087; Kemble, *Anglo-Saxona*, I-513, 514; II-335. Cf. Gross, 21.

<sup>2</sup>Stowe, 85; Madox, *Firma Burgi*, 23; Herbert, I-5.

<sup>3</sup>Somner, I-178, speaks of a charter mentioning the three "geferscipas innan burhwara, utan burhwara, miccle gemittan." Printed in Thorpe, *Dipl.*, 303; Kemble, *Cod.*, IV-267. The London frith-guild is also called geferscipe, *Judic. Cit. Lond.*, c. 1 § 1. Domesday I. f. 3. speaks of "mansuras quas tenent clerici in gildam suam." cf. Mer. and Steph. 76 for another explanation, rather far-fetched. The chapmanne guild is mentioned in Somner, I-179; cf. Stubbs, I-416.

<sup>4</sup>Domesday, I-280. *Domus mercatorum* and *domus equitum* or hall of the Knights. So *hanshus* is often used for guildhall. Stubbs, *Charters*, 109. Wilda, 249, and Gross, 24, have attempted this connection.



not preclude membership in the other,<sup>1</sup> and it is even probable that the knights occasionally displayed an interest in trade. But this by no means proves that the Knighten-guilds were the precursors of the merchant-guilds. In all probability the Knighten-guilds were mere associations formed among the younger nobles with the same aims as the other social fraternities.

The formation of the guilds was no doubt fostered by the necessities of social existence—for the family bond, of transcendent importance in early Teutonic life, began to decay with the advance of civilization. Traces still remain in the Anglo-Saxon law—the “maegth” still contribute the wergeld, support the family of the deceased and act as compurgators for each other.<sup>2</sup> But the relations are soon disrupted, and the continued impotence of the government, together with the incursions of the Danes, imperilled the isolated existence of the freemen and doubtless transmitted a huge impulse to the development of the voluntary unions. We must not, however, suppose that the guilds had their origin in the family. The family theory cannot explain the predominance of the religious and charitable features, and becomes absurd when applied to the ecclesiastical guilds. One might as well derive all modern institutions from the family, for, of course, if the family bond had continued to subsist, the present arrangements would be unnecessary. The dissolution of the bond

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<sup>1</sup>At Canterbury we read of “cnihtan on Cantwareberig of cepmanne gilde.” Somner, 179. Even here cniht seems to mean simply a member.

<sup>2</sup>Ine, 73-76; Hlothhaere and Ead., 6; *Laws of the Northumbrian Priests*, 51; in Thorpe, *Anc. Laws*.

of kinsmen furthered, but certainly did not produce the early guilds. The guilds, moreover, did not have their birthplace in England, as has been confidently asserted.<sup>1</sup> Sworn unions are mentioned as a widespread institution in the capitulary of 779, and in fact the Council at Nantes speaks of the guilds already in 658, while the earliest unambiguous English guilds date only from the eighth and ninth centuries.<sup>2</sup> They were probably introduced from the continent, where the religious unions and brotherhoods of priests were as common as in England, being continually rebuked by the synods for their extravagant feasts and occasional contraventions of ecclesiastical law.<sup>3</sup> The character of the early guilds is shown by the repeated allusions in the church councils, and there can be no doubt of the importance of the religious element.<sup>4</sup>

A variety of causes thus contributed to the origin of European guilds, whose significant feature was a fraternal feeling of mutual interdependence and close affection. The idea of association was by no means novel, but it so happened that the disintegration of the tribal communities kept pace with the dissemination of a higher morality through the church. To derive the guild from the family is fanciful and when applied to the ecclesiastical unions meaning-

<sup>1</sup>By Brentano, lvii., who here as elsewhere follows Wilda, 244.

<sup>2</sup>Cap. of 779 in *Monum. Germ. Hist. I. Legum* c. xvi, p. 37; —the *Council of Nantes* in Labbé, X-472. Some put it in the year 800.

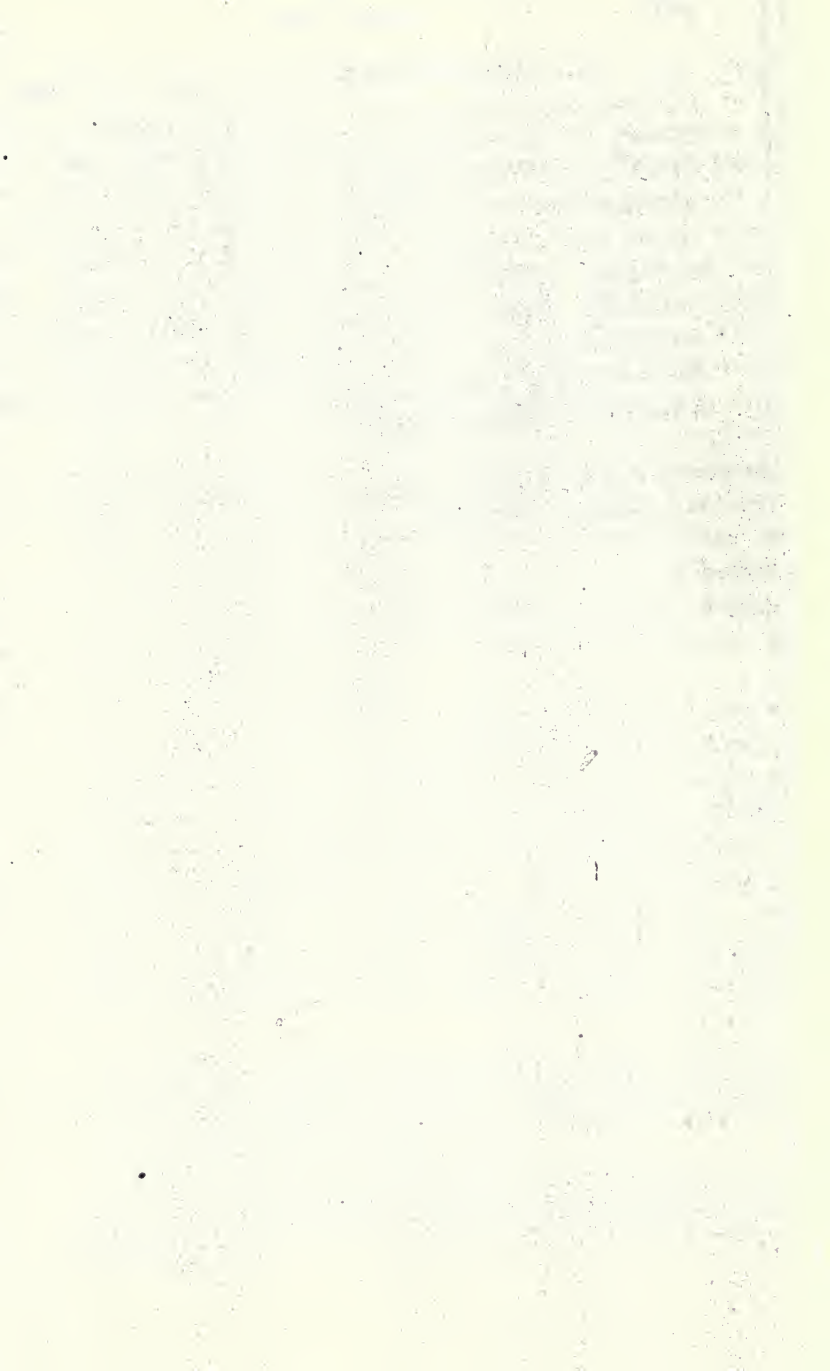
<sup>3</sup>Hartwig, 158; Thierry, 412; Wilda, 63.

<sup>4</sup>Of the members it is said: "in omni obsequio religionis conjunguntur, videlicet in oblatione, in luminariis, oblationibus mutuis, in exequiis defunctorum, in elemosynis et ceteris pietatis officiiis." Labbé, VIII-572

less. The frith-guilds originated in the virile spirit of resistance to oppression, the social guilds in the feeling of conviviality and reciprocal aid, the religious guilds in the desire to secure the blessings of a future life ; but the idea by which all were penetrated was the partial realization of the doctrine of universal brotherhood which the early church so zealously strove to diffuse. The guilds-merchant and craft-guilds, which alone will be discussed in the following chapters, were of a later date and had a radically different origin.<sup>1</sup>

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<sup>1</sup> For an excellent account of the social guilds, see Lucy Smith's introduction to *Ordinances*.



# I

## THE GUILDS-MERCHANT.

### § 1.

#### ORIGIN AND FUNCTION.

Trade and commerce never attained a great development in early Britain, for the absence of legal protection and the few wants of a primitive community were hostile to any complicated system of exchange. Under the Romans the products of the tin mines and corn lands were much in demand.<sup>1</sup> But the slight prosperity then enjoyed by the native states soon ceased at the time of the Saxon invasions, when the artificial trammels of legislation added to the natural checks of violence and disorder effectually hampered all intercourse. No sales could be made without witnesses, under penalty of forfeiture, owing partly to the lack of general weights and measures, partly to the danger of buying stolen goods, which made strict formalities necessary.<sup>2</sup> The vocation of the chapmen or traders was attended with difficulties, and the foreign merchant is rarely mentioned.<sup>3</sup> So undeveloped was the connection with the mainland that the government promoted all merchants, successful in three voyages, to the nobility.<sup>4</sup> But Saxon

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<sup>1</sup> Elton, 35, 38, 305.

<sup>2</sup> Æthelstan, c. 10, *Hloth and Eadric*; c. 16, in Thorpe, I-35, 205.

<sup>3</sup> Massere, who crossed the seas, opposed to Ciepemon, or inland trader. For the latter, see Thorpe, I-33, 83, 119. The word survived in Chepyng-gyld and Cheapside; Green, *Conq.*, 438.

<sup>4</sup> Ranks, 6; Ethelred, II-2; in Thorpe, *Anc. Laws*, I-193, 285.

England was essentially agricultural, and even in London no merchant guild existed. At the time of the Conquest, however, an improvement set in. Good roads, well-built bridges, and freedom from outlaws, succeeded the dangerous highways and former insecurity. The Danes transmitted a great impulse to the growth of the seaport towns, and the Normans kept up an active intercourse with their continental kinsfolk. The growing importance of the lithsmen or shippers is shown by their coöperating with the thanes and witan in electing Harold as king.<sup>1</sup>

About this time, then, the guilds-merchant began. The first mention occurs in Domesday, as we have seen, both knighten-guild and guild-merchant existing at Nottingham. Lincoln is said to have possessed one during the Danish supremacy, and the Ceapmanne guild at Canterbury exchanged lands, as we saw, toward the close of the eleventh century.<sup>2</sup> Soon the guilds occur in the town charters, and before long there was scarcely an important borough in the kingdom without its guild merchant.<sup>3</sup> A remarkable exception, however, appears to have been London, although it possessed the usual privileges accorded to traders.<sup>4</sup>

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<sup>1</sup> *Anglo-Saxon Chronicle*, II-129.

<sup>2</sup> Green, *Conq.*, 432; Somner, I-179.

<sup>3</sup> Gross, 37 gives a list of over ninety towns, which does not pretend to be complete.

<sup>4</sup> Wilda, 248, and Brentano, err here. Stubbs I-405, 418, 419, expresses himself doubtfully; but the term is never used in the London charters. Norton, 34: "There is no trace of London ever having been a general mercantile guild." The "fraternite and gilde merchant" in *Rot. parl.* II-279, was a simple craft guild of grocers-

The origin and character of the association have been so strangely misconceived<sup>1</sup> that it will be desirable to present examples from the early charters. The application for the privilege of forming the guild<sup>2</sup> was made to the monarch, whose consent was imperatively necessary, even though the great manor lords sometimes undertook to grant the privilege to the towns in their domains.<sup>3</sup> We find the grant almost exclusively in the town charters to the effect that the burgesses should have their guild-merchant with its usual customs and privileges, or that they should have all their reasonable guilds like those of a neighboring town, or even simply that they should have their *Hanshus* or guild-hall.<sup>4</sup> The documents themselves are so explicit as to the advantages and object of the union that it is remarkable how any serious misconception could have arisen. In almost

<sup>1</sup>Especially by Brentano. Gross was the first to clear up the confusions.

<sup>2</sup>Known as *gilda mercatoria*; *gilda mercatorum*, Milner II-300; *gilda mercaria*, *Rot. Chart*, 40; *gilda mercanda*, *Reg. Malmesb.*, I-446; *gille mercatura*, *Hist. Doc.* 82; *gilde Markande*, *Arch. Jour.* IX-79; *chepynggyld*, Coates, 51; *gilde de marchaunt*, *Stat. 37 Ed. III*, c 5; *guild mercatory*; and *mercantile guild*.

<sup>3</sup>So to Leicester, Thompson, *Mun. Hist.*, 38; Beverly, *Foedera*, I-10; Petersfield, *Mer. and St.* 308; Lostwithiel, Brady, 45. As to the king's authorization see Stubbs, *Charters*, 109.

<sup>4</sup>"*Sciatis nos concessisse . . . gildam suam mercatoriam cum omnibus libertatibus et consuetudinibus suis*," *Lib. Cust.*, 672, to Oxford; "*gildam mercatoriam cum hansa et aliis consuetudinibus et libertatibus ad illam gildam pertinentibus*," Madox, *Firma B.*, 272, to Worcester; "*g. m. cum omnibus rebus suis*," Woodward I-271, to Winchester; "*omnes rationabiles gildas suas*," *Hist. Doc.* 53. *City Charters*, 53; Corry, 201; to Dublin and Bristol. "*Quod habeant suam hanshus*," *Foedera*, I-10; Stubbs, *Chart.*, 110. "*Gildam mercatorum cum omnibus libertatibus et consuetudinibus*," *Rot. Chart.*, 38; and Stubbs, *Charters*, 309.

every case it is stated that no one should carry on any trade in the city or suburbs, unless he were a member of the guild, the provision recurring with an endless variety of expression, such as that no one shall buy or sell any merchandise, sell any merchandise at retail or carry on any traffic.<sup>1</sup> The members could, of course, waive this prohibition, but it is evident that the permission was rarely granted, for the guild would thereby defeat the very reason of its existence. The ordinances of the guilds themselves, moreover, insist upon excluding non-members from trading. An exception was made only in the articles of food which every one was allowed to purchase, while, of course, on market day or in fair time all restrictions were relaxed.<sup>2</sup> Occasionally the authorities interdicted retail traffic in those particular articles only which happened to form an important factor of the town commerce.<sup>3</sup>

<sup>1</sup>"Ita quod aliquis qui non sit de gildhalla aliquam mercaturam non faciet," Stubbs, *Charters*, 167; "quod nullus qui non sit in gilda illa mercandisam aliquam in praedicto civitate vel in suburbio faciet nisi de voluntate eorundem civium," Madox, *F. B.*, 272; Cf. "mercandisare," "mercandisas suas ad retalliam vendere," etc., in *Plac. de quo Warranto*, 18; *Lib. Cust.*, 672; Merew. and St., 473, 523; *Rot. Chart.*, passim; Harland, I-198.

<sup>2</sup>"Nul ne deit rien achater a revendre en la vile meyme fors il seit gildeyn," *Southamp. Ord.* § 19; ". . . yl ne deit achater ne vendre en cel ou en vile fors que sa vitayle," *ib.* § 25. In Marlborough the fullers who were neither citizens nor guild members could buy provisions up to 3d. free. *Liber Custumarum*, 130. In Scotland "a stal-langers may no tyme lott nor cavell. . . . but in ye time of a faire, for yan is lawfull to ilk man to lott and cavell. . . ." *Regiam Majest.*, chap. 47. Cf. Warden, 69.

<sup>3</sup>In Chichester: "Nullus in civitate vendat pannos perdetaillum nisi sit de gilda mercatoria." Hay, 578. "Nul ne deit achater miel ne seym ne seil de araunk, etc., fors le gildein. Ne tavernes tener de vin ne vendre dras a detail for au jour de marche ou de feire . . . si yl ne seit gildein." *South. Ord.* § 20.



But in the majority of cases the prohibition was quite general. In London where the citizens enjoyed the same privileges as guild-members elsewhere all non-freemen were forbidden to sell at retail. The same distinction appears subsequently in the general law that all aliens shall carry on only a wholesale trade.<sup>1</sup>

One distinguishing feature of the guild-merchant was thus the monopoly of internal trade. This was doubtless the raison d'être of the union. But not less important was the exemption from all manner of petty imposts and vexatious taxes. The inhabitants of mediæval England could scarcely stir without being subjected to some exaction. In addition to the feudal aids, royal taxes and *trinoda necessitas*,<sup>2</sup> there were duties on imports and taxes on passengers, customs on a ship's lading and charges for its landing, tolls on the bridges, on all internal navigation and on wagons, whether on the road or in the forest, payments for maintaining the walls, for breaking turf for the market booths and for putting up the stalls themselves, customs paid on measuring and sealing cloths,<sup>3</sup> and finally innumerable forced contributions as hush-money for imag-

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<sup>1</sup>Quod mercatores qui non sunt de libertate....vina seu alia mercimonia,....ad retalliam non vendant. *Lib. Cust.* 441. Cf. 2 Rich. II; 1 Rich. III c. 9, "aliens, artificers shall sell their wares in gross and not by retail;" see *Lib. Albus* I-xcv, where under Ed. I a city regulation forbade the "strange merchants" to sell less than a certain quantity of different articles at a time.

<sup>2</sup>Fyrd, brigbote, burhbote.

<sup>3</sup>The Latin names are in the above order: theloneum, passagium, lestagium, groundagium (groundage), pontagium, ewagium, carriagium, chiminagium, muragium (murrage), pycagium, stallagium, alnagium, (aulnage.)

inary offenses.<sup>1</sup> It was essential for the merchant traveling from town to town, or even trading within the burgh, to be freed from these burdens, and we find accordingly immunities of this kind in almost every case. Thus in Bristol the members of the guild-merchant buy and sell freely and quietly from all tolls and customs; in Newcastle-under-Lyne they buy and sell and traffic well and in peace freely, quietly and honorably, and are quit from tolls, passage, pontage, stallage, lastage, alnage and all other customs.<sup>2</sup>

2) The exemption from these charges constitutes the second great feature of the society, and at the same time proves how unavailing would be the grant of a territorial lord without the confirmation of the king. For the king alone could confer any right of unimpeded traffic throughout the whole realm.

3) Another privilege that is often mentioned is the *hansa*.<sup>3</sup> What this was is not very clear. The magnificence of the Hanseatic league and its branches in mediæval England are well known, and the Steelyard of the hanse-merchants or Easterlings, who were already protected by Æthelstan, became a re-

<sup>1</sup>Scotteshale and gieresgive. *Foedera*, I-52; Stubbs, *Charters*, gloss.; *Lib. Cust.*, 760.

<sup>2</sup>*Red Book of Bristol* 30, in Barret, 179; Thompson, 94. Cf. "Quieti de omni thelonio, passagio et consuetudine, Milner, II-300; "Quieti a theloneo etc. per terram, per aquam, per ripam maris, 'by lande and by strande,'" Stubbs, *Charters*, 168; "Quieti de thelonio et lestagio etc. in feria et extra, et per portus maris omnium terrarum nostrarum, citra mare et ultra," *Foedera*, I-50; also *Hist. Doc.* 2; *Lib. Cust.* 671. Cf. also "the libertie of the merchandis gilde" in Dundee; Warden, 67.

<sup>3</sup>*Rotuli Chart.* 40, 211, 212, 65 etc.

nowned institution of London.<sup>1</sup> More than once did the jealousy of the citizens of London, Boston, Lynn and other towns against these foreigners break out in riots and tumults, for they attained such a commanding position as even to decide by whom the crown of England should be worn.<sup>2</sup> The advantages of a "hanse" were frequently confirmed to the foreigners temporarily in London, and the word is plainly equivalent to a company of traders.<sup>3</sup> But the term is much older and occurs frequently in the English charters, probably at first having reference to the privileges of merchants when away from home. For the English had their guilds in foreign ports also.<sup>4</sup> Its meaning, however, soon became equivalent to guild, or the rights of a guild, and in this generic signification it is used all through the later documents. The "hanse of the guild" thus became a collective name which included all the usual attributes of a trading corporation.<sup>5</sup>

<sup>1</sup>*De Institutis Londoniæ* II in Thorpe, *Laws*, I-300. Steelyard or steelhof, a contraction of Stafel—or Stapelhof (Eng. staple) denoted the market for imports. It has no connection with "steel." Cf. "Mercatores alemann' qui habent domum in civitate London, qui gild-halla Theutonicorum nuncupatur," *Rot. Orig.* II, no. 35.—See Stow, I-520; Anderson, I-299; Lappenberg, *Urk. Gesch.*, and Sartorius.

<sup>2</sup>In the case of Edward IV.; Schanz, I-177.

<sup>3</sup>Sartorius, II-93.—As to the "*Hanse-merchants of Almayne*" see 4 Ed. IV, c. 5; 19 Hen. VII, c. 23; *Rot. Parl.* V-421; VI-65.

<sup>4</sup>"Omnes de gilda mercatoria et Anglica" in Montreuil and Hamburg. Wilda, 265, 267. Cf. *Rott. Litt. Pat.* 248 b.

<sup>5</sup>At Ipswich a knight gives a quarter of wheat to the "hanse of the guild;" another a quarter to the "guild." Mer. and Stephens, 398. This shows the identity. Cf. Madox, *Exch.*, 278; *Firma B.*, 27.—Ansa or Hansa is also used in the sense of a tax. "Quietus de introitu et de tauro et de hansis et omnibus rebus." *Gent. Mag.* vol. 35-262; Thompson, 50; "quietus de ansa et omnibus aliis consuetudi-

4 Finally the guild members were in general absolved from the necessity of attending the shire moot and hundred court.<sup>1</sup> The exactions of the sheriff, the judicial officer of those days, were so severe that the arbitrament of disputes by the local magistracy were eagerly sought for. But as this jurisdictional freedom was just as frequently granted to the burgesses quite irrespective of their membership in the association,<sup>2</sup> we cannot declare it a distinguishing feature of guild-life. It is hence erroneous to say that the guild-merchant was a "liberty or privilege enabling merchants to hold certain pleas in their own precincts." For although they exercised a certain jurisdiction in purely mercantile disputes,<sup>3</sup> it was always subordinate to that of the regular court leet, and there is no trace of any general civil or criminal jurisdiction. Even where the chosen guild members assisted in settling controversies they solemnly swore to subordinate themselves to the municipal court and uphold the customs of the town. "Hear ye, mayor and brethren of the guild," so runs the oath at Leicester, "that I will loyally render judgment and decide the disputes for the poor equally with the rich, each one according to the measure of the trespass,

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nibus," *Rot. Chart.* 86.—On the continent this was a common meaning. Charter of St. Omer § 6 in Kemble, *A. Sax.*, II-529; Statutes of the Etaimiers Plombiers § 6 in Ouin-Lacroix, 642.—Cf. Stubbs, *Hist.*, I-411; Anderson, I-132. Gross, 95 attempts no explanation.

<sup>1</sup>"Quieti de schiris, hundredis, et omnibus placitis," *Lib. Cust.* 671; *Rot. Chart.* 2; Mer. and St. 365; *Foedera*, I-50.

<sup>2</sup>*Rot. Chart.*, 45, 83, 93; *Abbrev. Plac.* 186, 351.

<sup>3</sup>At Beverly the guild-merchant "with its pleas and tolls." *Rep. Pub. Rec.*, 431. Drake, app. xxxii, followed by many others, makes the above mistake.

and that I will ever come to the court of the portmote and obey the summons of the mayor when informed by the bailiff, provided I be in town and have no reasonable excuse, and that I will loyally maintain the assize of bread, wine and ale together with the mayor, and will uphold the franchises and good customs of the town to the best of my ability. So help me God and the saints. Amen!"<sup>1</sup>

We may say then that the original documents themselves afford an adequate explanation of the object of the guild-merchant, and that this was in substance a monopoly of retail trade, and an exemption from all petty burdens throughout the kingdom. The attempts to identify it with an imagined protective guild or with the civic community are, as we shall see, entirely misplaced.

The internal organization<sup>2</sup> was similar to that of the social guilds which existed all through the middle ages until virtually abolished by the wanton rapacity of Henry VIII and his son. At the head stood the alderman or master, who probably paid something for his position,<sup>3</sup> and at his side were the wardens or stewards, and occasionally other officers, such as seneschals, ushers, clerks, deans and chaplains.<sup>4</sup> Membership was obtained by heredity, pur-

<sup>1</sup> Le Serment de Jurrez. *Gent. Mag.* vol. 35-262. Cf. *Southampton Ord.* § 44.

<sup>2</sup> Few ordinances are preserved. The chief are those of Southampton, *Arch. Journ.*, XVI-283; Berwick, Houard, II-467, of the 13th cent.; Worcester, *Ord.* 370; Preston, Baines, IV-287, *Com. Hist. Mss.* IV-476, of the 14th and 15th cent. The so-called guild merchant at Coventry, *Ord.* 226, was probably a mere social guild. Cf. Gross, 49.

<sup>3</sup> *Pipe Roll* for Worcester, 5 Stephen; for York, 31 Hen. I, p. 34, where a hunting dog worth 20 sh. is given; Madox, *Exch.*, 273.

<sup>4</sup> *Com. Hist. Mss.* III-304, 344. *Stat. of Berwick*, § 6, also mentions a Ferthingman.

chase or gift, and frequent mention is made of the seats of the associates,<sup>1</sup> which probably referred to their position at the feasts or the arrangement of the booths in fair-time. The alienation of the seats, whether by sale or gift, was forbidden,<sup>2</sup> and while the sons and sometimes the nephews and daughters of members were admitted free of all charges, others were obliged to pay an entrance fee and produce two sureties. In the oath that was administered on initiation, the new member pledged himself to conform to the ordinances, to be subject to the same burthens as his fellows, to inform the officials and inhabitants if he discovered any merchant in town who was not a member, and to obey the command of the mayor as well as to maintain the good usages of the city.<sup>3</sup> Peace and good will between the members were enjoined; provisions of a charitable character,<sup>4</sup> such as alms to the impoverished and visits to the imprisoned, are occasionally found; the morning speeches<sup>5</sup> and periodical banquets were not omitted; and the members were admonished not to forget to drink their guild-merchant, on which festive occasions the officers availed themselves of the opportunity to collect the taxes.<sup>6</sup>

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<sup>1</sup>At Totnes one "sits above the seat" of another. *Com. Hist. Mss.* III-343.

<sup>2</sup>"Nul ne deit ne ne puyzt par dreitz seon siege a noul homme vendre ne doner.—*South. Ord.* § 10."

<sup>3</sup>Le Serment de ceux q'entrunt la gylde. *Gent. Mag.* vol. 35-262; Nicholls, II-376.

<sup>4</sup>*South. Ord.* § 4, 6, 7, 11, 22. Berwick, § 5, 6, 9, 11. Coventry in *Ord.* 228, 300.

<sup>5</sup>Morgenspaec or meeting-day (Morgensprache). Also in the social guilds, *Ord.* 54, 71, 83, 279.

<sup>6</sup>"Bevere gilde markande" *Arch. Jour.* IX-73 at Winchester. Cf. "potare gildam suam" in *Domesday*, IV-531.

But these few ordinances of a social nature must not lead us into the error of supposing that they formed the real pith of the institution. On the contrary, they fall into utter insignificance when compared with the large body of provisions of a purely mercantile character, intended to enforce the true object of the union as outlined in the charters. The guilds-merchant was no *summa convivium* as in Denmark, and did not have their origin in any desire to wrest political rights from the feudal superiors, but were founded simply to secure economic privileges. Instead of being imbued with a spirit of universal love, as some authors imagine, they were only too often actuated by a selfish exclusiveness and a desire to enforce their class privileges in a narrow and grasping spirit. Partnerships of any kind with non-members were discredited and severely punished: the brethren could not keep the goods of others even temporarily in their hired premises; and examples of their attempted oppression of outsiders are not lacking.<sup>2</sup> The guild-merchant was at the outset a mere company of traders, but the term merchant, which by no means conveyed the same ideas as at present, included not only those that carried on foreign commerce, but petty traders of all kinds, even artisans.<sup>3</sup> The guild, however, in course of time, lost its character as a purely private society, and became closely

<sup>1</sup>"Nul de la gilde ne deit partenir estre ne communier en nul manere de marchaundises...a nul que [ne] seit de gilde." *South. Ord.* § 21. Cf. note of Smirke in *Arch. Journal*, XVI-286. The ne must be supplied, as Gross shows. Cf. *Stat. of Berwick*, § 21, in Houard, II-467.

<sup>2</sup>At Derby: "Qui quidem usus [recited in detail] cedunt in injuriam oppressionem et depauperacionem populi." *Plac. de quo W.* 160.

<sup>3</sup>*Hist. Doc.* I, 82-88.

6 connected with the municipal organization, although never identical with it. Certain public duties gradually devolved upon the guild, so that it formed a useful adjunct to the local administration in sanitary and general police regulations.<sup>1</sup>

7 The guild-merchant in its prime was therefore an organization of strictly defined import. In some cases, doubtless influenced by the example of the social fraternities, its aim was nevertheless totally dissimilar, and it was instituted solely for the purpose of securing exemptions from commercial burdens and enjoying a practical monopoly of municipal trade. It possessed property, enjoyed the privilege of self-government, often formed conventions with the guild of a neighboring town to afford reciprocal rights of free entry and exit,<sup>2</sup> was not without a certain jurisdiction,<sup>3</sup> although always subordinate to the court leet, and often attained sufficient importance to become to a limited extent an integral part of the civic administration. But its function and position cannot be completely understood until its connection with borough life is elucidated and erroneous conjectures of various historians rectified. This we shall attempt in the next paragraph.

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<sup>1</sup>At Berwick, § 29, 30; Bristol, Barrett, vii; Cf. *South. Ord.* passim.

<sup>2</sup>So Monros and Forbar, *Com. Hist. Mss.* II-206; cf. *Curia quatuor burgorum*, Edinburg, Berwick, Sterling, Roxbury, in Houard, vol. II; *Regiam Majestat.*, 153.

<sup>3</sup>The guild-court in Totnes and Aberdeen. *Com. Hist. Mss.* III-344; I-122.



## § 2.

## THE GUILDS AND THE TOWNS.

The origin of the English towns is a question of great complexity. No universally applicable rule of communal evolution can be laid down. Borough life in its infinite variety was clearly not produced by any one set of circumstances. The opinion that the towns were the outgrowth of the Roman municipal system may now be considered definitely discarded, for although a few sites now occupied by thriving cities may have been inhabited by the Romans, their constitution when first met with in Anglo-Saxon history is so different as to preclude all inference of cause and effect.<sup>1</sup> Even in the case of continental cities this view has been abandoned.<sup>2</sup> On the other hand it is as yet premature to accept the village-community theory,<sup>3</sup> for there are still many historical facts which cannot be reconciled to the hypothesis as an all-embracing explanation. Many of the English towns grew up about the abbeys and monasteries<sup>4</sup> and not a few owed their origin to the increasing facilities offered by trade. But whatever be the true explanation, we are justified in making the positive assertion that the towns were not devel-

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<sup>1</sup>Wright, 360, *Archæologia*, Vol. 32-298; Coote, 359; Somers Vine, 4; Pearson, I-264, still uphold the theory. But see Stubbs, I-62; Kemble II-297; Freeman V-470, 887.

<sup>2</sup>By Hegel and Hüllmann v. Maurer. These authors and Waitz, VII-400; Thierry, I-302, have disproved the old views of Savigny and Eichhorn.

<sup>3</sup>Maurer, I-170; Gomme in *Archæolog.* vol. 46-46; Nasse, 20.

<sup>4</sup>So St. Albans, Reading, Coventry, Durham. *Reg. Malm.* xxxi; *Chron. Joc.* 148.

oped from the guilds, and that the connection has been grossly exaggerated.

According to Brentano,<sup>1</sup> whose views on the subject have been generally adopted, the Anglo-Saxon boroughs were founded on a system of protective guilds, one of which in effect governed the town. The guilds-merchant, about whose real meaning he tells us nothing, was synonymous with the Norman towns, and the craft-guilds of late times, whose origin he discovers in the exclusion of the artisans from the full-burghers guild, everywhere drew the reins of municipal power into their hands. Each of these positions is utterly erroneous, and can be explained only by a confusion of English and German relations.

The opinion that *summa convivia* or governing guilds existed in the Anglo-Saxon period is untenable. The whole theory reduces itself to the single statement that the Thaness' guild at Canterbury was the governing body because the oldest of the three guilds. But nothing is known as to the relative antiquity of the three guilds; secondly, we do not know that any of them was a Thaness' guild, and lastly, in the charter of 956, given above,<sup>2</sup> the guilds appear equally privileged. This conjecture is, hence, not worthy of much confidence. Equally unsuccessful is the argument based on the frith-guild of London. The document says nothing about a union of previously existing guilds into one that embraced all the citizens, and the society initiated for a distinct purpose of mutual help cannot be regarded as the basis

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<sup>1</sup> *Introd.* Cap. III. First refuted by Gross, cap. 3.

<sup>2</sup> Page 16.

of the town. This assumption is entirely gratuitous, for London existed long before the guild was formed. The union, moreover, is never again heard of, which renders it probable that the guild died away as security increased. The city was governed by the reeve like any other shire,<sup>1</sup> and there is no trace of the guild exerting any influence in the governing body of the city; while there is absolutely no justification for the statement that the frith-guild served as a model for the formation of other town institutions. Hypotheses and conclusions of this kind are not well calculated to substantiate an imaginary theory, which has nevertheless been blindly followed.<sup>2</sup> The identification of the Knighten-guild of London with a ruling corporation, and its development into a municipality, have likewise been regarded as settled facts,<sup>3</sup> but the statement is founded on a pure conjecture of an old historian that the term alderman was "perhaps" transferred to the town from the guild on its dissolution in 1115.<sup>4</sup> This conjecture, however, is anything but probable, for the word alderman was not used to designate the heads of the social guilds in Anglo-Saxon times, but on the contrary denoted the governing officers of the hundreds and shires, and many of the towns were in fact nothing but hundreds.<sup>5</sup> There is, hence, no reason to suppose that the municipal aldermen were the descendants of guild officers.

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<sup>1</sup>Stubbs I-405, 6.

<sup>2</sup>By Walworth, Howells, Green, *Conquest*.

<sup>3</sup>By Brentano, *Arbeiterg.* 262; Wilda, 244; Hüllman, III-60, 73.

<sup>4</sup>Madox, *Firma Burgi* 30; cf. in general Gross, 72.

<sup>5</sup>Stubbs. *Hist.*, I-94; Palgrave, I-102.

In the Anglo-Saxon epoch, then, so far as we know, guild and town were independent of each other. The evolution of municipalities from frith-guilds may be declared wholly mythical. With reference to the guild-merchant similar mistakes are prevalent. "This trading guild was the very constitution of a burg," says one author; "the guild was not a mere adjunct of the town community, but the formal embodiment of the population into a civic fraternity," says another. "Citizens and guild were identical, and what was guild law became the law of the town," says a third.<sup>1</sup> But these statements are utterly false. It can be shown on the other hand that burgess and guild member were distinct conceptions; secondly, that the government of the guild and of the town were different; and thirdly, that the grant of the guild was not the substantial creation of the borough, just as little as the conferring of the town charter necessarily implied the grant of a guild.

In the first place, burgess and guild-member were not the same. The burgess was the inhabitant householder who paid scot and bore lot, i. e., contributed his proportion to the taxes, bore his share of the civic burdens and was enrolled at the court leet.<sup>2</sup> The guild-members, on the other hand, were recruited from strangers<sup>3</sup> as well as inhabitants. The guild-

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<sup>1</sup>Brady, 54; Thompson in *Gent. Mag.* vol. 35-596; *Hist.* 119; Brentano xciii, taken from Wilda, 146. But see Gneist, *Verw.* I-139, *Gesch. des Selbstgovernment*, 201.

<sup>2</sup>"Quod cives sint in lotto et scotto." *Liber Albus*, 269; cf. Travers' Twiss II-xviii; *Ord.* 346; *Mer.* and *St.* 1091.

<sup>3</sup>Called exterior vel extraneus homo, forinsecus, foraneus, foris-habitans, alien, estraunge, as opposed to intrinsecus, privy or densein.

members might reside without the borough, the citizen in general could not; the citizen must have a house, the guild-member need not.<sup>1</sup> Inhabitants of London are enrolled on the list of Dublin guild, and the guild in Lincoln is granted to the citizens as well as other merchants in the county.<sup>2</sup> In Berwick burghess and out-dwelling or foreign guild-member are distinguished, and in Bedford burghesses and others who reside in the town belong to the guild.<sup>3</sup>

Not only were strangers admitted, but it was possible to be a burghess without belonging to the guild. In Reading the abbott chooses as warden one of the burghesses, provided he be in the chepyng-guild; hence there were others not in the guild.<sup>4</sup> In Southampton certain individuals were members of the franchise or town, but not of the guild; in Newcastle some of the poor burghesses sue other burghesses who belonged to the guild, while a general law provides for the settlement of disputes between citizens and merchants, which leads to the inference that some citizens were certainly not merchants.<sup>5</sup> One could even live in town without being either citizen or guild member, as in Marlborough and Southamp-

<sup>1</sup>*Custumal of Romney* § 42 in Lyon. app.; Ipswich *Domesday*, 152; *Leges Burgorum* § 13; Mer. and St. 117; Ord. 373 § 37, 41 and 392 § 41.

<sup>2</sup>*Hist. Doc.* 82-88; *Foedera* I-40; Stubbs, *Charters*, 166.

<sup>3</sup>*Stat. of Berwick* § 46; "Quod eam burghenses ville quam alii quicumque, in eadem ville residentes, in ipsam gildam recipiunt." *Plac. de q. W.* 18. Rogers, *Work and Wages*, 107, confuses guild-merchant with craft-guild in saying that the guild put effectual hindrances on the introduction of strangers.

<sup>4</sup>Cootes, app. 5.

<sup>5</sup>"Et si ascun trespase que ne soit de la gilde e seit de la Franchise." *South. Ord.* § 13; Madox, *F. B.*, 272; *Leges Burgorum*, c. 8.

ton.<sup>1</sup> But the best proof of the distinction between guild member and burgess lies in the fact that women were frequently admitted full members,<sup>2</sup> while of course they could not be burgesses. Females were at the same time constantly engaged in trade and industry, so that it is not surprising that they should have been compelled to join the guild.<sup>3</sup> Prelates and monks, moreover, who were certainly not citizens, were also admitted to membership,<sup>4</sup> for the clergy often attempted to carry on a general trade, in consequence of which serious quarrels arose between the monks and citizens, as at Norwich and other towns.<sup>5</sup> They were even occasionally permitted to form guilds-merchant of their own, in order not to be put at a disadvantage in selling the products of their large possessions.<sup>6</sup>

In the second place, government of guild and town were not identical. At Ipswich, immediately after the grant of the town charter by King John, the whole commonalty assembled at the burial-ground to elect two bailiffs and four coronors, and decided to choose twelve officers to govern the borough and render judgment. These were accordingly elected on a succeeding day and sworn before

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<sup>1</sup>*Regis. Malmesb.* II, 393; "si estraunge on ascun autre que ne soit de la gilde ni de la Franchise." *South. Ord.* § 14.

<sup>2</sup>At Ipswich, *Mer. and St.* 520; Totnes, *Com. Hist. Mass.* III-342; Shrewsbury, Owen and Blake., I-104.

<sup>3</sup>Cf. the regrateresses, bakeresses, breweresses. See 37 Ed. III c. 6.

<sup>4</sup>*Hist. Doc.* 82-88, 136; *Com. Hist. Mass.* III-342.

<sup>5</sup>Blomefield, III-57; *Rot. Hundred.* I-157, 27.

<sup>6</sup>So the convent at Coventry, *Merew. and St.*, 469; at Bodmin, Brady, 96.

all the townfolk, but on the other hand it was decided that the guild-merchant should have a "good, lawful and fit" man as alderman, chosen by the common council of the town, and four good and lawful men as associates, to maintain the guild and "all things pertaining to the guild." The town ordinances were directed to be enrolled and transmitted to certain officials for safe-keeping, but the statutes of the guild-merchant were put into a "certain other roll," as was declared to be the custom in all other cities and boroughs in which a guild-merchant existed, and were entrusted to the alderman of the guild in order that he might never be at a loss to know how his office should be conducted.<sup>1</sup>

This proceeding clearly shows that the two bodies had separate officers, separate aims, and a separate organization. The town is subject to one set of officials, the guild to another; the ordinances of the town are put into a Domesday book, the regulations of the guild into a distinct and separate roll. But the document at the same time proves that the guild was something more than a mere private society of traders, for the institution of the guild is discussed by the whole commonalty, and the chief officer is elected by the common council of the town. And so it was elsewhere. The bailiffs and "good men" of Southampton are elected by the whole people and distinguished from the alderman, four skevins, usher and seneschal, the officers

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<sup>1</sup>*Rot. Chart.* 65; Merew. and St., 393-401; Wodderspoon, 77. The *Domesday* is reprinted in *Mon. Jurid.* Vol. II. Gross, 42, mentions a translation in the British Museum.

of the guild.<sup>1</sup> At Berwick the aldermen and dean of the guild are mentioned side by side with the town mayor and provosts,<sup>2</sup> and thus in like manner in all other towns where the guild officers occur. Townsmen and guildsmen are continually distinguished, and in an agreement at Leicester fines "which touch the community of the town and not the community of the guild," are mentioned.<sup>3</sup>

Finally, the grant of a guild-merchant was not the creation of a borough.<sup>4</sup> We should otherwise expect to find every borough provided with a guild, and this was certainly not the case. But we have positive proofs. In the extracts from the charters given on a previous page, we almost invariably find that the burgesses are granted a guild-merchant in addition to other usual privileges, the guild forming clearly only one of a large number of rights, and not being the foundation of them all.<sup>5</sup> The principal privileges of a borough were an independent jurisdiction,<sup>6</sup> the right of self-government and the immunity from all separate taxes, in lieu of which a gross sum—the farm or *firma burgi*—was paid yearly. But the guild, or monopoly and freedom of trade, was not necessarily granted, and

<sup>1</sup>*South. Ord.* § 1, 44, 32, 54. Cf. Harland, I-193.

<sup>2</sup>§ 5, 14, 33, 34. *Ord.*, 339.

<sup>3</sup>*Gent. Mag.* vol. 35-599; Thompson, 129 (whose inferences are therefore erroneous). As to Norwich, Blomefield, II-37.

<sup>4</sup>As Brady and Brentano say.

<sup>5</sup>*Rot. Chart.* 40, 65, 39, 93, 212, etc. *Foedera* I-40; *Lib. Cust.* 671, etc.

<sup>6</sup>Sac and Soc.; cf. *Leges Ed. Confessoris*, 22 in Thorpe, I-451. Also Gneist, *Self-gov.* 583; Brady, 40; Madox, *F. B.*, 18, and *Exch.* 226; Stubbs, *Hist.* 410. "Libertas burgi quod non implacitentur burgenses extra Burgum," *Abbrev. Plac.* 186, 351.



in many cases it was conferred at a late date. Thus at Carlisle the town liberties were granted at one period, but the guild-merchant was initiated subsequently by an entirely different charter, and the guild could hence not be the foundation of the municipality.<sup>1</sup> In addition to these cases, it would not be difficult to find instances where there were boroughs but no guilds,<sup>2</sup> and others where there were guilds but no boroughs, as in some of the market towns and convents which were certainly not boroughs.

This fundamental distinction between guild and town applied equally well to Scotland from whose towns some of the above illustrations have been taken, and where the development was in many respects essentially similar. They are mentioned here again only because the case of Berwick-on-Tweed has been triumphantly used as a convincing proof of the identity between guild and town.<sup>3</sup> Here, it is true, one general guild was formed by the consolidation of all previously existing minor societies, but it was neither a frith-guild nor the outgrowth of any frith-guild which originally coincided with the whole body of citizens.<sup>4</sup> On the contrary, it was a guild-

<sup>1</sup>*Placita de q. W.* 121.

<sup>2</sup>As at London and the Cinque Ports.

<sup>3</sup>Esp. by Brentano. Cf. the articles in Houard, II-467; Wilda 376; *Regiam Majest.* 141; *Ord.* 338; *Acts of Parl. of Scotland* I-89.

<sup>4</sup>§ 14 to which Brent. refers contains no trace of a frith-guild, nor the least mention of citizens: "Statuimus quod quotiescumque Aldermannus, Ferthingmanni, Decanus, voluerint congregare confratres gildae ad negotia gildae tractanda, omnes fratres gildae veniant audito classico super forisfactum XII denariorum." Guild-brother alone is mentioned. Brentano's assertion to the contrary is incomprehensible. § 12, 13, 31, 32 are the ordinary provisions of a social nature. Cf. Gross, *Beilage D.*

merchant, and plainly distinct from the town. The town is governed by the mayor, provosts and twenty-four good men elected by the whole commonality, the guild by the aldermen and dean. Certain fines go to the town, others to the guild; citizen and guild-brother are continually kept apart, and in one section even opposed to each other.<sup>1</sup> The guild was formed for purposes of trade, almost all the provisions in which the union is mentioned referring to commerce and market laws. And although most of the burgesses would be members it was not necessarily so. Women, moreover, were also admitted, and could, of course, not be burgesses.<sup>2</sup> The statutes simply show that one guild in the town had, as a result of rivalries with the other less important unions, absorbed them all, whether craft or social guilds.<sup>3</sup> The consolidation was certainly the result of a violent usurpation and in so far presents no analogy with any English town;<sup>4</sup> but even at Berwick citizen and guild-brother were distinct categories, the guild did not govern the town, nor was it tantamount to the civic administration.

The divergence between guild and municipality must, however, not be exaggerated. In the smaller towns where almost every one may have been included under the generic term of merchant, the guild very probably comprised nearly all the burgesses, or at all events all the important burgesses; and where the number of foreigners was insignificant,

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<sup>1</sup>§ 5, 6, 12, 14, 35 and 33, 34; 2; 46.

<sup>2</sup>"Exceptis filiis et filiabus gildae" § 8.

<sup>3</sup>§ 1, 32. Cf. Gross, 100.

<sup>4</sup>The *Judicia Civitatis Lond.*, as we saw, was neither merchant-guild nor a union of previous lesser guilds.

burghesses and guild-brethren may in truth have been the same individuals. In some such cases the guild-hall, as the most important building in the place, was gradually put at the disposition of the community and served as the town-hall. But this was not confined to the guilds-merchant, for in the case of Birmingham we possess explicit accounts of the founding of a social guild by the whole commonalty, whose place of assembly was used as the town-hall, even after its abolition by Ed. VI.<sup>1</sup> The case was probably analagous in other localities. In the towns which belonged to the demesnes of prelates where the episcopal jurisdiction was often retained up to the reformation, as well as in the manorial franchises of the secular lords where the independent court leet was unknown, the guild-merchant was one of the foremost privileges of the burghers and frequently became the upholder of liberty against the arbitrary exactions of the feudal superior. This was especially true of Reading, Beverly and Malmesbury.<sup>2</sup> But on the other hand guild and town were in general different conceptions, and sometimes even opposed to each other, in one instance to such an extent that the guild was ultimately abolished as prejudicial to the interests of the citizens.<sup>3</sup>

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<sup>1</sup>"The town-hall alias dict. le guilde-hall." Cf. g. of the Holy Cross. *Ord.* 239-250.

<sup>2</sup>Coates, 49-56; Merew. and St., 137-141; Scaum., I-150; *Registr. Malmesb.* I-146.

<sup>3</sup>At Norwich: "Quod nulla gilda de cetero teneatur in civitate praedicta ad detrimentum ejusdem civitatis." Blomefield, II-37. Cf. *Plac. de quo W.*, 160.

## § 3.

## THE LATER FORTUNES.

The guild-merchant must thus in the period of its prosperity be carefully distinguished from the borough; its function was economic, not political; its membership and organization were independent although its position was subordinate. But a second period in the development succeeded, a period of decadence, which began at different epochs in the various towns, and which was practically completed in the fourteenth and fifteenth centuries. In many instances the guilds utterly disappeared, to be reorganized in later times, but with their nature essentially modified.<sup>1</sup> In some cases they were replaced by the companies of merchant adventurers, begun in the thirteenth century as a small society but which soon grew into an immense union with branches all over the realm, and recruiting members from the divers social and craft guilds.<sup>2</sup> Thus in Newcastle a guild-merchant had been granted in the reign of John, while the fellowship of merchant adventurers, in a petition of 1644, assert that they have been "an antient guild of merchants ever since the seventeenth yere of king John."<sup>3</sup> In other towns the guild-merchant became mere craft-guilds, forming one of the numerous unions within the municipal limits, and possessing no peculiar privileges. At Exeter the

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<sup>1</sup>At York and Coventry; *Rot. Parl.*, I-202; Drake, I; *Ord.*, 226.

<sup>2</sup>Anderson, I-253; Schanz, 327-352; Herbert, I-234; Mackenzie, II-664. They still exist in York, Bristol and Newcastle. *Com. Hist. MSS.* I-110; *Rep. Com. Lit. Cos.* 16.

<sup>3</sup>Brand, II-219; Merew. and St. 1672; also at Bristol, Barrett 182.

merchants formed a separate guild by the side of the mercers and other artificers; at York the merchants and mercers formed one corporation with the grocers and apothecaries.<sup>1</sup> In some cases again they were converted into simple social guilds, and seem to have lost all traces of their former economic significance.<sup>2</sup>

But these were all exceptions. As a rule the guild coalesced with the town organization and lost its identity so completely that (it became a mere term to designate the privileges of the whole body of burgesses. The mayor was now the chief officer of the guild, the aldermen and chamberlains were the officers of the town.) The guild, formerly a means of procuring enfranchisement for villeins who had been a member a year and a day<sup>3</sup> now acted by the side of the court leet as a simple machinery for admitting burgesses to the civic liberties.<sup>4</sup> Its functions were no longer mercantile, it was no longer a society or even a part of the administration, but became simply a form, an assembly at which certain civic business was transacted; town hall and guild hall were the same, and the guild, as a shadow of its former self, became a phase or function of the cor-

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<sup>1</sup>*Rot. Parl.* V-290; *Ord.* 309 Drake, II-224. Merchant and mercer were originally the same; *Rot. de lib.* 168.

<sup>2</sup>In the guild of the Holy Trinity in Lynn the ordinances were still called those of the guild-merchant; the alderman of the guild interchanged office with the mayor and succeeded him at his death. Blomefield, viii-516, Gross, 87. At Cottingham also; Allen, II-218.

<sup>3</sup>*Regiam majest.* II § 17; Madox, *F. B.*, 271.

<sup>4</sup>In Leicester we find yearly mention of those admitted as burgesses in the guild. In 1572 the words guild-merchant are dropped and replaced by "Freemen," showing their identity. Nicholls, II-399.

poration.<sup>1</sup> So in Worcester, in 1467, we have ordinances "made by hole assent of citesens inhabitantes in the cyte at their yelde-marchaunt" held in the "yelde-hall." In these ordinances, which were read to the assembled citizens every law-day, vestiges of the old distinction between the fraternity and the corporation may still be traced, although the guild is merged in the town. The chamberlains are city officers, but still designated "keepers of the articles of the guild."<sup>2</sup> The strong box where the treasures of the old guild were kept is now a civic institution for the reception of the city's moneys. Bailiffs and chamberlains are charged with the execution of mercantile provisions, and the fellowship is still mentioned, although the guild as such has disappeared, and all its former functions are now delegated to the community.<sup>3</sup> The name itself simply denotes the town meeting where the festival is celebrated as of old.<sup>4</sup> A few centuries later the word disappears even in this restricted sense.<sup>5</sup> But although guild and town were now indeed synonomous, the community was not ruled by the guild;<sup>6</sup> even passing over the evident failure to distinguish between the different periods of guild-development, if we remember that

<sup>1</sup>Stubbs, *Hist.*, III-565.

<sup>2</sup>Printed in *Ord.* 376. The articles of 1496 in Green (Worcester) app.; *Brit. Arch. Ass.* V-245.—Preamble, § 29, 8, 2, 55, 64.

<sup>3</sup>§ 3, 5, 2, 9, 18, 53, 62.

<sup>4</sup>"The day and fest of the said yelde" § 62.

<sup>5</sup>In the *Liber Legum* at the beginning of the eighteenth century. *Ord.* 411.

<sup>6</sup>Stubbs, *Hist.* III-582 errs here. The common council of forty-eight was chosen by the whole town, not by a guild. § 47, § 48.—The twenty-four were of the "grete acloth," but members of the craft-guilds like the livery men at London.

guild was now a mere name for the whole body of citizens, the mistake becomes easy of explanation. Guild was now tantamount to town assembly, and we often meet with references to the business transacted in "full guild of the town."<sup>1</sup> The word was now even used in the phrase "meadow-guild" to designate the assembly where the common lands were allotted to each burgess.<sup>2</sup>

The custom of holding the guild for the purpose of admitting burgesses to participation in the corporate franchise became in many cases the sole object of the institution. In Preston, by a remarkable survival, the custom has continued to this day, and every twenty years witness a period of intense excitement. Processions of the trades, banquets and festivities continue for a whole week, and all business is at a standstill. The proceedings culminate in the holding of the guild-merchant, for which special officers are appointed, aldermen, stewards and seneschal, the last position filled by the town clerk. The names of burgesses enrolled at the preceding guild-day are read, and the new citizens then admitted, each one taking an oath precisely similar to that of the brethren in former centuries, but now utterly meaningless. He swears that he will color no foreigners' goods (i. e., take them into his house and pass them off as his own), obey the mayor and bear all burdens, inform the authorities as to the existence of any secret conventicles, and make known all strangers who trade

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<sup>1</sup>In Newcastle, Brand, II-316. Cf. the Fellowship of Burgesses at Burford in 1605, as a continuation of the old merch. guild. *Rep. Pub. Rec.*, 439; *Ord.*, 272.

<sup>2</sup>*Archæologia*, vol. 46-411.

in the town. The festival is then continued throughout the week until the merry-makers disperse only to recommence after another twenty years.<sup>1</sup>

The privilege of a guild-merchant was still occasionally granted during the sixteenth and seventeenth centuries, but only as a mere form; and the "hanse of the guild" even survived in Lancaster in 1591.<sup>2</sup> Often the name continued to exist, but the meaning was totally forgotten, as at Winchester, where the mayor in 1705 brought an action against one Wilkes to prevent him from carrying on his trade, alleging an old custom that no one should pursue his occupation unless free of the guild-merchant.<sup>3</sup> The judges said "the words *gilda mercatoria* signify a corporation, but what it signifies in this declaration nobody knows. We cannot take notice that the guild and the city are all one, although it may be so; non constat to us whether the guild be the whole town or part of the town, or what part of the town." In short, the magistrates confessed their utter inability to offer any explanation of the term: the institution, once fraught with such a pregnant meaning, had become a mere word, and nothing more.

To summarize the results of this chapter, we see that the guilds-merchant were an institution of great importance in the early mediæval towns, and that the period of their existence as independent organizations dates from the eleventh to the thirteenth or fourteenth centuries. Their origin is not to be

<sup>1</sup>Cf. *History of Preston* (esp. 77); Dobson and Harland, 11-71. Baines, IV-287 gives the Customal. Also in Dobson and Harl. app.

<sup>2</sup>Walford, V-243.

<sup>3</sup>*Winton v. Wilkes*, 1 Salkeld Reports, 203; 2 Ld. Raymond, 1134; Kyd, I-64; Merew. and Steph. 1920, note.



sought in any social or protective union, for although they adopted certain features common to all guilds, the disparity of their aims is so evident as to preclude all inference of direct descent from Anglo-Saxon frith-guilds. Perhaps at the outset a mere society of traders, they soon became invested with municipal duties, and formed an integral part of the civic administration. But although the guild was coördinate with the town, it differed both in membership, organization and function. Burgess and guild member, municipal authority and guild officer, town grant and guild charter were entirely distinct. Instituted for the purpose of monopoly of trade and immunity from taxes, and at the same time enjoying a certain exemption from the royal jurisdiction, the guilds performed a genuine service in enforcing the commercial laws and carrying out the economic policy. But in the subsequent period, whose limits it is difficult to define with precision, the guild-merchant lost its character as a distinctive entity. Undergoing in some cases a gradual transformation into private associations of an ultimately dissimilar nature, the guild in general coalesced with the corporation or became a mere assembly to admit new comers to the freedom of the town, a mere form whose true meaning daily grew more vague and indistinct, shorn of any economic significance, and slowly wasting away until nothing but the name remained to recall the bright days of its former prosperity.

## II.

### THE CRAFT-GUILDS.

#### § 1.

##### ORIGIN AND DEVELOPMENT.

The origin of the English craft-guilds has never been adequately investigated. Some have regarded them as institutional developments from the Roman artisan colleges. During Britain's subjection to Rome, it is true that the colony was not without a certain degree of industrial activity. In Winchester alone the woollen cloths which supplied the greater portion of the Roman army are reported to have been woven.<sup>1</sup> Artisan colleges were accordingly not lacking. In Bath we hear of a *Collegium fabricensium* or college of smiths,<sup>2</sup> in Chichester of a *collegium fabrorum* or society of carpenters, and in Scotland the inscriptions at Carey castle speak of similar associations.<sup>3</sup> But these artisan colleges cannot be looked upon as the direct prototypes of the craft-guilds. The Roman colleges, far from being associations of free craftsmen united for individual or collective welfare, were hereditary caste-like organizations imposed by the government upon the laborers, and forming a branch of the state administration, entirely different in object, influence and

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<sup>1</sup> *Brit. Archaeol. Assoc.* V-261.

<sup>2</sup> Coote, *Ord.*, 22 ; Pearson, I-45.

<sup>3</sup> Wright, 360 ; Thompson, 6.

constitution from the craft-guilds.<sup>1</sup> But even were it otherwise, there is little probability of their continuous existence through the era of Saxon anarchy to the Norman times. All the craft-guilds that we know may be said to have had an absolutely independent origin. Even on the continent the theory of a Roman origin has been abandoned.<sup>2</sup>

Another view connects the craft-guilds with the bond handicraftsmen. But this, although possibly true of isolated cases on the continent, has no application at all to England, notwithstanding the fact of the similarity in the manorial system throughout Europe. The old idea that the feudal system was introduced by William is now thoroughly exploded, and we know that for several centuries before the conquest the same factors were at work as on the continent. The whole land was divided into the immense possessions of nobles and bishops, while the laborers of all kinds were chiefly in a dependent position. For a long period after the conquest, when a single earl possessed seven hundred and ninety-three large estates, and the whole county of Norfolk had only sixty-six proprietors,<sup>3</sup> the economic state of the manors remained very much as in the Saxon epoch.<sup>4</sup> The tenants, like those of the *manuses seigneuriales* of France, or in the *Frohnhöfen* of

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<sup>1</sup>Rodbertus, Hildebrand *Jahrb.*, VIII-418; *Codex Theod.* XIII, XIV contains many references. Cf. Brown, *State Control of Industry in the Fourth Century. Political Science Quarterly*, vol. II, 496-513.

<sup>2</sup>Stieda, 3; Maurer, II-321; Lévasseur, I-105, 193; Hegel, II-265; Schmoller, 378.

<sup>3</sup>Ellis, 72; Eden, 54.

<sup>4</sup>Rogers, *Work and Wages*, 38; Stubbs, *Hist.*, I-273; Freeman, V-462.

Germany, were composed of a multiplicity of ranks. Even though the whole life bore the imprint of an agricultural community, artisans of all kinds are not rarely mentioned. In the enumeration of the ranks and their respective duties in the Saxon laws the agricultural element greatly predominates, but we are expressly told that the villein's (*geneat*) duties are of a complex character.<sup>1</sup> And it is well known that the artisans of the manor lords were recruited from this class as well as from the bondmen (*theow*).<sup>2</sup>

At the time of the compilation of *Domesday* a large proportion of the tenants was still composed of freemen and *socmen*, or species of privileged villein with fixed services and an interest equal to freehold. The boors (*bordarii*) and cottagers (*cottarii* or *coterelli*) were personally free, although compelled to work several days for their landlord, and to supply his table with dairy products. The villeins (*nativi*) again, termed regardant or in gross as they were annexed to the land or to the person of the lord, gradually formed one class with the pure bondmen (*servi*).<sup>3</sup> From these classes, which insensibly grew into the copyholders of later times, the handicraftsmen were chosen. The wants of opulent proprietors engendered a multiplicity of workmen who frequently appear in the manor-rolls and abbey registers of the period. The officials of the royal household are already mentioned in the very earliest

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<sup>1</sup>Rectitudines singularum personarum. Thorpe, *Early Laws*, I-432.

<sup>2</sup>Kemble, *Cod. Dipl.*, 925; Dialogue of Ælfric in Thorpe, *Analecta*; Kemble, *Anglo-S.* I-185.

<sup>3</sup>Ellis, *Introd.* Other classes, like the *Rachinestres* and *Coliberti*, midway between the free and servile, occur in *Domesday*.

Anglo-Saxon laws.<sup>1</sup> At the abbeys of Peterborough and Worcester there are long lists of workmen, from bakers and brewers to fine leather workers and weavers.<sup>2</sup> "Eighty less five bakers, brewers, seamsters, fullers, shoemakers, tailors, cooks, porters and servingmen" minister to the abbot and brethren at Bury St. Edmunds.<sup>3</sup> No manor is without its *famuli* and *operarii*.<sup>4</sup> In some instances the workmen are so numerous that special officials are delegated to supervise them. From this it may be inferred that the more extensive estates were not without their workshops as on the continent.<sup>5</sup> In the villages also, most of which were originally included in the domain of a manorial lord, smiths carpenters, millers, goldsmiths, dyers and the like are continually recurring,<sup>6</sup> and the large lead, iron and salt works must have given employment to a numerous body of workmen.<sup>7</sup>

But, while we meet with these references to the dependent artisans in the landed estates, there is no evidence of any combination of men of the same craft into unions. In the towns, moreover, which

<sup>1</sup> Æthelbirht, c. 7 "kyninges ambiht smith" or *Praefectus fabricum*. Thorpe, *Early Laws*, I-5.

<sup>2</sup> *Registr. Wigorn.* 122 et seq. *Liber Niger* in *Chron. Petroburg*, App. 167, etc.

<sup>3</sup> *Chron. Jocelini*, 148.

<sup>4</sup> Cf. as to the *serviens* and *operarius* Bracton, II, c. 8 § 2; Fleta, II c. 71.

<sup>5</sup> "Magister super operarios" and "magister serviens," in Edmundsbury and Worcester. *Chron. Joc.* 7; *Registr. Wigorn.* 119 b.

<sup>6</sup> *Fabri, carpentarii, aurifabri, tinctoros, etc.*, in *Domesday* 58<sup>b</sup>, 74, 187, 219<sup>b</sup>, 273, 298; *Bolden Buks*, 568, 582.

<sup>7</sup> *Plumbarii, bloma ferri, and salinae.* *Domesday*, 80, 91<sup>b</sup>, 104, 272, 272<sup>b</sup>, *Registr. Wigorn.*, 32<sup>a</sup>.

were chartered in the reigns immediately succeeding the conquest, there was no longer any room for bond-handicraftsmen. Residence of a year and a day liberated all villeins, and this, in fact, was the cause of collision between the landlords and the burghers. The very object and nature of the craft-guilds precluded the possibility of their formation among the bondsmen. The privilege of union was granted only to the free inhabitants of the chartered towns, while we have numerous examples of artificers being compelled to abandon the craft on discovery of their villeinage.<sup>1</sup>

What then was the origin of the craft-guilds? The commonly accepted view is that of Brentano, as a development of Wilda's theory. According to him just as the original guilds were founded to replace the family, so the guilds merchant, which he identifies with full citizens' guilds, grew out of the peace clubs in the burghers' struggles against the lords,—and in like manner the craft-guilds were formed by the expulsion of petty artisans from the town-guilds. The craftsmen, imbued with the old idea of the family and actuated by brotherly love, formed their unions for self-protection against the patricians, and the trade regulations were only adopted subsequently as a supplementary measure. After a few centuries of continual strife, the artisans finally succeeded in wresting all political power from the old-burgher

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<sup>1</sup>*Memorials of London*, 59 where three butchers are convicted of holding lands in villeinage of the Bishop of London in 1305. Brentano's idea of the existence of companies of bondmen in towns (Introd. lx.) is erroneous. Stubbs' note does not show that the bondmen were craftsmen.

guilds, and thenceforth oppressed them with the same harshness as they themselves had previously been treated.<sup>1</sup>

Unfortunately these several positions are in great part erroneous. We have seen that the family theory is inexact, that the guild-merchant had no connection with any protective union, and that it was no old-burghers' guild, nor synonymous with the urban constitution. So also there is no proof of any political oppression of the craftsmen by the guild-merchant, nor was there any general conflict between patrician burgesses and plebeian artisans, resulting in a complete victory of the crafts, and giving them an independent jurisdiction. In short, it would be difficult to present a more exaggerated description of the mediæval craft-guilds and their position in English economic life.

And first as to the birth of the crafts through an alleged exclusion from the "great guild." The earliest charters date from a short period subsequent to the conquest. During the reign of Henry I. the union of weavers existed in London, and the cordwainers and weavers of Oxford as well as those of Huntingdon pay for the privilege of having a guild.<sup>2</sup> The weavers and fullers of Lincoln enjoy similar immunities.<sup>3</sup> In the time of Henry II. the guilds in Nottingham and York are mentioned,<sup>4</sup> while the ordinances of those in London, Winchester, Beverly,

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<sup>1</sup>Introduction Chap. 4.

<sup>2</sup>*Magnum Rot. Pipæ* 31 Hen. I. 2, 5 48, 109, 144. *Ibid.* Hen. II. 37, 150. The *telarii* and *corvesarii* are mentioned.

<sup>3</sup>*Abbrev. Placit.* 65.

<sup>4</sup>*Magnum Rot.* 2 Hen. II. 39, 153.

Oxford and Marlborough are still preserved.<sup>1</sup> During the same period the bakers and weavers of London were declared remiss in their payments to the king,<sup>2</sup> and the goldsmiths, butchers and pepperers were among the fifteen guilds amerced as adulterine or set up without royal license.<sup>3</sup> The saddlers, also, are mentioned as a guild of long standing in the metropolis in a compact of the twelfth century.<sup>4</sup>

These examples afford abundant evidence of the widespread development of the crafts under the early Norman monarchs, and show that in England as on the continent their inception must be ascribed to the beginning of the twelfth century. This period of rapid progress in industry, as well as the subsequent reigns of John and Henry III., witnessed, as we have seen, the free bestowal of charters to the towns, and of grants to the guilds-merchant. The burgesses were often vouchsafed the privilege of forming "merchant and other guilds," or, as was frequently said, "all reasonable guilds," which clearly included the crafts.<sup>5</sup> The craft-guilds were thus often created synchronously with the guilds-merchant; in some towns they existed before the guilds-merchant,<sup>6</sup> and in others there were crafts but no guilds-merchant

<sup>1</sup>Lex telariorum et fuliorum. *Liber Cust.*, 130-131; *Liber Niger* of Winchester f. 22, 31, 32; *Archæol. Journal* IX-69.

<sup>2</sup>Bolengarii et telarii. *Magnum Rot.* 4 Hen. II 112, 114.

<sup>3</sup>Aurifabri, bocherii, and piperarii in 26 Hen. II. Madox, *Exch.* 390; Maitland, I-52; *Magnum Rot. Pip.* 1 Rich. II-226.

<sup>4</sup>Madox, *Firma Burgi*, 27.

of *Bristol*, 53; Mereweth. and Steph., 360.

<sup>6</sup>So at Oxford and Lincoln where the guilds-merchant were formed in the time of Hen. II., while some of the craft-guilds are found under Hen. I. *Lib. Cust.*, 671; *Foedera*, I-40.



at all.<sup>1</sup> The improbability of the statement that the expulsion of the artisans from the old-burghers' guilds gave rise to the craft-guilds thus becomes apparent—especially as there appears never to have been any such expulsion, or any such combination of old-burgher and merchant guild.

The relation of these two institutions, although very obscure and never yet thoroughly investigated, seems to have been very different from that which most authors have imagined.<sup>2</sup> The strong pressure of royal authority in England, and the equal subjection of all to the city jurisdiction, would have rendered all general conflict between the guilds very difficult—far more difficult than was the case on the continent. Moreover, their interests in the main were harmonious. For the guild-merchant would in most cases be composed of the majority of the inhabitants, and it was of the utmost importance for the artisans, who kept little shops and sold the product of their own industry, to enjoy the immunities which formed the characteristics of the merchant-guild.<sup>3</sup> We accordingly find, in the only full list of members that has come to our notice, a large number of handicraftsmen, notwithstanding the fact that they were again enrolled in unions of their own.<sup>4</sup>

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<sup>1</sup>So at London and the Cinque Ports.

<sup>2</sup>Merewether and St., as well as Rogers, *Work and Wages*, continually confound them.

<sup>3</sup>In London the glovers keep shop, and buy and sell. *Memor.* 245. Cf. the craftsmen's booths for the sale of goods in Winchester. *Ord.* 355. *Archæol. Journal* IX-69 et seq.

<sup>4</sup>In 1226 a ropere, sellator, letherkersnere, tinctor, miles, loke-smith, tailor, cureer, turnur, pulleter, oxberne, pictor, faber, fustere, cercler, corduaner, limberner, etc., occur in the gille-mercatura of Dublin. *Hist. Doc.* I, 82-88.

This simultaneous membership in different unions was not at all uncommon. The social guilds were often in part composed of craftsmen, and the members of a craft guild not infrequently formed a smaller union of a social or even religious character, or, as it is said, a "particular brotherhood or guyle within their generall corporacion."<sup>1</sup> The merchant adventurers later on recruited their numbers from the crafts, and it was possible for the same person to belong to both guild-merchant and social fraternity.<sup>2</sup> If Brentano's view were correct, that all the guilds were at bottom protective unions, such commingling of membership would be absurd, because superfluous.

On the other hand, there seems to have been an exception in the case of the weavers in various towns, like London, Beverly, Marlborough, Oxford, Winchester and Lincoln.<sup>3</sup> There the weavers undeniably occupied a subordinate position at first. The reason of this is not clear. Some ascribe it to their conjectured foreign origin.<sup>4</sup> But the objection to this explanation is that the foreign immigration of weavers did not begin until the time of Edward

<sup>1</sup>So at Norwich, *Ord.* 453; York, *Ibid.* 141 and Drake, *Eboracum*, App. xxviii; also *Norfolk Archaeol.* VII-108; Herbert II-440.

<sup>2</sup>Mackenzie, II-607; Schanz, II-340; cf. the merchant in *Ord.* 458.

<sup>3</sup>See for Lincoln *Abbrev. Plac.* 65; Winchester's operarii burellorum et chalonum in *Arch. Journal* VII-374. For the others see *Liber Cust.* 130-131.

<sup>4</sup>So Riley, *Introd. to Lib. Cust.* lx-1 and *Ochenchowski* 60, note 2. The Flemings, introduced by Hen. I., settled near Wales and did not go to these towns. Ashley, *Early History of the English Woollen Industry*, 21 et seq. does not attempt any explanation, but thinks that the weavers formed no exception to the general rule. But see next note.

III. It is possible, therefore, that in exceptional cases like these the craft-guilds were at the outset regarded with disfavor by the guild-merchant. Strong corroboration of the fact that the weavers and fullers were in this respect different from the other crafts, is afforded by the charter of Alexander II. to Aberdeen, where the king grants that the burghesses should have their merchant-guild, weavers and fullers alone excepted.<sup>1</sup> And in other Scotch towns the weavers and waulkers were long kept outside the guildry of later centuries. It must be confessed, nevertheless, that the connection is obscure.

In the main, however, the guild-merchant and the craft-guild were in one sense coördinate bodies, and at the same time bore the relation of the greater including the less, although many members of both societies were the same individuals. The regulations of a police nature, generally left to the city authorities, were occasionally delegated to the guild-merchant, which thereby obtained a limited supervision over the crafts. At Southampton the statutes of the guild-merchant contain a number of provisions relative to the crafts.<sup>2</sup> At High Wycombe, in the fourteenth century, the guild-merchant still exacts "stallage" from the weavers.<sup>3</sup> At Beverly the officers of the companies were appointed yearly by the guild-merchant,<sup>4</sup> which there, as in the other episcopal towns, exercised many important func-

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<sup>1</sup>Warden, *Burgh Laws*, 90.

<sup>2</sup>*Archæol. Journal*, XVI-283, esp. the later ordinances.

<sup>3</sup>*Com. Hist. Mss.* 1876, 566.

<sup>4</sup>Allen, II-122; Scaum, 163, etc.

tions. Traces of a former partial subordination of the craft to the merchant-guild in Worcester are still preserved in the time of Edward IV.;<sup>1</sup> the tailors at Leicester paid ten shillings to the merchant-guild for every new master, and the other trades were probably under the same obligations;<sup>2</sup> while the confiscation of the weavers' cloths in Lincoln was in all likelihood the act of the guild-merchant.<sup>3</sup> But, as a rule, the ultimate power was lodged in the hands of the municipal authorities, and the subjection of craft-guild to city was, as we shall see, practically complete.

The picture that has been drawn of the struggle between plebeian artisans and patrician burghers has likewise been much exaggerated. There are indeed a few isolated instances of friction where a particular fraternity endeavored to exercise unauthorized powers and prosecute the trade utterly regardless of the urban authorities. But the rebellious attempts were quickly frustrated and do not possess the significance given them by the partisans of a pet theory. The guild of weavers in London is a case in point. As has just been shown, the weavers there and in some other towns, like Winchester, Marlborough, Oxford and Beverly, at first enjoyed an humble position. No member could implead a citizen, or be admitted to the franchise unless he abjured the fraternity, hated by all burgesses on account of the favors shown by the various

<sup>1</sup>*Ordinances*, 379, § 9 et alii.

<sup>2</sup>Nicholls, vol. I. Stubbs, *Hist.* III-581; Cf. Thompson, *Hist.*, 84.

<sup>3</sup>The alderman (and provosts) took the goods because they were dyed and sold "contrary to law." The alderman, as head of the merchant-guild, would watch over all sales. *Abbreviatio Plac.* 65.

monarchs.<sup>1</sup> Their continual attempts to attain an independent position through encroachments on the city liberties finally became so unendurable that, after London was erected into a commune in 1191, the citizens applied to King John for their utter exclusion from the town.<sup>2</sup> This monarch granted the prayer, but with his accustomed avarice immediately restored the weavers to their old position on payment of an increased fine. The conflict was renewed in succeeding reigns until determined under Edward I. by the complete subjugation of the guild, whose officers are ratified by the mayor.<sup>3</sup> We hence do not see any general struggle between the patri- cians of the guild-merchant and the plebeian artisans, but simply a contest of strength between the whole body of citizens (who did not form a guild-merchant) and a small collection of outsiders attempting to arrogate to themselves illegitimate powers.<sup>4</sup>

There are a few other sporadic instances of attempted insubordination. The fullers and dyers of Lincoln under King John complained that the authorities had seized their goods and refused to give

<sup>1</sup>"Ne nul franke homme ne puet estre atteint par telier ne par fuloun, ne il ne poent tesmoign porter," etc., *Lib. Cust.* 130. "E si nul de eux enricheist si qil voille son mettier guerpir forsjure et touz ustilz ostera de son ostiel. E si face taunt vers la cite qil soit en la fraunchise e de la custume de Londres, si come il dient."—*Ibid.* 130, 131, lxi.

<sup>2</sup>"Pro gilda telaria delenda ita ut de cetero non suscitetur." *Liber Albus*, 134 § 66; Madox, *Exch.*, 279.

<sup>3</sup>Ord. of 28 Ed. I. in *Lib. Cust.* 121, 126. For a later lawsuit, in 14 Ed. II., see *Lib. Cust.* 416; *Plac. de q. W.* 465. Cf. *Rot. Parl.*, III-600, IV-50.

<sup>4</sup>Cf. in general Madox, *Firma B.*, 192, 284; Norton, 398; Herbert, I-17; Stubbs, *Hist.* III-572; Ochenchowski, 59.

them up. The alderman and provosts replied that the cloths were dyed and sold in derogation of the customs of the town and in face of a positive prohibition, and the court finally decided against the craftsmen, who were able to adduce no satisfactory proof of their unwarranted claims, the result not leaving much doubt as to the futility of opposition on the part of the guilds.<sup>1</sup> The final example is the struggle of the tailors with the corporation of Exeter under Edward IV. The guild, which had existed for a long period, assumed to make such disturbances as to cause the expulsion of its members from the town council and to arouse the enmity of the whole population. After several serious difficulties the city magistrates petitioned the king to quash the letters patent, in consequence of which the turbulent society was shown its proper place and its powers strictly defined as subordinate to those of the urban administration.<sup>2</sup> Here again we do not see any general struggle between patricians and plebeians, but simply a riotous society seeking to set itself above the general laws, and whose attempt results in ignominious failure,—thus showing the weakness of the guilds and the error of asserting their general victory over the towns.

Notwithstanding all this Brentano attempts to prove their triumph by the charter of Ed. II. to London, which, according to him, prescribed that “no person should be admitted to the freedom of the city

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<sup>1</sup>*Abbreviatio Plac.* 65. “Fullonibus similiter non licet (tingere et vendere pannos) quia non habent legem vel communiam cum liberis civibus.”

<sup>2</sup>*Ord.* 299-330 esp. 311; *Arch. Journ.* XI-182; Izacke, 89; *Rot. Parl.*, V-290; Merew. and St., 896.

unless he were a member of one of the trades or mysteries." But a mere glance at the document suffices to show that it contains no such provision. On the contrary, it says that no native or foreigner "who practices any mystery or occupation" should be admitted without the consent of the officers of his craft, but if he were no craftsman the whole community (and not the guild officers who would naturally have no interest in the matter) should pass upon the question.<sup>1</sup> The applicants were divided into two classes, artisans and non-artisans, and with the latter the guilds had no concern at all. The significance of the charter is thus just the opposite of what has been asserted, the importance of the first clause, which can be understood only when the function of the craft is grasped, being economic and not political. In the year 1375 it is true that the elective franchise for mayor and council was put in the hands of some of the companies, but in the very next decade the right was restored to the original voters or free inhabitants of the wards.<sup>2</sup> It is thus difficult to see how

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<sup>1</sup>"Quod indigena...de certo mistero vel officio in libertatem civ. non admittatur nisi per manucaptionem sex hominum...de mistero vel officio de quo ille erit...et eadem forma...observetur de alienigenis...Et si non sint de certo mistero, tunc in libertatem...non admittentur sine assensu communitatis civitatis. *Lib. Cust.* 269-270. Brentano takes the statement at third hand, but both Herbert, I-27, and Norton, 120, give it correctly. Stubbs, *Hist.* I-419, unfortunately repeats Brentano's statement without verifying it.

<sup>2</sup>*Liber Albus* 41, 462; in 1384, confirmed in 1386. Even at the height of their fortunes, in 1475, the guilds did not have the government entirely in their hands. The common council was still elected by the inhabitants at large, the aldermen likewise by the citizens of the wards, while the livery companies, which composed only a small part of the craft-guilds, possessed but a limited share (in conjunction with the representatives of the citizens at large) in electing

this proved the "completion of their triumph." The troubles which ensued at the election of Nicholas Brembre as mayor in 1386 were not owing to any general conflict between guilds and town, for a large number of the craft-guilds themselves petitioned the king against the usurpations of the grocers. The petitioners included the crafts of cordwainers, saddlers, mercers, spurriers, bladesmiths, painters, armorers, embroiderers and founders.<sup>1</sup> The guilds, indeed, comprised many of the important inhabitants, and the city officers were often chosen from their ranks, but this was true already at a very short period after their foundation.<sup>2</sup> The lamentations, therefore, over the poor oppressed plebeians are as misplaced as the account of their subsequent victory, for the craft-guilds, on the contrary, were neither oppressed nor oppressors; they were, in most instances, composed of freemen on a par with the other citizens, and on the other hand never acquired any complete independence of the municipal administration.

The early charters throw some light on the true origin of the craft-guilds. They all provide for the establishment of an association with the free customs

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the mayor and sheriffs. Cf. the various ordinances in Merev. and St. 1986-2000. Stubbs, *Hist.*, III-76 thus seems to exaggerate in speaking of the "final victory of the guilds." In 1651 the election of all officers was restored to the free inhabitants of the wards, and it was not until 1721 that parliament, influenced no doubt by the erroneous conclusions of Brady's *Treatise on Boroughs*, gave the franchise to the livery companies,—a right which they still possess.

<sup>1</sup> *Rotuli Parl.*, III-225.

<sup>2</sup> A mercer was mayor in 1214. *Rep. Com. Liv. Cos.* 12; a pepperer in 1231, Seymour and Marchant, II-67; Cf. *Lib. de ant. Legibus* 175; *Chroniques*, 20, 39, 40, 69, etc.



of a collective personality entitled to possess property and regulate their internal management, but containing as a cardinal point the provision that no one should venture to carry on the trade either in the city or suburbs unless a member.<sup>1</sup> It amounted to what in the German guilds was known as the *Zunftzwang*. This regulated monopoly of industry—but monopoly in the good sense, for all citizens could obtain admission at first—was the kernel of the institution, the condition *sine quâ non* of exercising any supervision over the craftsmen. But the reason of such monopoly and of the formation of the crafts is illustrated by a later occurrence in London: Several potters complain to the mayor and aldermen that many persons buy pots of bad metal and put them on the fire to resemble pots that have been used and are of old brass, and then sell them to the deception of the public, for the moment they become exposed to a great heat “they come to nothing and melt.”<sup>2</sup> The mayor forbids outsiders from doing this, four men are chosen as wardens to guard against the recurrence of such deceits, and the organization is completed.

The crafts could thus not be initiated without permission.<sup>3</sup> The towns often assumed the right of recognizing the formation of guilds, which was regarded as a perfectly legitimate exercise of muni-

<sup>1</sup>“Quod nullus nisi per illos (*i. e.* telarios) se intromittat infra civitatem de eo ministerio, et nisi sit in eorum gilda,” etc. *Lib. Cust.* 33, 48. Cf. a later charter in *Ord.* 300; a charter of 1199 in Deering, 92; Madox, *Exch.*, I-339 for other examples.

<sup>2</sup>*Memor.* 118. In the Cordwainers' Guild, in the time of Henry III., the object is: “ad omnimodas falsitates deceptiones in posterum evitandas.” *Lib. Memorandum*, 441.

<sup>3</sup>Notwithstanding the contrary opinion of Smith, *Ord.* 128, 130.

cipal powers. But this authorization was in general of no avail without an express charter from the monarch, just as in the case of the guild-merchant and social fraternities.<sup>1</sup> The ordinances of the craft-guilds were in strict conformity with the general legislation as well as with the customs of the city, and although the by-laws of the union often redounded to the advantage of the artificers, the avowed and ostensible object was the common weal and prosperity.<sup>2</sup> The regulations of the craft were subject to the periodical approval of the municipal officers,<sup>3</sup> and the guilds were formed and recognized as welcome auxiliaries to the organs for the enforcement of the market laws. Care, indeed, must be taken not to exaggerate the involuntary character of the unions, for the early rights of the craft-guilds were probably, in part at least, the growth of self-assertion. But the laborers sought to unite, not because of any necessity of political protection, but in order to obtain certain economic advantages, to secure a provisional jurisdiction, and primarily to supervise the actions of the members and to prevent any one individual from gaining an unfair advantage over the other. Instead of being so imbued with the spirit of self-sacrifice and brotherly love, as the

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<sup>1</sup> *Year Book*, 49 Ed. III, fol. 36 where the judges held that no guild could be initiated except by royal charter.

<sup>2</sup>The ordinances of the brasiers, under Henry V., are accepted, because "consonant with reason and redounding to the public honor and to the advantage of the common weal." *Memorials*, 627. Cf. the masons, *Mem.* 280; the farriers, 290.

<sup>3</sup>Cf. *Memorials*, 120 (pepperers), 145 (armorers), 178 (tapicers), 281 (masons), 392 (farriers), etc.

upholders of a rather sentimental theory assert,<sup>1</sup> the members were actuated chiefly by the thought of their own pecuniary advantage.<sup>2</sup> But above all, the ordinances were not so much the spontaneous work of the crafts themselves, as the outgrowth of a general mediæval policy, and can be understood only as subordinate factors in the municipal life. The crafts were favored by the towns because they were useful allies in upholding the municipal regulations; commonalty and guilds each sought their own interests, but their endeavors were in the main practically coincident and their relations generally harmonious. This can be shown by setting forth their constitution and true function.

## § 2.

### CONSTITUTION AND FUNCTION.

The unions known by the names of mystery, faculty, trade, fellowship, or (from the fact of possessing particular costumes) livery company,<sup>3</sup> existed in large numbers throughout the realm, and were frequently divided into two or three categories. Thus in London the principal crafts were the twelve "substantial companies" or "livery companies;" in York there were thirteen greater and fifteen lesser guilds; and in Newcastle we find twelve chief mysteries,

<sup>1</sup>Brentano, Howells and Walworth *passim*.

<sup>2</sup>In the case of the London weavers some of their customs, recited in detail, were declared to be "ad singulare proficuum eorundem telariorum et commune dispendium populi." *Lib. Cust.*, 421.

<sup>3</sup>The Latin names were *mistera*, *ars*, *artificium*, *facultas*, *officium*, *fraternitas*, and *gilda*. Mystery is the French *mestier* or *métier*, and has no connection with "mysterious." Madox, *F. B.*, 33.

fifteen bye-trades and many other smaller fraternities.<sup>1</sup> At the side of the alderman or master,<sup>2</sup> the chief officer, stood four or six wardens or searchers<sup>3</sup> who possessed the general authority to inspect work and rectify abuses. Occasionally a number of assistants were appointed to aid them in the discharge of their duties, and this custom, begun in 1379 in the Grocers' Company in London,<sup>4</sup> paved the way for a subsequent transformation of the crafts into close corporations. As in all guilds, the social gatherings, processions and annual feasts played a great role, and we find here and there provisions for the common welfare, assistance to the needy and the maintenance of a chaplain.<sup>5</sup> But these few ordinances of a charitable character played an exceedingly insignificant part in the constitution of the craft-guilds, and it is an egregious error<sup>6</sup> to magnify them into the very kernel of the guild's existence, and to consider the economic functions as a mere appendage to or development from the spirit of fraternal affection. The immense majority of ordinances contain no mention of anything but purely trade matters, and it was

<sup>1</sup> Herbert, I-38; Drake, 207; Brand, II-312. In Newcastle, Norwich and York alone there were over 150 craft-guilds. *Rep. Com. Liv. Cos.* 16. There is hence no foundation for the statement of the German authors (especially Schönberg, *Handbuch der politischen Oekonomie*, 884) that the guilds were not so common in England as on the continent. Their influence was not so great, it is true, but they existed in every large town.

<sup>2</sup> Also known as "pilgrim" or "graceman." Herbert, I-51; *Ord.* 281.

<sup>3</sup> Also called purveyors, keepers, overseers, or surveyors.

<sup>4</sup> Herbert, I-53. The forerunners of the Courts of Assistants.

<sup>5</sup> *Mem.* 232; *Rot. Orig. Abbrev.* II-149b; Merew. and St. 968, in Shrewsbury.

<sup>6</sup> Committed by Brentano, cxxiv.

not until the crafts became wealthy corporations in the fifteenth century that hospitals were founded and the charitable spirit occupied a more important share in the counsels. The true significance of the crafts was economic, not social, and their function was by no means that of a purely private society animated with feelings of love and good-will to all. The true explanation is very different.

Membership in the guild in the period of their prosperity depended on full citizenship.<sup>1</sup> But the exclusion of strangers cannot be explained, as has been thought, by any imagined political tendency of the crafts. The non-citizens, whether aliens or simple strangers, enjoyed but a precarious position in mediæval England. On their arrival in town they were compelled to lodge with one of the burgesses assigned to them as host, and responsible for their good behavior.<sup>2</sup> The period of their sojourn was often limited to forty days, and they were allowed to trade only with citizens or members of the merchant-guild, and were subject at fair time to separate tribunals, such as the pie-powder courts.<sup>3</sup> In all cases heavy fines were imposed.<sup>4</sup> The distinction between

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<sup>1</sup> *Memor.* 179, 227, 239, 245, 247, 258, 321, 391, etc. Articles of the tapicers, spurriers, hatters, glovers, shearmen, furbishers, plumbers, tawyers, etc.; *Lib. Cust.* 83, for the year 1303.

<sup>2</sup> 18 Hen. VI. c. 4; *Lib. Cust.* 68 (*Ordinationes Telariorum* § vii); *Lib de ant. leg.* 118.

<sup>3</sup> *City Charters of Bristol*, 58; *Liber Albus*, 674; *Calend. Rot. Pat.*, 21. *Ipswich Domesday*, 22. The pie-powder courts were held for the "dusty feet," (*pieds poudrés*,) i. e., for those coming from a distance.

<sup>4</sup> "Et qe nulle frank homme de la citee neit compagnie ove homme estraunge, ne avowe merchandise de homme estraunge, par qoy le Roy ne ses bailiffs de la citee perdent la custume de eux." *Liber Albus* 264, 289.

freeman and foreigner is strongly accentuated in the general laws and all the city regulations like those of Worcester, Bristol, Winchester, Ipswich, and the Cinque Ports<sup>1</sup>. It would, indeed, have been unreasonable to admit the stranger to the benefits of municipal privileges without subjecting him to the corresponding duties like that of scot and lot. The exclusion of non-freemen from the crafts was thus not so much the result of any independent action of the guilds, but was a principle of the early common law and sometimes even made obligatory upon the societies by the city regulations.<sup>2</sup> The qualification of freeman was necessarily relaxed in the case of women who were also admitted as members, for certain occupations were almost exclusively conducted by them.<sup>3</sup> The widows of deceased brethren, moreover, continued the trade until they contracted another marriage—a custom we find mentioned in the city constitution of Evesham as late as 1687—in which case they were compelled to abandon the guild and sell the house to some one who practiced the same handicraft.<sup>4</sup>

But participation in the franchise was not enough. A perfect acquaintance with the details of the trade and the desire as well as the ability to produce good work were in all cases preliminary requisites.<sup>5</sup> In

<sup>1</sup>*Ord.* 383 § 17; *Mon-Jurid.*, II-115, 147; *Arch. Journal*, IX-69; Lynn (App. Vol. II) *Custumals of Winchester, Chelsea, Dover, Sandwich, &c.*

<sup>2</sup>"Et que nulle prentiz apres soun terme parcomply use soun misteer en la citee einz qil soit jure a la franchise." *Lib. Albus* 272. Cf. the exclusion of non-freemen from trade in Leicester as late as 1749. Throsby, II-152.

<sup>3</sup>Herbert, I-423; 37 Ed. III. c. 6; *Leges Burgorum* c. 69; *Hist. Doc.* 232.

<sup>4</sup>*Lib. Cust.* 124, 130; Merew. and St. 1831.

<sup>5</sup>*Mem.* 244, 258, 281, 547, 570, etc.

fact the main provisions of the craft, the very soul of its constitution, were the regulations intended to ensure the excellence of the products and the capacity of the workman. The ordinances almost invariably commence with a recital of the various subterfuges employed by knavish artificers to deceive the public. As a consequence articles are drawn up to abolish the mischievous practices by providing for the establishment of the wardens, to whom is delegated the duty of carefully scrutinizing the craftsmen's handiwork.<sup>1</sup> They are expected to make an impartial and inquisitorial examination, and in case of detecting any work imperfect, either by reason of roguery or negligence, to confiscate the goods with an unsparing hand and to bring the offender to justice. This duty they performed so zealously as even to enter the royal palaces in search of fraudulent workmen, until the monarchs assumed to consider this an unwarrantable encroachment on the royal prerogative and forbade them in future from "mallapertlye viewing what his majestie had a-making."<sup>2</sup> In order to facilitate the search it was incumbent upon the artisans of each particular craft to inhabit definite quarters of the city and not elude the vigilance of the inspectors by distributing themselves in outlying or semi-concealed apartments.<sup>3</sup>

The whole character of the craft guild is explained by these regulations, designed to prevent fraud and deception of the public. But it was due to the compulsion of the city authorities rather than to any

<sup>1</sup>"Jurati ad faciendum scrutinium." *Lib. Cust.* 104; Cf. *Mem.* 292.

<sup>2</sup>*Proceed. Privy Council*, VII-288. This occurred as late as 1541.

<sup>3</sup>*Stephanides* § 12; *Mem.* 180, 360, 330. In Reading each of the five wards had its particular guild. Reader, 52.

philanthropic anxiety on the part of the trades. Carefully ascertained rules as to the exact proportion and quality of the raw materials were prescribed with great minuteness; the mixing of good and bad wares was strictly prohibited, and the greatest care was exercised in the selection of proper tools. Not only was a separation of different employments commanded,<sup>1</sup> but the various branches of the same trade were even kept distinct, as, for instance, the cordwainers and cobblers. "If any one has to do with old shoes he shall not meddle with new shoes among the old, in deceit of the common people and to the scandal of the trade."<sup>2</sup> Such provisions were but natural, for effectual supervision would have been impossible where the shop was littered with a multitude of entirely diverse materials, affording increased facilities for the commission of fraud; while an embarrassing factor would have been added by simultaneous membership in different and perhaps opposing guilds.

Similar considerations led to the prohibition of night work or sales by candle-light. Brentano, in conformity with his whole theory, asserts that the real ground was the solicitude for the well being of the guild-brothers, but he flatly contradicts the explicit language of the statutes. The spurriers shall not work after curfew, "by reason that no man can work so neatly by night as by day," and especially because many persons "compass how to practice deception in their work," and introduce false and

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<sup>1</sup>E. g. bowyer not to be fletcher, latoner not to be goldsmith, farrier not to be smith. *Mem.* 349, 399, 293.

<sup>2</sup>*Mem.* 392; *Liber Albus* 718, as to old and new clothes (frippersers).



cracked iron for tin and put gilt on false copper.<sup>1</sup> The glovers forbid sales in the evening because "folks cannot have such good knowledge by candle-light as by day, whether the wares are made of good leather or of bad;" the pewterers object to night work because "sight is not as profitable by night, or as certain as by day—to the profit, that is, of the community;" and the cutlers adopt a similar provision on account of the frauds, in that "the wares have not been assigned by the wardens, but sent privily to sell" in different quarters.<sup>2</sup> Already in 1300 this prohibition was imposed upon the weavers by the city authorities.<sup>3</sup> Occasionally the additional reason is given that the nocturnal workmen make too much noise, and thus disturb the neighbors or incur the danger of giving rise to conflagrations.<sup>4</sup> But the chief consideration is, in these as in all the other regulations, the attempt to render all attempts at overreaching the public impossible.

It was, as we saw, imperative on the craftsmen to furnish an adequate guarantee of his fitness to join the guild and produce good work. This guarantee consisted in the fact of a previous apprenticeship and the evidence of a good moral character. For it was correctly presumed that intemperance and debauchery would in general imply mendacity and imposture. The apprenticeship continued as a rule for seven years, but was, in itself, an insufficient security. Defective workmanship indeed was generally

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<sup>1</sup> *Memorials*, 226.

<sup>2</sup> *Mem.* 219, 246, 343. Cf. hatters 239, bowyers and fletchers, 348.

<sup>3</sup> *Liber Cust.* 124 § XVI. "Mes qe bien et loialment oevre, et qe el ne oevre pas de nuyt."

<sup>4</sup> *Mem.* 227, 538.

the effect of fraud, not of inability, and the longest apprenticeship could give no security against fraud.<sup>1</sup> It was on this account that the provisions as to morality and probity were adopted, and made applicable to apprentices and journeymen as well as to the members proper. Not only were they required to be of good rule and demeanor,<sup>2</sup> but the most curious by-laws were sometimes enacted to keep the younger men out of mischief. In Newcastle, for instance, they were forbidden to "danse, dyse, carde or mum, or use any gytternes, or use any cut hose, cut shoes, pounced jerkins or any berds."<sup>3</sup> All contraventions were visited at first with fines, then with distraint, or confiscation of tools, and finally with expulsion from the society.<sup>4</sup>

It is, however, utterly erroneous to regard all these provisions, which constitute some of the chief points of the craft organization solely as the independent work of the guilds themselves "which stood like loving mothers providing and assisting at the side of their sons in every circumstance of life."<sup>5</sup> This view could only have arisen through a total neglect to observe the general economy of mediæval society, and through a failure to see that the guilds were no purely private and independent unions, but mere stones in the structure of industrial life, apart from which they cannot be comprehended. The

<sup>1</sup> Adam Smith, *Wealth of Nations*, I, ch. 10.

<sup>2</sup>The apprentice must be "bonæ famæ et honestæ conversationis, tractabilis, mansuetus, morigeratus." *Lib. memorandorum* 442; Herbert II-657 § 41; *Mem.* 360.

<sup>3</sup>Brand, II-228.

<sup>4</sup>*Liber Cust.* 425; Herbert, I-191; *Mem.*, 178, 239; *Ord.*, 156.

<sup>5</sup>Brentano, cxxviii; Green, *Hist.*, 192-194.

middle ages were a period of customary, not of competitive prices, and the idea of permitting agreements to be decided by the individual preferences of vendor or purchaser was absolutely foreign to the jurisprudence of the times. The "higgling of the market" was an impossibility simply because the laws of the market were not left to the free arbitrament of the contracting parties. Under the supposition that the interests of the whole community would be best subserved by avoiding the dangers of an unrestricted competition, the government interfered to ordain periodical enactments of customary or reasonable prices—reasonable, that is to say, for both producer and consumer. Tabulated tariffs and official regulations of all things, from beer to labor, filled the statute books,<sup>1</sup> and it would have seemed preposterous for the producer to ask as much as he could get, or on the contrary to demand less than his neighbor and thus undersell him. The three great offences of mediæval trade were regrating, forestalling and engrossing—buying in order to sell at enhanced prices, intercepting goods and provisions on the way to market to procure them more cheaply, and keeping back wares purchased at wholesale in order to strike a more favorable bargain subsequently.<sup>2</sup> But above all great solicitude was shown for the interest of consumers and every precaution was observed to preclude the possibility of deceiving pur-

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<sup>1</sup>Cf. *Assisa panis et cervisiae*, 51 Hen. III; *statutum de pistoribus* 13. Ed. I. Also 2 Ed. III; 23 Ed. III; 37 Ed. III; 47 Ed. III, etc.

<sup>2</sup>Cf. *Stat.* 5 and 6 Ed. VI c. 14; Old usages of Winchester in *Ord.* 353. The last term is the origin of the word grocer acc. to 37 Ed. III c. 5: The merchants are called "grossers because they do ingross all manner of merchandise vendible, and suddenly do enhance the price....."

chasers. It was deemed of paramount importance to watch over every stage of the production, and the government, far from being antagonistic to the formation of the crafts, usually compelled the workmen to frame ordinances in keeping with this economic policy. The authorities even went further, and in those cases where no anterior organization had existed or where the guild administration was imperfect, imposed general regulations on the artisans which they were compelled to follow in their guilds.<sup>1</sup>

The guild rules were therefore only part and parcel of the common laws, and not merely the independent work of the crafts themselves.<sup>2</sup> This was as true of the system of apprenticeship as we have seen it to be of the other provisions. As far back as King Alfred it was provided that slaves should be freed in the seventh year of their bondage, and the same provision extended to Scotland, for in the laws of King David I. we find the statement that native bondmen who had escaped could be reclaimed by their lord only for seven years.<sup>3</sup> Seven years' service was regarded as a qualification of admission into the franchise and applied to all inhabitants, whether artisans or not; and as the custom arose of compelling all handicraftsmen to be citizens, what had originally been a general law was now adopted by the guilds. The seven years' apprenticeship now enabled the applicant to become a burgess and at the same time a guild member. But it was no new

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<sup>1</sup>37 Ed. III c. 7; 7 Ed. IV c. 1; 19 Hen. VII c. 6; *Regiam majestat.* of crimes and judges), T. 2, c. 18.

<sup>2</sup>Cf. Ochenchowski, 75.

<sup>3</sup>Dooms of Alfred § 11 in Thorpe, *Early L.*, I-47; *Leges Burgorum* c. 17. This last for the year 1140.

ordinance of the crafts, for the subject is regulated in the urban charters also, and when the guild rules mention it the words "according to the ancient usage of the city" are usually added.<sup>1</sup> And just as the sons of burgesses were admitted to the liberties with the single condition that they should dwell in the town, so the sons of guildsmen were exempted from the necessity of the seven years' apprenticeship.<sup>2</sup> The indentures, moreover, were necessary by the common law, and the enrollment invariably took place at the court leet or before the municipal authorities.<sup>3</sup> In many cases the local customs prevented villeins from binding their sons as apprentices, but this only exemplifies the exclusiveness of the town communities and the general tenor of the law, not any spontaneous action of the crafts.<sup>4</sup>

The remaining features of the guild manifest the same dependence on the laws of the realm. The severance of occupations was imposed upon the trades, not spontaneously adopted by them, and the mediæval statutes teem with provisions of this nature, as, for instance, that shoemakers shall not be tanners, brewers not be coopers, cordwainers not be curriers, butchers not be cooks, drapers not be "litsters,"<sup>5</sup> while a statute of 1363 admonishes all artificers and

<sup>1</sup> *Liber Albus*, 157, 272; *Lib. Memorand.* 442; *Memor.* 282.

<sup>2</sup> *Ordinances of Worcester* § 35 in *Ord.* 390.

<sup>3</sup> *Lib. Cust.* 93; *Lib. Albus* 655; *Mer. and St.* 722-727; *Ord.* 390.

<sup>4</sup> "Quod antiquitus nullus factus fuit apprenticius nec saltem admissus fuit in libertatem civitatis, nisi cognitus fuerat esse liberæ conditionis." *Liber Albus* 33, 452; *Stat.* 8 Hen. VI c. 11; Northouck, 107 as to the quality of gentleman; for Lynn and Yarmouth, *Mer. and St.*, 762, 1169.

<sup>5</sup> *Rich. II.* c. 12; 1 *Hen. VII* c. 5; 19 *Hen. VII* c. 19; 23 *Hen. VIII.* c. 4; *Regiam Maj.* (of crimes, etc.) *Tit.* 4 c. 22; *Ord.* 405.

handicraft people to use only one mystery or occupation.<sup>1</sup> And whether the dominant idea was to prevent fraud or hinder high prices, the fact remains that the provisions emanated from the government and not from the crafts. In like manner the restriction of the number of apprentices and workmen, examples of which are rarely found in the early guild-laws, was not due alone to a desire to limit competition, but principally to the fact that all members were responsible for the actions of their assistants and that the administrative authorities objected to the employment of a larger number than the master could support and answer for. Thus the regulations of London declare that the masters shall take apprentices only in so far as they are able to support them, and under Henry III. the number of assistant workmen is limited to eight in order that the master may answer for them and the King's peace may not be disturbed.<sup>2</sup>

But the subordination of the guilds to the general laws of the realm constitutes only one-half of the explanation. The other half must be sought in the commanding influence of the towns in economic life.<sup>3</sup> All powers of market and social police were

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<sup>1</sup>"All artificers and people of mysteries shall each choose his own mystery," and "shall henceforth use no other." 37 Ed. III, c. 6. *Stat.* II-379. This was so strictly enforced that in 1385 Mayor Nicholas Brembre disfranchised seven freemen (haberdashers, weavers and tailors) for pursuing occupations to which they had not been brought up. Herbert, I-30.

<sup>2</sup>"Et que nulle desormes ne preigne apprentice plus qe deux ou trois a plus forsques sicomes il est de poiar de eux sustenir;" *Lib. Albus*, 383. *Liber Memorandum*, 443: "Quod pax Domini nostri nequaquam lædatur."

<sup>3</sup>Ochenkowski, 64 overlooks this.

from the first massed in the hands of the urban authorities. The one central point of burgensic life was the court leet, for the administrative and criminal jurisdiction was of paramount importance to the maintenance of local liberties. The burghers in their town assemblies enacted a multitude of commercial measures which would have been totally ineffectual without the coöperation of a strong court of penal jurisdiction, and to this court every townsman, whether guild member or no, was amenable. No more fundamental mistake has been made than to ascribe to the craft-guilds an independent jurisdiction,—for this, we may say, was absolutely unknown in England.<sup>1</sup> The matter was substantially the same in the royal towns as well as in those situated in the demesnes of lords and prelates, with the exception that in the latter serious disputes often arose between townsmen and bishops in reference to trade. The sources of contention in Malmesbury, Winchester, Reading, etc., were the encroachments of the episcopal lords in matters pertaining to the crafts. But even there the disputes were conducted by the citizens at large rather than by the individual guilds, and an independent jurisdiction of the guild officers was utterly unthought of.<sup>2</sup> Even in the tailors' guild at Exeter, which attempted to arrogate to itself exclusive powers, the franchises and lawful customs of the city are expressly saved over against the limited jurisdiction of the crafts.<sup>3</sup>

In London the matter is still clearer, for although

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<sup>1</sup>"The handicraftsmen retained everywhere the independent government and jurisdiction over their trade." Brentano, cxliii.

<sup>2</sup>*Regist. Malmesb.*, II-393; *Arch. Journ.*, VII-374; Coates, 50-55.

<sup>3</sup>*Ordinances*, 306.

in some instances the disputes were preliminarily settled by the wardens,<sup>1</sup> there is not the least trace of any final or independent adjudication. The members are, on the contrary, expressly declared subject to the civic officials, by whose verdict they are often imprisoned.<sup>2</sup> The wardens brought the offenders to the guildhall, and upon satisfactory proof of their guilt the culprits were amerced by the mayor in various sums according to the gravity of the offence, a portion in some cases being reserved to the guild.<sup>3</sup> Especially severe transgressions subjected the guilty party to the pillory, and, as has been said, even to imprisonment; and continued repetition of the offence entailed the utter exclusion from the craft. It was not even necessary for the wardens to present the offender before the municipal court; any one taxed with the commission of fraud, whether by guild-officer or layman, was subjected to punishment. But the craft officials would naturally enjoy more opportunities of detecting the evidences of defective workmanship and were accordingly the usual medium through which the civic administration made its authority felt. The guilds were, therefore, to a certain extent organs of the city government, but entirely subordinated to it, and there can be no question as to their utter lack of an independent jurisdiction. In entire conformity with this subordination of the guilds, the wardens or supervisors were subject

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<sup>1</sup>*Mem.* 218, 248; *Liber Cust.* 126. This last document shows the preliminary jurisdiction of the weavers' guild in 1300.

<sup>2</sup>*Mem.* 242, 246, 259, 301, 332, 355, 364, 391, 394, 539, 556, etc.; *Ord.* 332, 337, mention the jurisdiction of mayor and aldermen.

<sup>3</sup>Cutlers, spurriers, pelterers, blacksmiths, brasiers. etc. *Mem.* 217, 227, 328, 538, 636.



to the ratification of the city authorities. It is hence a great mistake to speak of the "complete independence of the craft-guilds, whose right of freely electing a warden was never restricted." At Norwich the mayor could discharge the masters of the crafts at any time.<sup>1</sup> At Exeter the master and warden surrender their powers annually to the head of the city government.<sup>2</sup> In Bristol the "maister of the bakers, brewers, bochers, and all other craftes," must be presented to the mayor and take their oath in his presence.<sup>3</sup> At Great Yarmouth and Lynn the relation was the same, while in York the officers of only three of the powerful corporations were exempted from the necessity of taking their oaths before the mayor,—oaths in which they there as elsewhere pledge themselves not to contravene the laws or city customs and to conform to the ordinances approved by the municipal court.<sup>4</sup>

The predominance of the town laws further appears in the characteristic manner in which the guild articles were framed. The good men of the trade present an humble petition to the mayor, and if that functionary deems the proposed ordinances conducive to the common welfare, he accords the desired permission. Sometimes, however, the articles were ordained by the city quite irrespective of the initiation of the crafts, the regulations being enacted as simple manifestations of the police power to which all inhabitants were equally subject. The municipal

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<sup>1</sup>Blomefield, II-130.

<sup>2</sup>*Ordinances*, 334.

<sup>3</sup>Office of the mayor of Bristol in *Ord.* 420 (§ 16). Cf. 246.

<sup>4</sup>Drake, 224; *Stat.* 14 and 15 Hen. VIII. c. 3. *Sacramentum magistrorum et gardianum misterarum in Liber Albus*, 527.

ordinances thus essentially corresponded with the provisions of the guilds themselves. In all those occupations concerned with the preparation of articles of food the urban measures were still more stringent, and the town officers had plenary powers whether the wardens stood at their side or not. The ale-conners, *e. g.*, were to keep a sharp lookout on the brewers, cooks, bakers and petty hucksters, "put a reasonable price, at their discretion," on the commodities, and prevent all fraudulent dealing.<sup>1</sup> Thus the London bakers at one time "skulk like foxes so as not to be found by the officers of the city in case their loaves shall be found deficient," in consequence of which rigorous measures were adopted; later on the right of search was taken from the wardens (to whom it seems to have been given in the interim), and the craftsmen were ordered to obey the mayor "after the old usage and customs of the laws."<sup>2</sup> In Winchester also some of the bakers "by sotill meanes for their syngler weale to the comyn hurt of the residew get the sale of all biscatt into their handes" and the attempted frauds lead to their strict regulation by the city.<sup>3</sup> The municipal flesh-sayers and fish-sayers had analagous duties to perform, and the wardens of many crafts were expressly required to be accompanied by officers of the mayor.<sup>4</sup>

The provisions as to the reception of strangers, pursuing a certain trade, as freemen of the city, are susceptible of a similar explanation. The enfran-

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<sup>1</sup>Oath of the Ale-Conners in *Liber Albus*, 316.

<sup>2</sup>*Ibid.* lxxi; *Proceed. Privy Council*, V-196.

<sup>3</sup>*Brit. Archæol. Asso.* II-22.

<sup>4</sup>As to the fish-sayer, flesh-sayer and ale-taster in Leicester see Nicholls, II-376; *Ord.* 336; 23 Henry VIII. c. 4. § 7; *Mem. passim.*

chisement of a foreigner (in the mediæval sense) enabled him to carry on the trade. The city therefore accorded the privilege to those of the would-be craftsmen only whom the wardens declared of ability and good repute; for the grant of the franchise without any such condition would have flooded the trades with untrustworthy artisans, and thus defeated the very object for which the crafts were recognized by the city—namely, as valuable assistants to the industrial order. The guilds themselves were the best judges of individual sufficiency, and the interests of town and craft here coincided. For the town, with its regard for the interests of consumers, would lead the efforts of the guild to keep bad workmen aloof from the trade. We accordingly find in the city charters, as well as in the craft ordinances, the provision that any artisan, coveting participation in the franchise, should be examined by the good folks who rule the trade, and who would thereafter be answerable for all his actions.<sup>1</sup> But, in order to prevent any abuse of this privilege, the examination took place before the city authorities, and the guilds took a pledge not to refuse admission, through a spirit of malice or monopoly, to any one otherwise properly qualified.<sup>2</sup> This precaution was in the main sufficient to check the crafts from giving rein to the spirit of selfish and unjustifiable exclusion, although one of the chief charges brought later on against the London weavers was to the effect that they would admit no one without an

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<sup>1</sup>City Charters in *Lib. Cust.* 269, 270; *Liber Albus*, 142, 495. Brælers and Spurriers in *Mem.* 228, 277.

<sup>2</sup>Articles of the Furbishers, *Mem.* 258.

exorbitant fine, pursuing their malicious machinations in order to artificially enhance prices and seek their own private gain at the expense of the public welfare.<sup>1</sup>

The few remaining guild-laws for which artificial explanations have been attempted can again be understood only by keeping in mind their utter dependence on the municipalities. Thus the provision that if any member purchase commodities fit for use by the trade, every other member may participate in the bargain and compel the purchaser to give him a share,<sup>2</sup> is by no means a proof of the self-sacrificing spirit of the brethren. It is simply a penalty for transgressing the city laws against engrossing, the policy of which prohibited both underselling and overcharging. The identical provision occurs in the earliest customals of the towns, and was copied from them into the by-laws of the guilds.<sup>3</sup> So also as to the regulation that if a workman has contracted to finish a piece of work and is unable to keep the agreement, the members shall aid him. Far from being an outburst of loving feeling, this is simply a punishment for those who have wilfully and falsely guaranteed the ability of a workman whose inca-

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<sup>1</sup>"Quod neminem in eorum gildam recipere curant nisi gravitur redimatur, malitiose machinantes," etc. etc. *Lib. Cust.*, 421; *Plac. de g. W.* 466. In 1331.

<sup>2</sup>"That no one for any singular profit shall engross lead coming to the city for sale....but that all persons of the said trade, as well poor as rich, who may wish, shall be partners therein at their desire." *Mem.* 322; *Ord.* 210, for Worcester; guild-merchant at Berwick, in *Ord.* 345 § 37.

<sup>3</sup>"If any merchant, neighbor or stranger, bring any merchandise to sell in the town, all the freemen shall have a part if they claim part." Customal of Rye § 59, 51, 57; of Winchelsea § 38, 39, in Lyon, app.

capacity they were in duty bound to know. For the civic magnates here again were determined to prevent the employer from being disappointed or defrauded through any fault of the artisan.<sup>1</sup> A similar enactment existed in the Scotch laws, as applicable to all the craft-guilds, and it is significant that the provision did not originate with the guilds, but was imposed upon them as a police measure.<sup>2</sup>

The true nature of the craft-guild can now be clearly perceived. It was no protective guild or outgrowth of the guild-merchant, no combination of oppressed plebeians struggling against the patricians and imbued with a spirit of fraternal affection, to which the economic function was subordinate and superadded. Above all, it was no purely voluntary union which gained a complete independence of the town or an entire mastery over the inhabitants. On the contrary, the craft-guild was a union of artisans for purely economic purposes, but always subordinate to the general laws and municipal administration. Although its early development may have been in a great measure autonomous, it was recognized by the city authorities because a useful auxiliary in maintaining and executing the police measures. And although the guild afforded an incidental protection to its members through the usual advantages of all union, it was something far more than a mere private society. In its character as a municipal organ it was frequently called upon to furnish mili-

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<sup>1</sup>*Memorials*, Masons, 281.

<sup>2</sup>*Regiam Maj.* (of crimes, &c). Tit. 5, c. 30; tit. 2, c. 19; tit. 4, c. 27: "Craftisman quha beginnes ane work and delaies to end the same sall make no impediment to ane other of the samin craft to end the samin work under paine of tinsell (loss) of their freedom."

tary contingents, and to perform its share of the "watch and ward."<sup>1</sup> A link in the great chain of economic development, it can be understood only in conjunction with the whole theory of mediæval economic policy. Its main features were impressed from without rather than evolved from within,—the result of compulsory obedience to the general principles of town and state rather than the elaboration of peculiarities inherent in the guilds as associations which breathed the spirit of peace and good will to all. But before passing a final verdict upon their influence in shaping the destiny of the mediæval artisan it will be necessary to cast a glance at the relations of master and workman and note how far the grave social problem confronting modern society existed or was met by the mediæval unions.

### § 3.

#### INDUSTRIAL RELATIONS.

The line of demarkation so sharply defined to-day between a capitalistic and a laboring class was not yet drawn in the early period of mediæval industry. For centuries far into the middle ages there was a period of rude plenty, but of no opulence. The burghesses were on a similar footing, and the comparative equality of wealth among the town citizens at first went hand in hand with the parity of political rights. Specialization of industry and division of labor were still in a rudimentary condition, for producer, middleman and retailer were not yet differen-

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<sup>1</sup>Ordinance of 1370 in *Memorials* 345; Herbert, I-122; Maitland, I-216.

tiated. The artisan bought his materials, fashioned his products and displayed his finished wares for sale on the counter of his little shop, or on the rough boards of the booths at fair time. If his business increased to a sufficient extent he received two or three apprentices, and in case of need a certain number of additional workmen or journeymen. But there was no monopoly or exaggerated exclusiveness. Any one could become apprentice, and the number was limited only by the ability of the master to support them or by considerations of a police nature. The apprentice formed a member of the master's family. For the principles of the law of parent and child were made applicable to a certain extent, and all responsibility for purchases of the apprentices as well as for their behavior were imposed on the masters by city ordinance.<sup>1</sup> From one of the indentures that have been preserved we can obtain a clear view of his position. The apprentice is to keep his master's secrets, do him no injury nor commit excessive waste on his goods. He is not to frequent taverns, commit fornication or adultery with the housemaids or in town, nor betroth himself without his master's permission. He is not to wear certain garments, play at dice, chequers, or any other unlawful game, but is to conduct himself soberly and piously as a good and faithful servant, or in default to serve double time. The master, on the other hand, agrees to find him in all necessaries, food, clothing, bed, and so on, for four years. In the fifth year he finds himself, but receives twenty shillings and the tools of the trade; and in the sixth year he

<sup>1</sup>De servientibus, ementibus Mercandisas et Bona. *Liber Albus* 286; *Hist. Doc.* 242.

gets forty shillings but finds his own tools. The master agrees on his side to teach him the craft without any concealment.<sup>1</sup> The oftentimes curious rules to ensure the good morals and proper demeanor have been touched on above. This strict supervision could not have been but galling to the young men, as is proved by several amusing examples.<sup>2</sup> But there was no general clashing of interests, no endeavor to exclude the apprentice of proper character. Everyone became in time shopkeeper and master, provided he possessed the requisite ability.

The condition of the workmen proper was essentially similar. They were known by the various names of varlet, sergeaunt, yeoman, garson, bachelor, allowe and journeyman,<sup>3</sup> and were taken for any stipulated period, although probably at first engaged by the day as the last term implies. Restrictions were rarely placed on their number; but the necessities of a small household would in general preclude the master from employing more than a limited number. When any positive limitation was ordained it was at first rather the exercise of the city police power

<sup>1</sup>Indenture of 1409 in Madox, *Formulare Anglican.*, 98. One of 1451 is translated in Rogers, *Agric. and Prices*, IV-98.

<sup>2</sup>Herbert, I-424; II-35, 168. Cf. 19 Hen. VII c. 4; 19 Hen. VII. c. 12.

<sup>3</sup>Varlet or vadlett—French valet; sergeaunt or serjaunt overour—ouvrier; garson—garçon; allowe or allowsman (Herbert, II-181, 193)—alloué (who differed from valet in that the one had passed through an apprenticeship, the other not. *Ordin. of the Forcetiens. Livre des Métiers*, 359). Bachelor—German Geselle, Junggeselle. Yeoman is an abbreviation of young man. The term soudeier (solidarius) is once used in *Lib. Cust.* 79, § 6. Journeyman comes from jour, journée. The Latin names were garcio, vallettus, serviens.



than the result of any attempted monopoly. They were well cared for in the craft ordinances themselves and as regards the necessaries of life, were so especially well treated that the government felt impelled to interfere occasionally and extend the sumptuary laws to them.<sup>1</sup> All possible disputes were settled primarily by the wardens, some of whom were in certain crafts chosen from the ranks of the journeymen themselves.<sup>2</sup> If the master refused to give the stipulated wages, the wardens forbade him to work until the obligation should be fulfilled. The journeyman was likewise protected against other exactions on the part of unscrupulous masters, such as attempts to compel him to serve beyond his time or against his will, while a stimulus was given to loyal fidelity by prescribing assistance out of the guild funds in case of illness or misfortune.<sup>3</sup> On the other hand, if the workman was disobedient or endeavored to overreach his master in any way, he incurred fine and punishment. The standard of morality was not all too high, and the reason advanced for shutting the shops on Sunday is, that the "journeymen and apprentices had wasted and purloined the property of their masters while they have been attending at their parish churches."<sup>4</sup> Hence the necessity of regulations and of subjecting the assistants to stringent penalties in case of perversity. Such provisions appear perfectly justifiable when it is remembered that the masters were respon-

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<sup>1</sup>37 Ed. III., c. 8, c. 11, as to the yeomen and servants of artificers or people of handicraft.

<sup>2</sup>*Ord.* 332; *Mem.* 634.

<sup>3</sup>Alien Weavers, Founders, Braelers, in *Memorials*, 307, 514, 277.

<sup>4</sup>*Memor.* 218, 245.

sible as head workmen for the quality of the wares and the conduct of their assistants, and that personal supervision could be rendered searching only by the strict accountability of the subordinates.

But a conflict of interests was in general unknown. The journeyman always looked forward to the period when he would be admitted to the freedom of the trade. This was a rule not difficult for an expert workman to attain. No insuperable obstacle was thrown into his path. In fact, there was no superabundance of skilled labor at this time. It was a period of supremacy of labor over capital, and the master, although nominally so called, was less an employer than one of the employed. Toiling by the side of his assistants and in reality falling into one category with them, he was subject to the same vicissitudes of economic life. The relations were in the main harmonious, and there was thus no wage-earning class as distinguished from the employers or capitalists and arrayed in hostility against them.

Naturally, however, there were sporadic cases of disaffection on the part of individual workmen against imagined or perhaps real maltreatment by the master. These cases no doubt existed from the earliest period. Thus in 1303, in one of the earliest craft ordinances that we possess, the journeymen cordwainers of London are forbidden to assemble or make any provisions prejudicial to their masters or to the public.<sup>1</sup> In 1350 again it is related, that in

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<sup>1</sup>Ordinatio Renovata § 7, in *Lib. Cust.*, 84: "Defendu est qe lesserjauantz overours de la cordewanerie, ne autres, ne facent nul congregacioun par faire purveance qe soit prejudice au mester et damage au commun people ; sur peyne denprisonment."

case of a dispute between a master-shearman and his "vadlett," the latter had been accustomed to go to his associates, and by "covin and conspiracy" so arrange it that no one should work for his own master until the matter had been substantially settled; in future, however, the disagreements are to be arranged, as in the other trades, by the wardens.<sup>1</sup> But although this, as well as the similar case of the journeymen weavers in 1362,<sup>2</sup> resembles to a certain degree our modern strike and boycott, it is not indicative of any general banding together of the yeomen against the employers.

For although the journeymen and apprentices here and there formed associations of their own, these were simple fraternities of a social character. As on the Continent, they were considered quite harmless and in most cases freely permitted. Sometimes, however, they were prohibited, as tending to weaken the paternal authority of the craftsmen. The "congregations" of the journeymen cordwainers above were doubtless of this class and continued to exist, for over three-quarters of a century later they are again charged with making an illegal fraternity for which they sought a confirmation from the Pope.<sup>3</sup> The general proclamation of 1383 was however not directed especially against such associations, as has been represented. For this forbade conspiracies and combinations of all kinds,

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<sup>1</sup> *Memorials*, 247.

<sup>2</sup> *Memorials*, 306.

<sup>3</sup> *Ibid.*, 495.

and did not mention the workmen at all.<sup>1</sup> Probably the regulation was designed to prevent the recurrence of such riots as had taken place during Wat Tyler's uprising, in 1381. The character of the early journeymen's guilds is shown by their fraternities in Coventry, where the journeymen or young people of various trades, "observing what merry meetings and feasts their masters had, themselves wanted the like pleasure, and did therefore of their own accord assemble together, and for their better conjunction make choice of a master with clerks and officers."<sup>2</sup> But as this was found to be to "the prejudice of the other guilds and disturbance of the city," the mayor and citizens petitioned the king, in 1425 to abolish them.

The journeymen saddlers in London had also formed a fraternity during the fourteenth century, but in 1396 the masters complained that the men deserted their work too often in order to attend the vigils of their deceased brethren, and to make offerings for them on the morrow,—occurrences which were made the occasion of much carousing.<sup>3</sup> So also the "yomen—tailloours," composed of the servingmen and journeymen formed an assembly and inhabited houses in a certain district of the city in contradiction of their masters' wishes. Ad-

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<sup>1</sup>"That no man make none congregacions conventicles ne assemblies of peoples in prive neu apert.....ne over more in none manere ne make alliances, confederacies, conspiraciés, ne obligaciouns forto bynde men togidre forto susteyne eny quereles in lyvingge and deyingge togidre." *Memorials*, 480. Brentano hence errs.

<sup>2</sup>*Rotuli Clausorum*, 3 Hen. VI; Dugdale, 125.

<sup>3</sup>*Mem.* 542. A precisely similar complaint is made in France. *Ordonnances*, V-596.

vantage having been taken of this to create several disturbances and to adopt a livery of their own, they were enjoined by the city officers from "committing and perpetrating so harmfully such evils and misdeeds" and admonished to obey the wardens and masters. But this again was no manifestation of any class antagonism. It is especially stated that the journeymen were mere youths.<sup>1</sup> There were no men of mature age in their ranks, for the simple reason that at this period, the beginning of the fifteenth century, it was still possible for every workman to become a master, the one grade passing naturally and by an easy stage into the other. We thus see in the account nothing but the evidence of youthful insubordination. The fraternity moreover, probably after having mended its ways, continued to exist.

The journeymen's associations which seem to have been quite common (for the statute of 1402 speaks of "fraternities or guilds of servants" in general)<sup>2</sup> were thus mere social brotherhoods, formed by the young "desirous of merry meetings and feasts." It is not permissible to cite them as proving any conflict between labor and capital at this period. The unions were everywhere confined to the youths who in turn gradually became masters and were enrolled as full members of the craft-guild proper.

This virtual identity of interests and the predominance of labor continued until the close of the fifteenth and commencement of the sixteenth cen-

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<sup>1</sup>"Journemen and servingmen like a race at once youthful and unstable," etc. *Mom.* 611.

<sup>2</sup>26 Rich. II.

turies. It has, indeed, been asserted<sup>1</sup> that the plague of 1348-9 brought the opposition between the working class and the employers, between labor and capital to a crisis. But this is an error and antedates the true course of events by at least a century. The celebrated Statutes of Laborers, passed immediately after the pestilence, were intended to check the immense increase in the rate of wages which followed as a natural result of the dearth of workmen. They strictly defined the amount which farm laborers as well as all manner of artisans were to take for their services, and referred as a standard to the rates prevalent in 1346, the last year of great plenty and cheapness before the plague. To regard these statutes as harsh and iniquitous enactments unjustifiably oppressing the workmen is erroneous, because prices as well as wages were regulated.<sup>2</sup> The provisions extended to all classes of traders and merchants as well as to the artisans, and were nothing but a manifestation of the mediæval economic policy which made custom and not competition the controlling law. But the opposing view, that the purpose of the law was to protect the poor and the weak, is fanciful; we should suppose that

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<sup>1</sup>By Brentano, cxliii. Cunningham, 194 falls into the same error. Weeden, *The Social Law of Labor*, 173, who follows Brentano, is equally incorrect in his statement that the guild statutes before the fourteenth century do not mention workmen as such. The only complete ordinances that we have before 1300, those of the Cappers and Lorimers of London, speak of the emprentiz, serjeaunt, soudeier and servientes. *Liber Cust.* 78, § 4, 6; 101, § 6.

<sup>2</sup>23 Ed. III c. 6. Also 25 Ed. III. In France a similar statute was passed in 1351, which, however, permitted the workmen to take one-third more than before the plague, and which regulated all prices minutely. *Ordonnances*, II-377.

the English parliament was overflowing with love and kindness to the weak and oppressed, and had no aim but to alleviate their distress. Unfortunately the mediæval legislators were not of that stamp, but under the guise of well-sounding phrases generally pursued the selfish interests of the higher classes to which they belonged. In the regulations of 1350 for London we see the truth, half expressed in the words, "to amend and redress the damages, the grievances of the good folks rich and poor,"—so that at all events the enactment was not even ostensibly made in the interests of the poor alone.<sup>1</sup>

But the importance of the statute lies in the fact that while the country workmen mentioned were mere agricultural laborers, the provisions relating to the town artisans included all of the enumerated artificers, masters as well as journeymen. Both are treated alike under the general appellation of workmen or artificers, for it would have been poor policy to reduce the wages of the journeymen simultaneously with allowing the full guild-members to charge for their handiwork as they chose. The misconception has arisen from the use of the word "masters" in the preamble,<sup>2</sup> for it evidently refers in that place only to the landlords and to those of the general public that might have occasion to enlist the services of the craftsmen or guild-member. But there is certainly no intention to draw any distinction between the master-workman and the journey-

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<sup>1</sup>Regulations as to wages and prices, *Memorials*. 253.

<sup>2</sup>"Because a great part of the people, and especially of workingmen and servants, late died of the pestilence, many, seeing the necessity of masters, will not serve unless they receive excessive wages," etc. *Stat.* I-307-311.

man, between the two different classes existing in the craft itself, for the list of workmen includes masters in the sense of guild-members as well as others.<sup>1</sup> The fortunes of craftsman and yeoman were still substantially the same; there was no new and vital distinction now appearing for the first time between employer and employed within the craft. Of course the master-artisan was engaged by various members of the population to perform stipulated work, and in this sense there was a distinction between the temporary employer and employed such as had always existed; and it was to regulate this very relation that the statute was adopted. But the question now engaging our attention is a quite different one, namely, was there a capitalist class engaged in production as distinguished from and giving employment to a laboring class as such. The answer cannot be equivocal.

The regulations which were immediately issued in London and other towns serve to attest the truth of the foregoing statement. The prices which the artisans are to take for their work are carefully defined, but the journeymen or "garsons" occur only twice in the long enumeration, and the regulation is manifestly intended for the guild-member or master-workman.<sup>2</sup> And in the succeeding statutes which speak of the laborers and artificers, the master-workmen are always meant, unless, as is rarely the case, especial mention is made of the yeo-

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<sup>1</sup> 23 Ed. III, c. 5 simply speaks of "quicumque alii artifices et operarii."

<sup>2</sup> *Memorials*, 253. The master-daubers for instance shall take 5d., the journeymen 3½d., per day.



men.<sup>1</sup> It would, however, have been impossible for the masters to reduce the prices of their own labor without a similar action on the part of their assistants and this accordingly took place without opposition everywhere except among the shearmen, where the masters petitioned for an equable reduction of the journeymen's wages, and reminded the authorities that they themselves had been treated in a similar manner.<sup>2</sup> We see, then, that it is entirely incorrect to speak of a general conflict between capital and labor at this period.

Even in the trade of masons, which has been brought prominently forward as tending to prove a class antagonism, the relation was still similar. The statutes which forbid combinations among the masons and carpenters were not directed against the journeymen, as has been asserted, but against the masters themselves.<sup>3</sup> The reason is expressly stated to be the infringement of the statute of laborers which, as we know, prescribed the prices of the masters' labor. The masons, or free-masons, were probably regarded with peculiar disfavor on account of their curious solemnities, which were often declared blasphemous in France and elsewhere; but their growth was nevertheless fostered by the church authorities because of their great aid in constructing the cathedrals. In 1429 a lodge of free-masons was initiated by the archbishop of Canterbury himself.<sup>4</sup>

<sup>1</sup>E. g. 34 Ed. III, c. 9; 37 Ed. III. c. 6, where artificers or handicraft people occur, and opposed in c. 9 to the yeomen.

<sup>2</sup>*Memorials*, 250.

<sup>3</sup>"That all alliances and covins of masons and carpenters, and congregations, chapters, ordinances and oaths betwixt them made, or to be made, shall be void and wholly annulled."—Ed. III. c. 9 (1360). Cf. for the reason 3 Hen. VI. c. 1 (1427).

<sup>4</sup>*Hist. of Freemasonry*, 95.

There is no evidence that the number of dependent workmen was so much greater in this trade than in any other, and the most superficial glance into the archives and statutes of the middle ages will show that the legal regulations of wages referred not only to the building trades but to every conceivable and well-known occupation, and thus do not "indicate the peculiar position of these trades." The royal mandate of 1353, moreover, as to the workmen engaged in building the palace of Westminster, does not by any means tell us of a strike, but simply speaks of the withdrawal of certain workmen without the permission of the king, and of their accepting employment in other places.<sup>2</sup> They were patently master-masons, for it would have been out of the question for the journeymen to make independent contracts of service with any members of the public. The crown objected to the masons seeking work elsewhere because it had for centuries claimed the right of commanding the labor of any of its subjects,<sup>3</sup> just as during this century it still impressed seamen into its service. But there was no strike or opposition between master and workman in the modern sense. The city enactments of the period treated them alike with the exception that masters were permitted to take slightly more than the jour-

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<sup>1</sup> Brentano, cxlv.

<sup>2</sup> *Mem.* 271. "Whereas many workmen and laborers who were retained upon our works.... and were receiving our wages, have withdrawn from such our works without leave, and have been received to work for divers men of the city and county," etc., etc.

<sup>3</sup> See the curious case of a joiner ordered to "coom to the king's worcke," in 1541, and his excuses for delay. *Proceed. Privy Council* VII-254.

neymen for their exertions. But the restrictions applied equally to both classes, for they were still all in effect laborers, although, it is true, of different grades.<sup>1</sup>

We are now in a position to form a judgment of the merits of the craft-guild system in its prime, from the twelfth to the fifteenth or sixteenth century. The guilds were, on the whole, admirably adapted to the necessities of the period, and their faults were those common to all mediæval economic institutions. Primarily intended as an organization of the independent middle class, the crafts were useful adjuncts in upholding industrial order, and, on the whole, did not prove untrue to their task as organs for the transmission of skill and probity from generation to generation. The apprentice and journeyman found in the guild a school well calculated to fit them for their future career, and, treated as members of the family union, they were taught the value of self-restraint and impressed with the feeling of necessity for self-improvement. The possibility of reaching the goal of complete independence, attainable by all without exception, acted as a stimulus to good behavior and honest workmanship, while the harmonious relations in the workshop and the absence of any serious class opposition inculcated many a valuable lesson capable of being turned to account in later life.

The craft-guilds, it is true, imposed many limita-

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<sup>1</sup>Cf. the carpenters, masons, plasterers, daubers, tilers and "lour servauntz." *Liber Albus* 728; the tilers and "lour garsons," *Ib.* 729, repetitions of the order made under Ed. I. *Liber Cust.* 99, where the employer gives the master-workman meals in part payment.— See also Ochenchowski, 117.

tions on the members. In pursuance of the general spirit of mediæval legislation they prevented an undue competition and thus rendered any individual opulence impossible. They entered into minute and often unwise regulations of manufacture, and surrounded the artificers with a network of galling restrictions. But they strove to ensure honesty and satisfaction, and did not, as might be supposed, prove a serious drag on the progress of industry. For this was, after all, conditioned rather by the general laws than by any independent achievement of the guilds. The small handicraftsman felt his honor involved in maintaining the good traditions of his predecessors; and possibly because the organization preserved him from a continual struggle for existence and ensured a comparatively contented life, he endeavored to increase his efficiency and to take an honest pride in the creations of his own industry. But the secret of the success of the guild, and of the absence of any serious social struggles, lies in the fact that every workman either was, or could in time become, his own master. Acting as his own employer, and thrown into direct contact with the consumers, he was enabled to take advantage of the improvement made in the methods of production, and to reap the benefits for himself. In other words, he enjoyed both wages and profits, and in this character of profit-taker he kept pace with the progress of industry. It was a period of the predominance of labor over capital, but still there was a coöperation between the two elements. The chief value of the craft-guilds viewed from this standpoint was constituted by the fact that they favored the possession of a small capital by the workman himself. This consideration

becomes important in the light of modern problems, for the guilds thus in part realized the Ultima Thule of present industrial aspirations,—the system of productive coöperation. And although the conditions have been too materially altered to make a new birth of the craft-guilds either possible or desirable, their earlier history would tend to show that the main principle which underlay their economic prosperity is still capable of being infused with a new vigor that may one day revolutionize existing relations.

The limits of this essay will not permit us to trace the later fortunes of the crafts, their gradual degeneration and final decay in the succeeding centuries, nor to institute any comparison with the continental guilds in this place. We shall be satisfied to have thrown some light on the real nature and position of the guilds-merchant and their connection with the towns, as well as to have shown that the hitherto accepted views as to the origin and function of the craft-guilds are in a great measure erroneous. The guild-merchant had by no means the influence ascribed to it in municipal development; and the craft-guild, although incontestably ameliorating the condition of the mediæval laborer, had its chief characteristics impressed from without, performing a valuable service in upholding industrial order, and escaping any class antagonism in the period of its prosperity rather by the natural force of external circumstances than by any conscious and independent action of its own.

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## APPENDIX.

### ON THE ETYMOLOGY OF GUILD.

The word guild (gild, gyld, gilde, gylde, ghilde, gield, gylda, gilda, gulda, gildona, ghildonia, gellonia) is used in the early documents in three senses: contribution, feast, and association. Of these the first is the primary signification. The root is found in the Anglo-Saxon *gylden*, or *geldan*, "to pay," and in this sense of payment or money compensation the term occurs in the early laws and far down into the Norman epoch. As examples compare the following: *Wergeld* or *wergild*,<sup>1</sup> the penalty paid for murder; *angylde*,<sup>2</sup> the simple value of the article stolen; *theofgild*, the penalty paid by thieves; *hydgyld*<sup>3</sup> the payment made by slaves as a substitute for flogging; *ceap gild*,<sup>4</sup> the marketprice or money equivalent; *deovlum-gelda*,<sup>5</sup> payment or offering to the devil, and the common *dane-gild*. The word guild is also used alone in the sense of money penalty.<sup>6</sup> In Domesday the word *geldare*, "to pay," is used on almost every page, as also the term *gilda*, or "payment to the king,"<sup>7</sup> and *geldabilis* (guildable), "liable

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<sup>1</sup> *Æthelbirht* c. 31 (Thorpe, *Ancient Laws*, 11). Cf. *Leod-geld* c. 7.

<sup>2</sup> *Alfred*, c. 6 (Thorpe, 67).

<sup>3</sup> *Ine*, c. 2 (Thorpe, 105).

<sup>4</sup> *Judic. civit. London.* c. 1 § 4 and *Æthelstan*, c. 19 (Thorpe, 229, 209).

<sup>5</sup> *Wihtraed*, c. 12 (Thorpe, 41).

<sup>6</sup> *Æthelstan*, c. 19.

<sup>7</sup> "In *gildam de Dover*" I-11b, fol. 108b. "Hoc Burgum non geldat nisi quando Exonia geldat, et tunc reddat xi denarios pro geldo."

to pay.”<sup>1</sup> The word guild occurs in this sense far into the Middle Ages. Cf. “quietus ab omnibus gildis” in the laws of Henry I.<sup>2</sup> and “gulda,” or “guda,” in the same signification in the Hundred Rolls.<sup>3</sup> The “guildable” is the district from which these payments are raised. This was the original meaning in all Teutonic tongues: Gothic gild, Danish gield, old German gelten, modern German geld.

As a distinctive feature of the early unions was the common contribution, the word gild was naturally and gradually applied to the society itself as well as to the banquets and festivities whose expenses were defrayed by common payments. Brentano (lxviii) inverts cause and effect in asserting the original meaning to be a sacrificial meal. Sacrifice, moreover, has nothing to do with the primary meaning. Gilde to-day yet signifies a banquet in Danish,<sup>4</sup> and is probably used in the sense of festivity in the laws of Hen. I., “in omni potacione vel gyldē.”<sup>5</sup> The use of the term in later times in the phrase “meadow-guild” has been explained above.<sup>6</sup> Some writers who have failed to notice these three distinct meanings imagine that the word always implies a real association; others, on the contrary, exaggerate the primary signification and scarcely allow the idea of union to come to the foreground at all.<sup>7</sup> Both extremes are

<sup>1</sup>Cf. fol. 20 and 262. Cf. *Stat.* 11 Hen. VII. c. 9 (1495) “The lands shall be gildable.” Also Madox, *Firma B.*, 80.

<sup>2</sup>II § 3 (Thorpe, 501).

<sup>3</sup>*Rot. Hund.* 193. *Archæol. Jour.* VIII-411. “Ad geldam et Scottum” Madox, *F. B.*, 273.

<sup>4</sup>Wilda, 9, 18.

<sup>5</sup>Thorpe, *Ancient Laws*, I-538.

<sup>6</sup>Cf. p. 47.

<sup>7</sup>Lappenberg, *Gesch.*, I-699, Merew. and Steph. I, -82 *et passim*.

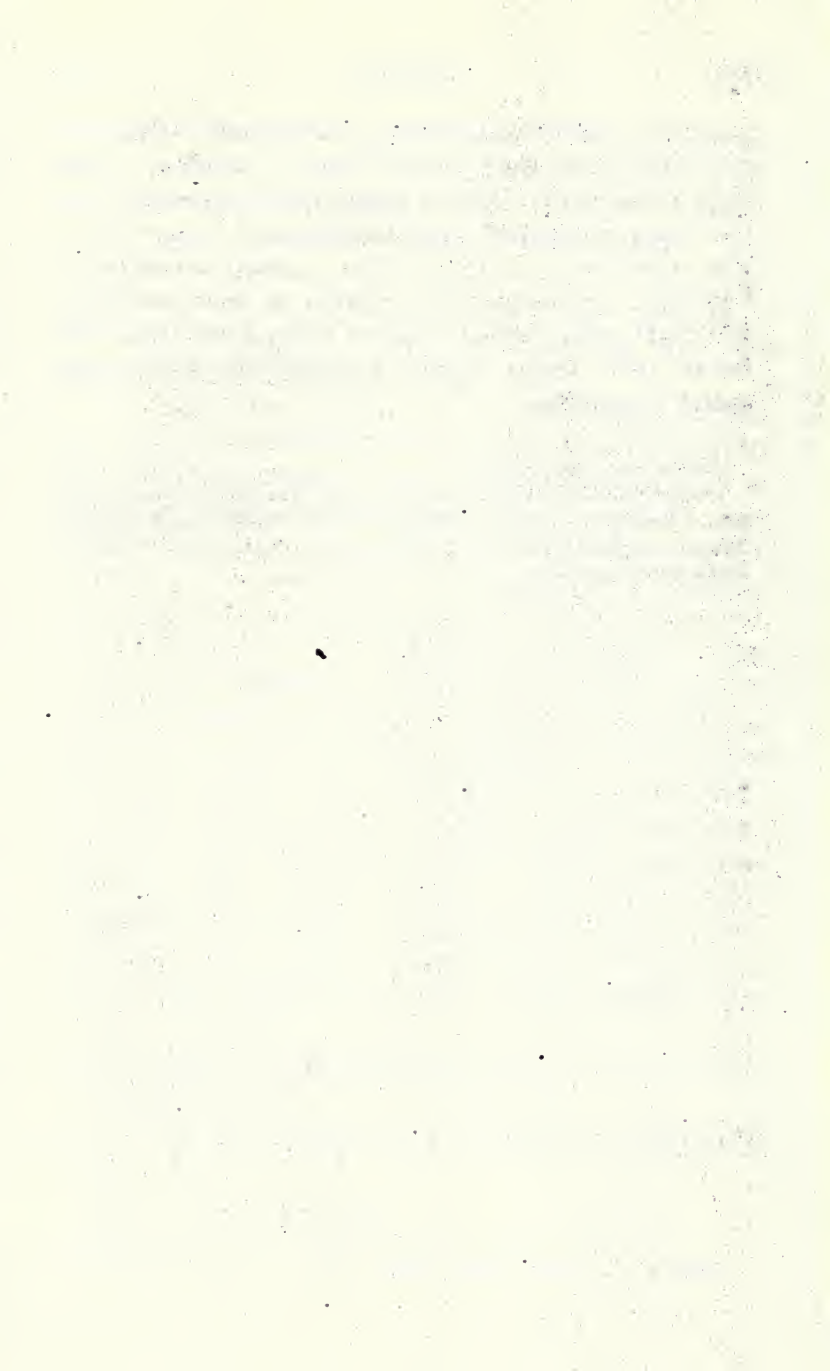


incorrect. Hensleigh Wedgewood gives a fantastic derivation from the Welsh "gwyl," a holiday.<sup>1</sup> Sullivan connects it with the Irish "gial," a pledge.<sup>2</sup> But these are farfetched explanations and unnecessary, The word having obtained its general meaning of "society," was naturally applied to both merchant and craft guild, although their aims were quite different from those of the Anglo-Saxon unions and social fraternities.

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<sup>1</sup>*English Etymology*, I-19.

<sup>2</sup>O'Curry's *Irish*, I-ccxvi. Cf. in general Thorpe, Ducange, Spelman, *Glossary*, s. v.; Merew. and St. 14, 294, 353, 600; Lucy Smith in *Ord.* xix; Schmid, Index, 603; Wilda, cap. 1; Hartwig; Feith, (*De Gildis Groninganis.*)



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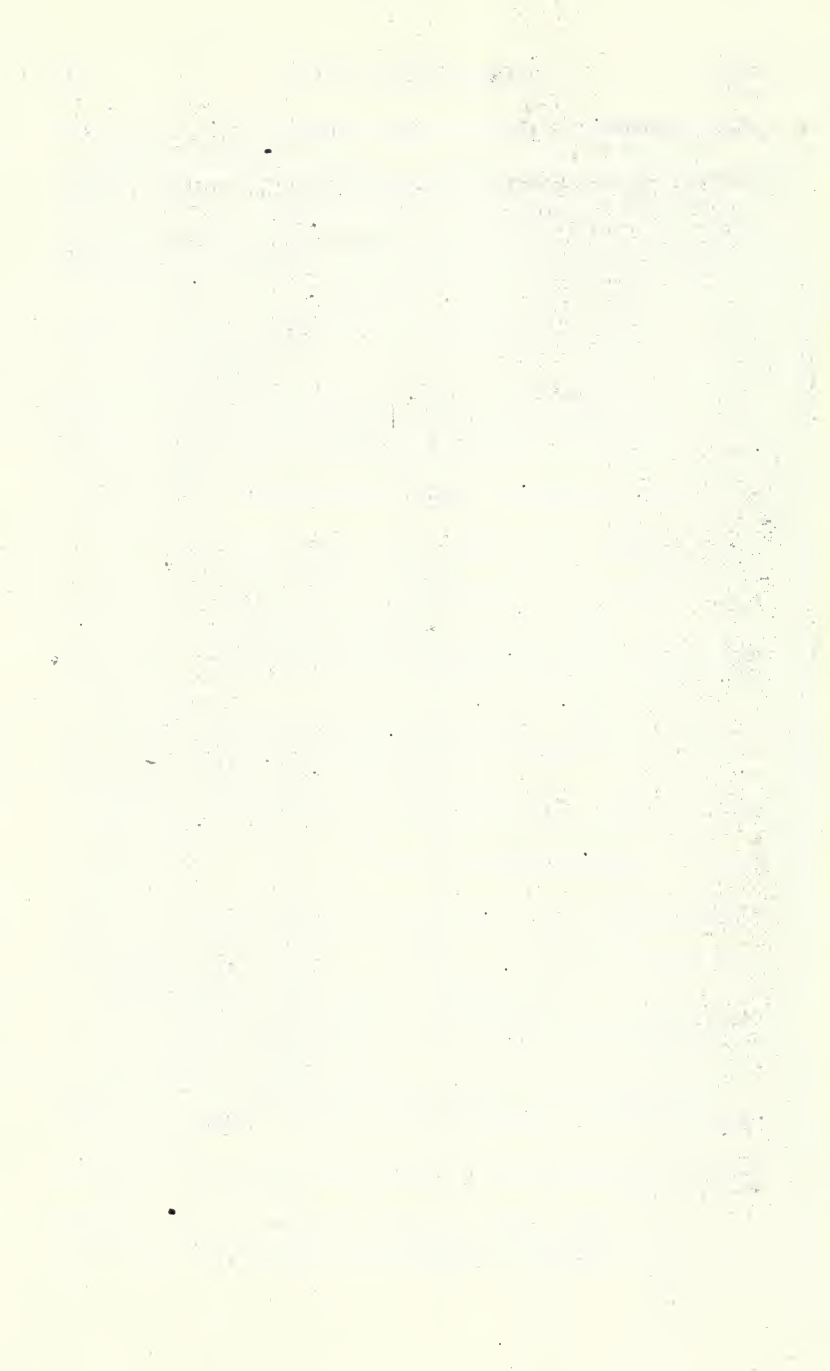
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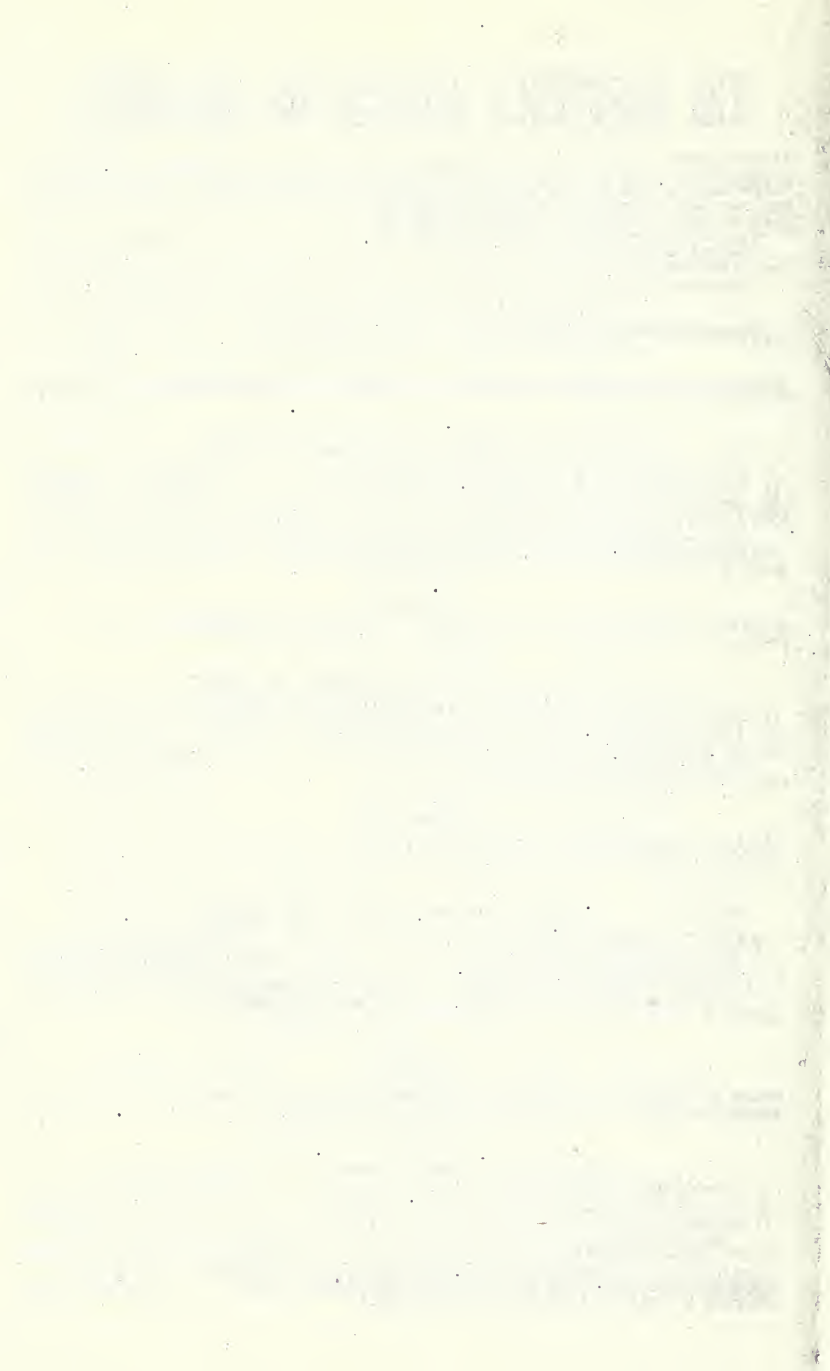
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