

VIII

*THE BOROUGH OF PRESTON AND ITS
GILD MERCHANT¹*

It is not here proposed to follow the example of those who have hitherto written on the history of the Borough of Preston and to commence the subject with an account of the state of England when it was populated by the Ancient Britons; nor, save for the respect which is due to those who have gone before, would it have been thought worth while to make any reference to the advent of the Romans. For, if we were to devote our attention exclusively to that locality which is now called Preston, we should scarcely learn that any such people as those last named had ever come to these shores. A Roman road is said to have crossed one of the main streets of the town,² but there is no trace of any walls, and, so far as is known, only one coin and no pottery has been found.³ The Roman Station, which was discovered by Mr. Hardwick⁴ on the south bank of the Ribble near Walton Bridge, and wrongly identified by him with Coccium (probably Wigan), is not and never has been in Preston, while it would appear to have been, at the most, merely a small fort to guard the passage of the river. The popular tradition, referred to by Camden, to the effect that Preston was formed from the ruins of Ribchester (Bremetennacum), has no warrant in history and would considerably overestimate what is known of the importance of that place. Lastly, as to the question whether the *Belisama Aestuarina*

¹ The next celebration of the Gild Merchant, which takes place at intervals of twenty years, will occur in the present year (1902).

² Hardwick, *History of the Borough of Preston*, p. 46.

³ Fishwick, *History of the Parish of Preston*, p. 7.

⁴ Hardwick, pp. 82 et seq.

mentioned by Ptolemy is the mouth of the River Ribble, let learned antiquaries wrangle; but that Rigodunum, forty degrees to the east, referred to by the same geographer, is not Preston, seems to be fairly certain.⁵

The history of Preston, therefore, commences not with the Ancient Britons or the Romans, but, as the name implies, with the Saxon tun or township of the Priest. But when we have mentioned this, and further stated that the Hundred of Amounderness belonged at one time to the Abbey of Ripon (705),⁶ then to the Cathedral Church of St. Peter at York (930),⁷ and at a later period to Tostig, son of Earl Godwin and Earl of Northumberland, we have said practically all that is known of the town and neighbourhood until after the arrival of the Normans.

In Domesday all modern Lancashire north of the Ribble, with parts of Cumberland and Westmoreland, is placed under the heading 'Agemundrenesse' and surveyed with Yorkshire. Like that county it was scantily populated, for the East and the South of England, then and for some centuries, occupied the position of pre-eminence, both in wealth and population, which has since passed to the North and the Midlands. Its poverty and insignificance can be best estimated by noticing the scanty details which are set forth in the Conqueror's rate-book. Under the head of 'Agemundrenesse,' we read, 'In Prestune Earl Tostig had 6 carucates rateable to the Geld. To it these lands belong.' And then follows a list of sixty-one townships situate in what is now the modern Hundred of Amounderness, but also including Ribchester, which has since become part of Blackburn Hundred, and rated in the aggregate at 168 carucates. The extract concludes with the following sentences: 'All these villis belong to Prestune. And (there are) 3 churches. In 16 of these there are but few inhabitants, but how many there are is not known. The rest are waste. Roger of Poitou had (the whole).'

⁵ Watkin, *Roman Lancashire*, pp. 2, 3, 205; Hardwick, pp. 18-37.

⁶ *The Historians of the Church of York* (Rolls series), i. 26.

⁷ Ibid. ii. 339, 475, and Whitaker's *History of Richmondshire*, ii. 419, where the supposed gift of Athelstan is set forth. The charter may possibly not have been intended to prove anything more than that the district was included in the diocese of York, which was certainly the fact.

The words in this extract of which historians would most like to know the full meaning are the Latin terms 'pertinent' and 'jacent ad,' which have been translated as 'belong to.' In what sense can it be said that all these other villis and townships 'belonged to,' 'pertained to,' or 'lay in' Preston? Professor Maitland⁸ would answer that they 'belonged to' Preston in the sense that they were 'geldable' or paid their danegeld there, defining the 'manerium' of Domesday not as the thirteenth-century manor with its courts leet and baron, its demesne lands and villeins, but as the place where danegeld was paid. The objections to this theory have been ably urged by Mr. James Tait⁹ and Mr. J. H. Round,¹⁰ who maintain that the words denote a 'tenurial' and not a 'fiscal' relationship, though they must not be understood, any more than Professor Maitland, to regard the 'manerium' of 1086 as anything like the definitely organised economic unit that it became in later times.¹¹ It is interesting to note that the townships of Halton and Whittington, further to the North, seem to have occupied a precisely similar position, with regard to certain surrounding townships, that Preston held in relation to its satellites, but, whereas Lancaster has increased and Halton has decreased, the Priest's town still maintains that position of pre-eminence in its neighbourhood that it held in 1086.

The statement that Roger of Poitou had been lord of Preston and its subsidiary townships is of considerable interest, for it is probable that to his influence must be attributed the customs or by-laws which, as expanded in later

⁸ Maitland, *Domesday Book and Beyond*, passim.

⁹ *Engl. Hist. Review*, xii. 768-777.

¹⁰ *Ibid.* xv. 398.

¹¹ The following are the only references to the 'manor' of Preston that have been found:—In 1292 Edward I. claimed from his brother Edmund the manors of Preston, Rygeby, and Singleton (*Plac. de Quo Warr.* 20 Ed. I. Lanc. Rot. 13 d). In 1295 a 'nativus' of the King's, of his manor of Preston, is mentioned (*Mem. Scacc.* Trin. T. 25 Ed. I.). In the reign of Edward III. the manor of West Preston (*sic*) was taken into the hands of the King, 'occōne guerre int' dñum Regem et illum qui se dicit regem Franc.' (*Inquis. ad Quod Damnum*, 13 Ed. III., n. 49). Though this last extract is placed under the head of Lancashire, it seems doubtful whether it refers to Preston. The manor mentioned was evidently in the hands of an alien priory, and therefore taken into the King's hand during the war with France. There is an East Preston near Littlehampton in Sussex, and West Preston may possibly have been near there.

times, formed that ancient Custumal of Preston, the true significance of which has for the first time been set forth by Miss Bateson.¹² Roger of Poitou was a younger son of Roger of Montgomery, Earl of Shrewsbury, and obtained his distinguishing appellation from his marriage with a Poitevin heiress. He was given the Hundred of Amounderness and the land between the Ribble and the Mersey by William I., but was afterwards deprived of these possessions for some unknown cause. Restored by William II., he again lost his estates through his opposition to Henry I. His father, Roger of Montgomery, was a kinsman of William Fitz-Osbern, Earl of Hereford, the Seneschal of the Conqueror, and seems to have imitated his relative's practice of conferring upon townships, in his English demesnes, rights and privileges similar to those granted to his French *bourgs*. The customs of the little town of Breteuil in Normandy, which grew up round Fitz-Osbern's castle, served as a model for the grants made to those English towns which acknowledged Fitz-Osbern or his relatives as lords; so that we find that 'what a Lorris-en-Gâtinois or a Beaumont-en-Argonne was for the smaller boroughs of France, the distant and little-known Breteuil was for those of England.'¹³ According to Miss Bateson, the aim of the lords who conferred the law of Breteuil upon the inhabitants of these favoured townships was to carry out a scheme of burghal colonisation, and by means thereof to establish points of order in troubled or thinly populated districts. This scheme was carried out by granting burgages of a fixed size, subject to a yearly rent of 12*d.*,¹⁴ and by conferring upon the holders of these burgages certain rights and privileges, chief amongst which was the fixing of the 'mercy' (*misericordia*), or payment made to the lord for a breach of the law, at a definite amount, which was very generally a shilling.

By other clauses of this local law the townsfolk of Preston were granted the right of free marriage; the period of the lord's credit was limited; the duty of bearing arms with the

¹² *Engl. Hist. Review*, xv. passim.

¹³ *Engl. Hist. Review*, xv. 74.

¹⁴ The 12*d.* rent is not actually recorded in the Custumal, but a 12*d.* relief is mentioned.

lord was placed upon a moderate basis ; a year and a day was fixed as a period of limitation for claims, and residence in the town by a villein for that length of time conferred freedom upon him ; provision was made for the administration of the goods of an intestate ; the townspeople were permitted to take a small toll from strangers frequenting their market ; and a few other privileges were granted, all with the intention of making life more certain and less burdensome, and thus inducing people to settle in the town. And that Preston should be selected out of the townships of Amounderness need occasion no surprise ; for though we have no knowledge of any castle ever having been erected, round which a borough and market might grow up for the profit of the lord, yet its geographical position, on rising ground close to the first ford of the Ribble above the sea, combined with the fact that it probably was the moot-stow for the Hundred, and was possessed of some indefinite superiority in 1086, easily marked it out as a suitable place for the establishment of a centre of law and order. Through the skilful work of Miss Bateson, Preston now stands revealed as the daughter of a small Norman town, though its resemblance to its parent in course of time became somewhat difficult of recognition through difference of environment and local circumstances.

Preston also possessed an adopted parent in the town of Newcastle-under-Lyme. What it was or who it was that induced the burgesses of Preston to select the customs of this town as those which they desired for themselves we know not, but we learn from Madox that the men of Preston gave Henry II. one hundred marks to have by charter the same liberties that the men of Newcastle had, and that charter forms one of the most cherished records of the borough.

Dr. Gross maintains that Preston also owed something to the City of London,¹⁵ but he would seem to have misinterpreted the facts upon which he bases this statement. In 1628 the Town Council ordained that from thenceforth for ever there should be within the said town 'a Companie or ffraternitie called Wardens and Companie of Drapers,

¹⁵ Gross, *Gild Merchant*, i. 251.

Mercers, Grocers, Salters, Ironmongers, and Haberdashers,' which should have power, with the consent of the Mayor and Common Council of the town, to make laws for the better ordering of the said trades, and for the government of the said Company.¹⁶ In 1635 the Company of Salters of London certified to the Wardens of the Preston Company that traffic in flax and hemp properly pertained to the trade of a salter. It is plain from the full text of the order of the Town Council that this new company that was formed was to have no share in the government of the town, and the regulations contained in the order were, so far as can be gathered, framed by the Council and not imported from London or elsewhere. They are simply rules designed to prevent strangers carrying on any of these particular trades in the town, similar to but more limited in scope and more stringent in effect than some of the orders issued at the different Gild meetings, and, we can scarcely doubt, framed and published at the request of prominent members of these trades who obtained the sanction of the Council to form themselves into a company to enforce them.

But we have proceeded too rapidly, and must return from the reign of Charles I. to a much earlier time. In a lecture given three years ago in Preston by Professor Maitland, the lecturer urged that some effort should be made to discover its town fields, and pointed out their importance in the history of a town. The materials for their reconstruction are very slight indeed. The earliest map that shows the names of the fields is Lang's map of 1774. This map, which has recently been lost, is only known to us now by the reproductions of parts of it which appear in Hardwick's and Hewitson's histories, and these reproductions, unfortunately, do not cover the whole of the borough. The deeds which remain are few in number, and relate chiefly to the possessions of the Hoghtons,¹⁷ and of the White Canons (of the Premonstratensian Order) of Cockersand Abbey.¹⁸ These last-named

¹⁶ Abram's *Memorials of Preston Guilds*, pp. 41, 42.

¹⁷ For the Hoghton charters see notes in the *Preston Guardian* from July 3 to August 28, 1880.

¹⁸ *Cockersand Chartulary* (Chetham Society Publications, No. 39, New Series), pp. 216-225.

deeds, of which there are twelve, all executed between the years 1230 and 1255, include conveyances of land situate both in the vill and in the 'territory,' or town fields, but unfortunately the names Oldfield, Newfield, Dustysargh, &c., are now quite lost, and convey no idea of locality to us. Vaguely, we may say that the meadow of the town was probably on the west and south, and the arable fields on the north, while the burgesses pastured their cattle on the Marsh and the Moor, and turned their swine loose to obtain pannage in the king's forest of Fulwood. We learn that the meadow was at the time of the deeds held in severalty, and we also notice that in one instance the grantee, Master William de Kirkham, had to pay to the township on the feast of St. Michael in respect of the land conveyed to him the third part of 7*d.*, a sum which begins to have a familiar ring when we come to talk of the Gild Merchant.

We next proceed from 'commonness' to 'corporateness,' and have to deal with Preston as a borough. What the different meanings of this word were until it finally settled down to signify a town with a corporate existence is very difficult to ascertain, nor does any test seem to be quite adequate. At the time of Domesday, however, it seems probable that the name 'burgus' was given to every place which enjoyed burgage tenure, though the township might be very small and subject to a lord. In 1086, Penwortham, just across the Ribble, with its six burgesses, three radmen, eight villeins, and four neatherds, grouped round the recently erected royal castle, was a 'burgus.' In the sense, therefore, in which the word was used at this period, Preston became a borough when the inhabitants obtained burgages under the provisions of the Law of Breteuil.

Subsequently, the granting of charters by the King or the local lords, which conferred various privileges, such as the commutation of the ferm,¹⁹ and caused towns to become more independent and self-sufficing, combined with the appearance

¹⁹ Preston was let to ferm by Henry II. for the sum of £15. It was purchased under the Commonwealth in 1650 and repurchased after the Restoration in 1676. See Baines, *History of Lancashire* (ed. by Croston), v. 301 n. and 309, and Hardwick, *op. cit.* p. 278.

of a mayor, due to the direct or indirect influence of the French communal movement, gradually differentiated the larger boroughs from the smaller ones. In the thirteenth and fourteenth centuries the government began also to draw distinctions for the purposes of taxation and parliamentary representation, until the lawyer or the historian of later times finds it difficult to say at what precise point in its development a town became technically a borough.

At one time it was supposed that when a town received a charter from a monarch it thereby became a borough, and thus we find Madox²⁰ writing that Preston was made a borough by Henry II. in the twenty-sixth year of his reign, when the men thereof gave one hundred marks to have by charter the same liberties as the men of Newcastle-under-Lyme. And here it may be remarked that Preston is a well-chartered town. There is some evidence to support the belief that Henry I. granted it a charter,²¹ while, in addition to the charter of Henry II. already referred to, it received a charter from John when Count of Mortain and another from him when king; two from Henry III.; one from each of the following kings: Edward III., Richard II., Henry IV., Henry V., and Henry VI.; one from Philip and Mary; one from Elizabeth; two from the second Charles; and finally one from George IV. It is probably the generally received belief in the lost charter of Henry I. that has caused the statement to be made that Preston is a borough by prescription.

If corporate action is to be taken as a test, we may infer that Preston was certainly a borough in the middle of the thirteenth century, for in the deeds of Cockersand Abbey the burgesses are represented as confirming certain conveyances by affixing the common seal of the town.

After all this, it comes somewhat as a shock to discover that, in 1292, Preston was decided not to be a borough. In that year the bailiffs and the community of the borough of Preston were summoned to answer the Lord King by what warrant they claimed to have a free borough, a market,

²⁰ *History of Exchequer*, p. 274.

²¹ Abram, p. 1.

a fair, and other privileges. The bailiffs replied that King John, when Count of Mortain, granted and confirmed to them all the liberties and customs which Henry II. had given and confirmed, and they produced the charter which John had given them before he became king. The counsel for the King replied that Richard I. had been in possession of the liberties, to which the bailiffs answered by putting in the charter of John when king. Asked if Richard had been in possession of the liberties, they did not reply. Further asked if they paid anything for these customs, they replied that they used to pay the King 15*l.*, which then they paid to Edmund, brother of the King, by the direction of the lord King Henry his father. Eventually the liberties were declared to be in possession of the King, because Henry II.'s charter to Preston did not set out the privileges granted, and the bailiffs were unable to show that the borough of Newcastle-under-Lyme had liberties of this nature. However, a payment of ten marks for a delay of execution seems to have set the matter right.²²

Three years later Preston was represented in Parliament by William Fitz-Paul and Adam Russell, and thus fulfilled another definition of a borough, as a place which returned burgesses to Parliament.

Lastly, when in 1332 Parliament drew a distinction between boroughs and counties, and granted the King a tenth from the former and a fifteenth from the latter, Preston was differentiated from the wapentake of Amounderness and paid as a borough,²³ the record also showing that it was the wealthiest place in the county, and that it still retained the position which it held in 1227, when it paid in tallage fifteen marks, while Lancaster paid fourteen marks, Liverpool eleven marks seven shillings and eightpence, and the 'town' of West Derby seven marks four shillings and fourpence.²⁴

In the Custumal we find mention made of a 'prefectus'

²² *Plac. coram Rege*, an. 20 incipiente 21 Ed. I., Rot. 59 a. See also Hardwick, p. 122, and Fishwick, p. 23.

²³ *Exchequer Lay Subsidy Roll*, Lanc. and Cheshire Rec. Soc.'s Publications, Miscellanies (1895), vol. ii. pp. 54, 72. Cf. also, for 1342, Smith's *Records of Preston Parish Church*, p. 8.

²⁴ Hardwick, p. 353.

or 'prepositus,' two 'pretors,' and a 'justiciar' or 'justiciars.' By what we can gather from the slight indications in the text, we may perhaps lay down with some hesitation that these different officials represented the three diverse elements that went to the formation of the borough. The prefect or reeve, who presided in the Portmoot or Borough Court, summoned the burgesses before him and granted burgages, standing for the burgess element, the pretors, who collected the ferm, representing the King's influence, and the justiciar or justiciars, who led the inhabitants in forays and expeditions, probably personifying the power of the lord.

In the years 1274 and 1275 the bailiffs and commonalty were plaintiffs in an action against Henry de Lacy, Earl of Lincoln, to try the right to a fishery in the Ribble,²⁵ and when some eighteen years later the writ of *Quo warranto* was issued against the burgesses, to try the issues previously mentioned, we find that the bailiffs, Adam, son of Ralph, and Robert, son of Roger, appeared to defend their town. We have also a deed executed in 1313²⁶ conveying certain land on the New Moor, and at the head of the list of witnesses appear the bailiffs of Preston. If it were safe to infer from these three facts that the bailiffs were the chief officers of the town at this period, we should be able to fix, within fifteen years, the institution of the office of mayor. For in the next glimpse we get of the government of the town (obtained from certain orders published in 1328²⁷) we see a mayor, two bailiffs, and a body referred to as 'the Twelve of the Commonalty whose names are in the previous Gild.' Aldermen also we find, for one order is to the effect that all manner of burgesses that have been mayors or bailiffs beforetime shall not tamper with the Twenty-four that elect the mayor, but shall sit upon the bench with the mayor as aldermen. Here it would seem that the town was ruled by the mayor and the bailiffs with the assistance of the Twelve of the Commonalty, who would appear to have been a sort of jury to determine the right of admission to the freedom of the borough. If this body be the same as

²⁵ Hardwick, p. 123 ; Fishwick, p. 22.

²⁶ Abram, p. 5. ²⁷ Ibid. p. 8.

that referred to in the orders of the Gild of 1397,²⁸ its powers are either more fully expressed or they have grown in the interval, for in addition to their position as guardians of that exclusive privilege, the freedom of the borough, the Twelve are there stated to be ordained, with the mayor, for the governing of the liberties and customs of the town. When, in the rolls of the Gilds of the sixteenth century, orders of previous Gilds are recited, we notice that wherever the phrase defining the Twelve appears in the orders of the earliest Gilds the word 'Council' is substituted in the recitation.²⁹ This, of course, is not proof positive that the later Town Council was the lineal descendant of the earlier Twelve, but it at least shows that that was the opinion held at a period less than two centuries removed from the time when such a body existed. In 1566 Queen Elizabeth graciously granted that there might and should be 'Twenty-four men of the more discreet and worthy men of the said borough of Preston, who shall be assisting and aiding the said Mayor and Bailiffs,' and who were to be called the Principal Burgesses of the same borough and to be the common council of the said borough,³⁰ but whether this charter caused the doubling of the number of the Council or merely confirmed an increase previously made we have no means of ascertaining. The charters of Charles II. continued the existence of this body under the name of Capital Burgesses,³¹ and it was, like most borough councils until the passing of the Municipal Corporations Act, a self-chosen co-optative body, appointing and removing its members as it deemed fit.

From the order quoted above we have seen that aldermen were in existence in 1328, and that they sat on the bench with the mayor when the Election Court was in session. The Gild Courts also are always held before the mayor, three stewards, and a varying number of aldermen. When the number of the Council was increased to twenty-four some of the members possessed this title, though it is curious to note that the existence of any such persons or of the name itself is quite

²⁸ Abram, p. 11.

²⁹ Ibid. p. 21.

³⁰ Ibid. p. 25.

³¹ Ibid. pp. 56, 68.

unrecognised by any of the charters until Charles II., in his second charter to the borough (1685), directed that seven members of the Council should be aldermen.³² They are generally referred to as 'the Benchers commonly called Aldermen,' and an interesting account by Dr. Kuerden of the Gild of 1682 (held three years before the second charter of Charles II.) contains a few particulars concerning them. In describing the Town Hall, he says: 'It hath a decent cheq, and above an elevated bench where, at the three Portmotes or the two leet days and the Grand Leet or Court of Election for new magistrates, sits the Mayor, Aldermen, and such gentry as attend these meetings, and likewise at their Court of Common Pleas, held each three weeks for deciding suites and controversies.'³³ Again, under the head of 'The Method of Solemnization of a Guild Merchant,' he states that at a Council meeting held immediately after the Easter Court the Grand Seneschal or Clerk of the Gild is appointed, the three high stewards are chosen out of the aldermen, and then twelve of the principal burgesses are elected out of the Council 'to be Aldermen of the Guild, and to sit as Benchers with the Gylde Mayor.'³⁴ In another place, this historian of the borough lays down that it is the duty of the third steward and the benchers to appoint a fine for any new compounder, or court-roll burgess, or admitted apprentice, who required confirmation of his freedom at the Gild.³⁵

From these references, and from analogy with what we know of the constitutions of other towns, it is possible to formulate a theory as to the origin and subsequent history of the Council. The Twelve of the Commonalty seem to correspond to the Four-and-twenty brethren of the bench or Jurats of Leicester,³⁶ and to have been a jury of the Portmoot or Borough Court and as such possessed of both judicial and administrative functions. They represent the oldest form of local government known, the court at whose sittings 'all the

³² Abram, p. 69.

³³ Kuerden, *Brief Description*, p. 5. With the grand leet or court of election compare the Michaelmas sitting of the Manchester Court Leet. *Manchester Court Leet Records*, edit. by Earwaker, i. Introd. p. xx.

³⁴ Kuerden, p. 48.

³⁵ *Ibid.* p. 63.

³⁶ Bateson, *Records of the Borough of Leicester*, ii. xlv. The number twelve is somewhat unusual, but occurs at Ipswich. Gross, *Gild Merchant*, i. 23.

hole comonalte' ³⁷ were present and shouted their consent to the dooms uttered by the benchers.³⁸

Further, it is tempting to suggest that the Twelve who sat on the bench of the Portmoot are identical with the aldermen who sat there when the election court was conducting the business of appointing the town's officers. When in Leicester the burgesses lost the right of electing the brethren of the bench, these last-named became a close body, receiving accessions to their numbers only from those who had held office either as mayors, sergeants, or chamberlains.³⁹ A similar state of affairs seems to have come about in Preston, and we see ex-mayors or ex-bailiffs becoming benchers automatically. This identification is supported when we find, in 1682,⁴⁰ the 'benchers commonly called aldermen' performing the duty which had been carried out by the Twelve in 1328, viz., fining those 'that no freedome have be Gyld Marchand.'⁴¹ The supposition would also serve to explain the fluctuation in the numbers of the aldermen, which would increase or decrease as new men were admitted or excluded from holding office.⁴²

The increase in the numbers of the Council may also be paralleled in the history of Leicester. There to the Four-and twenty were added a further number of Forty-eight who took the place of the commons who lost their right to attend the 'common halls' and share in the government of the borough.⁴³ Is it not possible that that ousting of the commonalty which was accomplished at Leicester by statute in 1489 was completed at Preston by charter in 1566, and that the increase in the number of the Council, whenever accomplished, which would appear at first glance to be a concession to democracy, really marks the complete political death of those who formerly elected their governors in the Portmoot?

³⁷ Abram, p. 8.

³⁸ For the Four Benches and the Doomsmen, see Pollock and Maitland, *History of English Law*, i. 543; *Engl. Hist. Review*, x. 732.

³⁹ Bateson, *Leicester*, ii. li.

⁴⁰ See note 35 on preceding page.

⁴¹ Abram, p. 8.

⁴² There appear to have been as many as seventeen at the Gild of 1415, and so few as ten at that of 1662. The number of the aldermen seems to have been a matter of dispute in 1598. *Ibid.* p. 84.

⁴³ Bateson, *Leicester*, ii. xlvii.

The mayor was selected and appointed by a body of twenty-four who were annually elected for the purpose.⁴⁴ These twenty-four, who must not be confused with the twenty-four Capital Burgesses, were precluded from holding any office for the next year and were chosen from amongst the burgesses by 'twoe auncyent, discrete, and honest burgesses, inhabitants of the town,' who were denominated 'elisors.' Both these 'elisors,' according to the orders of the Gild of 1500, were chosen in open court by the mayor himself.⁴⁵ But some objection seems to have been taken to the nomination of both the 'elisors' by the mayor, for we find interlined in the orders of the Gild of 1562 the following words: 'Excepted always and foreprysed that it shall be lawful to the Comonaltie, being Burgesses of the said town or the more part of them, to elect and chuse the one of the two Ancient Burgesses from tyme to tyme for the choice of the said Twenty-four Burgesses yearly as is aforesaid.'⁴⁶

These orders seem clear enough, but they are not easily reconcilable with the statements appearing in the pleadings of two important cases which were tried in 1527 and 1528,⁴⁷ in both of which James Walton, an ex-mayor, was plaintiff, and Sir Richard Hoghton, of Hoghton, near Preston, and John A' Powell, were respectively defendants. From these cases we gather that the general body of burgesses was possessed of some share in the election of the mayor, and that it was customary to appoint two impartial persons out of the clergy resident in the town to take the examination of the burgesses 'for the gift of their voices.' According to the plaintiff, Sir Richard came to the Court Leet or Court of Election held at the Moot Hall, and with a 'heygh voice and angry countenance' declared that his chaplain, Thomas Bostocke, should be one of the priests to examine the voters. The plaintiff, 'for fear of murder,' so runs the record, called upon Sir Richard in the King's name not to meddle or

⁴⁴ The Mayor of Exeter was chosen by a similar body: Freeman, *Exeter*, p. 146. See also for Coventry, Dormer Harris, *Life in an Old English Town*, p. 98.

⁴⁵ Abram, p. 21.

⁴⁶ Ibid. p. 24.

⁴⁷ This account is taken from Fishwick, pp. 38-44.

interrupt; but he answered 'scornfully and yn derysion,' 'Commandest thou me in the Kinges name? Get the hom to thy soper;' and then he called him a 'falles knave.' The plaintiff, in fear of his life, left the Moot Hall with about sixty burgesses, and afterwards fled from the town. Sir Richard and his following then elected Nicholas Banaster to be mayor, appointed a bailiff and a sergeant, removed the town-clerk from his office and appointed John A' Powell in his place, which, the pleadings say, 'was contrary to the law, he being a Welshman born.' The reply of A' Powell charges the plaintiff with wishing to appoint his own nominee, a William Wall, 'a man who had got many into trouble,' and goes on to state that when Walton had left the Moot Hall a certain John Hoghton, who had previously been mayor, sat on the bench and conducted the election; that priests were sent for from the church to act as 'markers,' but that they dare not come, some for fear of the vicar, who was brother to Wall's wife, and others because they were commanded in the name of the Earl of Derby, by whose gift they occupied their chantries, not to come; and that the ex-bailiffs and one 'Henry Clyfton, a gentleman of sadde and good conversation,' were consequently appointed in their place. The last item is of some interest, for it contains a possible explanation of the dispute, which may have been either a quarrel between the in-burgesses in the person of the mayor and the out-burgesses as represented by the knight of Hoghton, or a dispute between an oligarchic governing clique and the general body of burgesses, or a fight for influence between the waning power of the old-established family of the Hoghtons and the growing power of the upstart Stanleys.

In the result, the election of Banaster was declared void, as being contrary to the ancient usages and customs of the town, and it was ordained that Christopher Haydock should occupy the 'Rome of Mayraltie' by the name of Governor appointed by His Majesty for that year until the feast of St. Wilfrid. Sir Richard Hoghton's interference was declared to have been wrongful,⁴⁸ and certain articles and ordinances were drawn up for 'the good rule, tranquility, and restfulness

⁴⁸ For other instances of interference in municipal affairs by neighbouring lords and landowners, see Freeman, *Exeter*, p. 164, and Hunt, *Bristol*, p. 61.

of the Kinges town of Preston.' These articles forbade foreign burgesses to meddle in the election of the mayor or bailiff, re-enacted the old rule that no person should be mayor who had not previously been bailiff, and laid down that the mayor and his successors should every year appoint a day in the week preceding the feast of St. Wilfrid, and should warn the burgesses to assemble in the common hall to appoint a new mayor, bailiff, and sergeant. When this was done the mayor and those who had previously been mayors should appoint an honest, sad, and discreet burgess living in the town, and the residue of the burgesses assembled should appoint another; that these two persons should receive the votes of the burgesses for the candidates for the offices of mayor, bailiff, and sergeant. No mention is made of the 'elisors,' for the two persons who were to be appointed, one by the mayor and the ex-mayors, and the other by the other burgesses, seem to have occupied a position differing but little from that held by a presiding officer at modern elections. No reference is made to the Twenty-four, either in the account of the voided election set forth in the pleadings or in the articles that were drawn up for future guidance. A possible explanation of this may be obtained by supposing that this body acted in a similar capacity to those which formerly existed in many boroughs,⁴⁹ and merely presented the person who had the majority of votes. Their written presentation would form the title of the new mayor, and it would probably be in accordance with legal phraseology to say that the mayor was elected and chosen by them, though as a matter of fact their duties would be purely ministerial.

In the charter of Queen Elizabeth, the method prescribed is similar to that which prevailed under the orders of the Gild of 1500, except that, instead of the mayor choosing both 'elisors,' he selected one, and the Council the other.⁵⁰

But even such a sacred document as a charter could not bring peace, for in 1598 a series of orders was adopted, the

⁴⁹ E.g. Holt in Denbigh. See R. v. Rowland, 3 Barn. and Ald. p. 130.

⁵⁰ This method of procedure is also authorised by the two charters granted by Charles II.

first of which stated that 'great variance, stryffe, and contencon' had arisen over the question of the selection of officers, for the avoiding whereof it was 'ordered, agreed, and concluded' that in future the senior alderman should be mayor, and that succeeding mayors should be chosen from the aldermen according to their seniority.⁵¹ This decree, though undoubtedly unconstitutional, was not, however, in all probability as revolutionary as might be imagined, for a glance at the names of the mayors of the sixteenth century shows that that position had become the monopoly of the members of a few families, such as the Waltons, the Walls, the Banasters, the Hodgkinsons, and the Catteralls, from whose ranks the aldermen were drawn. On many occasions some member of these families was mayor for several years in succession, and it does not seem unlikely that this order was intended as a direction to the Twenty-four to parcel out the sweets of office amongst the leading families with some degree of equality, and thus prevent one man, or one family, occupying the mayoralty for an undue length of time. But whatever was the intention of the order, it undoubtedly marks the total decay of the powers of the Twenty-four, if they ever possessed any real powers; for, though they continued to meet from year to year and to go through certain formalities, this order, after being confirmed at the Gild of 1602, remained in force till modern times.

In 1642, Adam Mort, a strong Royalist, was elected mayor for the ensuing year, but refused to act, either because he was too busy serving the King's interests, or because the sympathies of a majority of the corporation were with the Parliament. The Council, 'having maturely considered of the indignitie and disgrace' put upon them by this refusal, fined the recalcitrant burgess 100 marks, and, having taken counsel's opinion, continued Edmund Werden in that office for another year.⁵²

The salary attached to the office was the sum of five nobles, which was increased in 1703 to ten pounds.⁵³

⁵¹ Abram, pp. 33, 34

⁵² Ibid. pp. 46, 47. Cf. Orders of Gild of 1397, *ibid.* p. 11.

⁵³ Ibid. p. 76.

The bailiffs are the pretors of the Custumal under another name. They collected the revenues of the town and rendered their accounts yearly, under the penalty of the loss of their freedom. One of them was elected or presented by the Twenty-four at the same time as the mayor and called town's bailiff, the other was appointed by the new mayor and called the mayor's bailiff. Prior to 1612, it was their duty to provide 'wine, beare, breade, cheese, ayle, and other bankettinge stuff and provisions' for the entertainment of the Mayor, the Common Council, the Burgesses, and even 'strangers, passengers, and neighbours,' at Easter. But in that year they were relieved of this heavy charge and directed instead to pay the sum of twenty marks to the schoolmaster in part payment of his salary. However, in 1650, William Curtis, one of the bailiffs, refused to pay his share of this sum, and two years later the previous orders respecting the schoolmaster were rescinded, because some of them 'were dissonant to ye laws of this nacon.'⁵⁴

Of the sergeants, like the bailiffs, one was appointed by the Twenty-four and called the town's sergeant or sub-bailiff, and the other by the mayor and called the mayor's sergeant or the sergeant at mace.⁵⁵

There was also an alnager,⁵⁶ and references are to be found to standers for toll, ale-founders, and other inferior officials. By the second charter of Charles II., a recorder was also appointed for the borough.

Lastly we come to the crowning glory of Preston, its Gild Merchant. In Preston, the early charters that we know of are silent on the subject,⁵⁷ but a grant of a Gild Merchant, with Hanse and other customs and liberties belonging to such a Gild, appears in those clauses of the Custumal which Miss Bateson refuses to regard as part of

⁵⁴ Hardwick, pp. 274, 279; Hewitson, *History of Preston*, p. 56.

⁵⁵ The mayor's sergeant took an oath to make arrests and proclamations, and serve all manner of process, and do all manner of executions, and all other things which should appertain to his office, in such manner and form as the 'Sarjeant of the Kay of the Citty of London' did and executed. Kuerden, p. 40.

⁵⁶ Abram, pp. 26-28; Hardwick, p. 47.

⁵⁷ But the charter granted by Henry II. to Newcastle-under-Lyme, whose privileges were bestowed upon the men of Preston, conferred the right to have a Gild Merchant.

the law of Breteuil, but conjectures to have been added from some charter. The earliest Gild of which we have any record was held in 1397, though among the orders of 1328⁵⁸ are some which are referred to a precedent Gild of which we have no knowledge.

In perusing the orders of 1328, the first thing that strikes us is that the qualification for burgess-ship was passing from the original one of holding a burgage to membership of the Gild Merchant, for we notice that the only classes of burgesses mentioned are those made so by court roll, and those whose names were in the previous Gild. Still, it is probable that at this period members of the Gild Merchant were also burgage-holders. We have seen that in the middle of the thirteenth century the curious sum of one-third of sevenpence was the rent payable in respect of some land in the borough, and it is surely not altogether without significance that all through the history of the Gild those whose names appeared in the rolls of the previous Gild were entitled to be admitted on payment of sevenpence. But be that as it may, when we get our first glimpse of mediæval Preston it has already gone a considerable distance in its career of development from a community of landholders to a town of traders, though the transition was far from being complete, for the twelfth order shows that it was customary still for burgesses to be employed at the plough.

Nothing is stated in these orders as to the difference between in-burgesses and out-burgesses, a distinction which became most important in later times, when the right to vote in the election of parliamentary representatives was a burning question; but in the rolls of the Gild of 1397 there appear the names of thirty-three persons who had been out-burgesses or foreign burgesses in the previous Gild. They were nearly all neighbouring local magnates, such as the Banasters of Walton-le-Dale, the Hoghtons of Hoghton,

⁵⁸ It has been generally assumed, following Dr. Kuerden, that there was a Gild in 1328. The orders of that year, however, if carefully read, will not be found to furnish any evidence that they were passed on the holding of a Gild, but will rather lead us to believe that they were orders passed by the Portmoot. Possibly the error has arisen through supposing that the words 'in the tyme of our last Gyld Marchand had' implied that a Gild was being held at the time when the orders were passed.

and the Elstons of Elston, who, in all likelihood, attended the borough to join in the festivities, and were granted the freedom as a mark of respect. They were probably, in reality as well as in name, out or foreign burgesses, *i.e.* they were not habitually resident within the town, as many of the foreign burgesses were in later days. In the oaths administered to the burgesses residing within and without the borough, the only difference observable between the two classes consists in this, that the former were 'contributory to all manner of charges within this town, as Sumons, Watchs, Contributions, Taskes, Tallages, Scott and Lott, and all other charges,' while the latter were exempt.⁵⁹ But their privileges were invaded by several orders of the Gild of 1500, which, after laying down that no person who dwelt outside the liberties of the town, and lived 'upon biying and sellyng,' should be made a burgess, and limiting the privilege of obtaining a lease of the lands belonging to the town to the in-burgesses, enacted 'that no forreyn or out-burges shall have any libertie but for his own howse,'⁶⁰ which, as explained by the orders of the Gild of 1562, evidently meant that they who lived outside the town were not to be at liberty to buy goods without paying toll on them, except 'thynges necessarye for maynteynyng of their howses.'⁶¹ The justice of these orders can hardly be impugned. While a burgess lived out of the town he escaped those taxes out of which the farm was paid, and by means of which the business of the borough was carried on; it was consequently scarcely fair that he should be allowed the same rights of trade that the in-burgesses possessed. The privilege of buying the articles necessary for his household, and of selling the produce which he had raised, was probably considered to be a fair equivalent for the fee which he paid on his admission to the Gild.

In a similar way is probably to be explained the refusal to allow the foreign burgesses any share in the government or franchises of the borough. When the Tory corporation fell

⁵⁹ Kuerden, pp. 55-58.

⁶⁰ Abram, p. 22.

⁶¹ By an order of the Gild of 1582 they were allowed to *sell* victuals without paying toll (Abram, p. 32).

foul of the Whig families of Stanley and Hoghton, about the middle of the eighteenth century, it was claimed by them that the foreign burgesses, whether resident or non-resident in the borough, had not, and never had, any right to take part in elections. But the judgment of the Court in the dispute referred to above, between James Walton and Sir Richard Hoghton, by implication, if not in express words, recognised the right of foreign burgesses dwelling in the town to take part in the election of the mayor, and the Gild Rolls show that, in 1582, the right of voting in the election of officers of the town, and even the privilege of holding office itself, were obtainable by those foreign burgesses who had lived in the town for a year, a period which was subsequently extended to seven years.⁶² However, these rights would appear to have been lost, for we find that in 1661 it was the in-burgesses only who successfully claimed against the mayor and the Principal Burgesses to elect Members of Parliament, and by an order of the Gild held the next year it was declared that no foreign burgess should have any vote in any court of election within the town concerning the electing of any officers or of any burgess to serve in Parliament, without any such proviso as was attached to the order passed in 1582.⁶³ From this period to 1768, the time of what was locally known as 'The Great Election,' when the House of Commons declared that all the inhabitants of the borough had voices in the election of Members of Parliament, and that the word 'inhabitants' was to be taken in its ordinary signification, and not to be confined to the meaning of in-burgesses, the foreign burgesses who lived in the borough were treated as outlanders, and not permitted to vote at elections.

The stallengers or stallagers of Preston have hitherto been treated with less attention than their importance seems to deserve. It has been too hastily assumed that they were merely persons who paid stallage, a rent for stalls in the market, or those who collected it. That the first stallagers were simple stallholders is quite possible, but it is very evident that in later times the word 'stallager' had a much wider meaning. They are first referred to in the orders of the Gild of 1397,

⁶² Abram, pp. 32, 36.

⁶³ Ibid. p. 54.

where the bailiffs are instructed to make up their accounts 'by the burgage roll . . . and by the chief of those who are stallagers.'⁶⁴ By an order of the next Gild, no stranger was to be stalled by an officer of the town, under a penalty of 3s. 4d.⁶⁵ At the Gild of 1582 their rights of pasture were restricted, and it was also enacted that if any persons who had been mayors or members of the Common Council evil intreated or misused the mayor for the time being they should be 'disfranchised of their ffredome, and so to stand and be as stallingers only.'⁶⁶ There is also a by-law of the Gild of 1602 prohibiting the stallagers from making malt in the town.⁶⁷ Further, they appear three times, and only three times, on the rolls, viz. on those of the Gilds of 1562, 1582, and 1602, where they are treated as a separate class, and in the last-mentioned Gild numbered 248, out of a total of 1,400 or thereabouts.

Amongst the stallagers of 1602 there are to be found a William Willson, musician, a William Gilibrand, 'ludi-magister,' and a George Warren, 'miles.'⁶⁸ In the proceedings of the Court Leet of the borough there are frequent presentations of persons for residing in the borough and not being burgesses. The return to these presentations is generally that the guilty individuals have entered into bonds, been stalled, and paid fines. From these entries, it is possible to state in a few words what the probable position of these people was. Originally they would be townsmen who either did not hold burgages or were not members of the Gild and paid for their stalls in the market, while the burgesses had theirs free. But that the term received an extended meaning is obvious from the above extracts, and in later times it was presumably applied to all those who were not burgesses, but who had obtained a license to reside within the town.

There were two methods of obtaining the freedom of Preston: firstly, admission at the Gild; and secondly, admission by court roll. Applicants for admission by the

⁶⁴ Abram, p. 11.

⁶⁵ Ibid. p. 14.

⁶⁶ Ibid. p. 32.

⁶⁷ Ibid. p. 36.

⁶⁸ He was probably a representative of another branch of the family of Warrens who appear amongst the foreign burgesses of the same Gild. See *Preston Gild Rolls*, Lanc. and Cheshire Rec. Soc.'s Publications, vol. ix. (1884) p. 54.

latter method—which gave a sort of interim possession of the privileges of a burghess until the holding of the next Gild—could be admitted either as in-burgesses or foreign burgesses, but the privilege was a personal one and conferred no right to claim admission upon the children of the person so admitted. Burgesses by court roll do not seem to have been full burgesses, for in 1328 ‘the Maire, bailiffes, and Burges, with all the comonalte,’ ordered ‘be a hole assent and consent that all manner of burges the which is made burges be court roll and oute of the Gyld Marchand shall never be Maire, ne Bale, ne Serjeand, but onlie the burges the which the name be in the Gyld Marchand last made before; for the King gyves the freedom to the burges which arne in the Gyld and to none other.’⁶⁹ Those who were admitted by court roll, on appearing at the next Gild, were entitled to be admitted either as in-burgesses or foreign burgesses (according to their admission by court roll), but they were required to pay again the same fine that they paid on their former admission.⁷⁰

The right of admitting burgesses by this method was exercised by the Council, but the Mayor for the time being had also the right to make three burgesses and no more, ‘unless they be some of the Nobility or other persons of honour and distinction.’⁷¹

But the really important time for obtaining admission to the roll of burgesses was on the occasion of the celebration of the Gild Merchant. So early as 1328 it was ordered that it should be ‘lefull to the sayd Maior, baliffes, and burges, there heyres and successors to sett a Gyld Marchand at every XX yere end or ever if they have nede to conferme chayrters or other distres that longis to oure Francis’ (franchise). But no Gild ever seems to have been held for the purpose or on the occasion of the confirming of their charters. The twenty-year rule also was for a long time in little better case, for the Gilds were never held with any regularity until 1542, from which date onwards to the present day they have been celebrated every twenty years.

⁶⁹ Abram, p. 8.

⁷⁰ *Preston Gild Rolls*, Introd. p. xiii.

⁷¹ *Ibid.* Introd. p. xii; Abram, p. 82.

A similar irregularity is to be observed in the day upon which the celebration commenced, for down to and including the celebration of the year 1562 the days varied greatly. However, from that Gild onwards there has been no departure from the rule that the Gild Merchant shall commence upon the Monday following the feast of the Decollation of St. John the Baptist (August 29).⁷² The day of the celebration would lend some colour to the statement, which is to be found in the histories of the town, that the patron saint of the Gild was St. John the Baptist; and the probability of this being so is confirmed by the fact that the lamb and crosslet, which form the borough coat of arms, are the sacred emblem of this saint.⁷³

During the celebration of the Gild the mayor and stewards had the right to admit any person or persons whatever to be in-burgesses or out-burgesses on payment of such fines and subject to such conditions as they thought proper, or in consideration of their performing services for the benefit of the town, as, for instance, ringing the day-bell and curfew, wintering the town's bull, &c., or even without any payment or consideration at all.⁷⁴ As has been already said, those whose names appeared in the rolls of previous Gilds were entitled to be admitted on payment of 7*d.*, as also were their sons, unless the admission of the father had been for himself alone. Those who were admitted for the first time at the Gild paid sums varying generally from three to forty shillings, according to the probability of their coming to reside in the town and infringing upon that jealously guarded monopoly, the trade of the borough.

In early times women apparently were entitled to be members of the Gild. On the back of the roll of the Gild of 1397 there are the names of sixteen women; the names of six others appear in the roll of the Gild of 1415, another in that of 1459, and another in that of 1542.⁷⁵ An order of the Gild of 1562 lays down that 'all and any Widowes hereafter beyng late Burgesses Wiffes of this Gild or that hereafter shall be

⁷² Abram, pp. 22, 23.

⁷³ Husenbeth's *Emblems of Saints*.

⁷⁴ Abram, p. 32.

⁷⁵ *Preston Gild Rolls*, pp. 6, 8, 9, 11, and 19. Of the sixteen women whose names are given in the Roll of 1397, eleven are stated to be widows; of the six admitted in 1415, four were widows; and 'Elizabeth Clayton,' the woman admitted in 1542, was a widow and a foreign burgess.

made by Gild Merchaunt or by Court Roole shall have and enjoy such liberties and ffredomes during their Widowheade as their husbondes in liff tyme had and enjoyed by reason of their Burgesshippe.' ⁷⁶ The exact meaning of this order is not perfectly clear, but it is certain that the name of a woman never appears in the rolls of burgesses after the Gild of 1542.

In addition to the preparation of the new burgess roll, another important work was also performed. All the by-laws that had been passed at previous Gilds and were still in force were confirmed together with those passed in the interval by the Council, and occasionally the whole body of by-laws or orders were revised and re-promulgated, as for instance at the Gild of 1662.⁷⁷ On the last day of the celebration, the burgesses being summoned, the Gild Book of Orders was held up before them, and, it being demanded by the mayor whether they approved of what was done, 'they with loud acclamation do cry consent.' 'Then doth the Clerk of the Gyld draw back the Book, and affixes the Holy Lamb, &c., the Burrough Seal unto the same, in presence of them all; and then the Mayor and Steward, holding up the Book, say "Here is your Lawe. God bless the King."'⁷⁸

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⁷⁶ Abram, p. 22.

⁷⁸ Kuerden, p. 88.

⁷⁷ Ibid. p. 51.