

Notes on the History of Mediaeval Oxford

By MARY D. LOBEL

ALL who are interested in the antiquities of Oxford will be grateful to Dr. Salter for printing his Ford Lectures (1936) on the early history of the town.¹ They deal with its topography and government in the Middle Ages, the University, and the Oxford Churches; and include an appendix of useful transcripts of some early taxation lists, and Twyne's transcripts² of the rolls of the View of Frankpledge court. Readers will find here in a compact form a mass of detailed information of great interest, tersely presented, and lightened by much dry humour. Its value is increased by the fact that a good proportion of it has not appeared in print before. Students of borough history, however, will regret Dr. Salter's indifference to the problems that exercise them, though they will find many valuable facts from which they may draw their own conclusions.

His views on the beginnings of Saxon Oxford are original and stimulating. He rejects the view that the *burh* of Oxford was constructed by Alfred on the grounds that there is no evidence, but he does not consider the strong reasons put forward by Professor Tait for assigning the document known as the Burghal Hidage to Alfred, nor the military probabilities of Oxford's having been fortified at an earlier rather than at a later date in the campaign against the Danes. Parker's views on the Alfredian mint are quoted to support the non-existence of the *burh* in that reign, but no mention is made of the more recent opinion of Professor Oman that the evidence for Alfred's mint is trustworthy. Oxford, it is suggested, was founded in 912 or shortly before. It is further supposed that the king converted a manor of eight virgates into building sites,³ that he plotted it out, churches and all, and set a wall round it, attracting settlers by giving privileges in trade, and self-government in trading matters. Dr. Salter thus dismisses Parker's view of a gradual evolution in favour of an artificial creation in the manner of a 12th century

¹ *Medieval Oxford*, by the Rev. H. E. Salter. Oxford Historical Society, vol. c; Oxford University Press, 1936. Pp. vi+160; 2 maps. 7s. 6d.

² Some extracts have been overlooked. See MS. Twyne, xxiii, 135, 181, 200-201. Failure to notice the figures on the dorse of the document transcribed on pp. 137-8 has led to the false conclusion that the figure given for St. Martin's is 'incredible,' and that the 'total is too high.'

³ It is worth noting that there were also 8 virgates of the king at Wallingford (*Domesday Book*, 1, 56a).

royal or baronial foundation, and apparently believes that there was no inhabited Saxon vill at Oxford before the construction of the *burh*, for he suggests that St. Frideswide may have been buried at Binsey and translated to Oxford on its creation. Criticisms of this view will at once suggest themselves. In the first place it entails the rejection of the traditional connexion of St. Frideswide's burial-place with Oxford, and the substitution of a hypothetical connexion with Binsey. The absence of any report of the translation is surely remarkable, and of more than negative importance at a time when the skill of the Anglo-Saxon church in exploiting events of this kind was highly developed. The statement that there never could have been any monastic buildings on the site of the mediaeval St. Frideswide's, as it was squeezed between roads on the north and east and the wall on the south (p. 5), hardly affects the period of which we are speaking when there may well have been no such roads, and there was certainly no such wall. Nor does the fact that St. Frideswide's *monasterium* was a collegiate church in 1066 weaken the tradition that it was founded by the Saint in the 8th century,¹ or the argument that it was then probably a double monastery. The silence of the Anglo-Saxon Chronicle and charters cannot be given much weight in determining whether there was a settlement before 912, and we are left with a tradition to which we might as well cling in the absence of other evidence.

Secondly, there are obscurities about the theory of the conversion of a manor (or estate, as we should prefer to call it) of eight virgates, and the settlement of traders. We are told (p. 9) that land within the walls would not be more than four virgates, but that we could get eight by including the suburb south of Oxford, the land outside East Gate, and part of the parish of St. Mary Magdalen outside North Gate. From another passage (pp. 22-3), however, we gather that the extent of the *civitas* in Domesday is coincident with the walled *burgus* and its south suburb, and the North Gate Hundred as described in the Hundred Rolls. Moreover, Dr. Salter never explains how it is that in the early 13th century Oxford apparently consists of the walled area and the south suburb only, and that the civic authorities are found struggling to extend their influence over the suburb outside the North Gate, a territory which, according to Dr. Salter's theory, was once a part of the city. Perhaps the argument advanced by Oseney in 1376² that when the king granted the fee-farm of Oxford to the burgesses he kept North Gate Hundred, in which his own house lay, under his jurisdiction will solve the problem.

Furthermore, Dr. Salter appears to disagree with the accepted view that the early Anglo-Saxon *burh* was largely military, official, and agrarian as well as urban, for he denies the existence of an agricultural element at any period, it

¹ *Oxoniensia*, I, 128.

² O.H.S. LXX, 198.

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seems (p. 35), makes no mention of officials, and allows little space (p. 27) to the garrison which might be expected to form a good proportion of the *burh's* population at the time of its construction: Wessex was then in the middle of a hard-fought war, and the new fortification was indisputably the military centre of a district with a highly important strategic position. As for the traders, though there is some evidence which suggests the existence of an Anglo-Saxon counterpart of the Gild Merchant, in some towns in the early 11th century, it is surely assuming too much to suggest (p. 9) that Oxford merchants had self-governing powers in trading matters in 912.¹

Lastly the argument for an artificially created town is weak. It rests on the rectangular ground plan of the city, with its streets intersecting at right angles, but the trouble is that the evidence for this plan is mostly of the 13th century, though certain parts of it, for instance the sites of some of the churches, are known to be in existence in 1066, and we are asked to assume that what existed then necessarily existed in the first decade of the 10th century.² The fact is we know next to nothing of the nature of the original Saxon *burh*. Dr. Salter himself admits that it is uncertain whether the walled area was not at one time square,³ the east wall running roughly along Cat Street (pp. 10-11), and Dr. Carl Stephenson has suggested that the south wall may once have run north of St. Frideswide's and that the total area enclosed was about forty acres.⁴ The possibilities for speculation are indeed endless.

But apart from the lack of evidence for the date of the origin of the street-plan as we know it there are serious objections to the whole theory, as stated by Dr. Salter, that Oxford was 'laid out' by Edward the Elder or any other Saxon king. He divides towns into two classes: those which have a gridiron shape are artificial, he says, those that are like spiders' webs have developed gradually, and he claims that Oxford belongs to the former type. But anyone who attempts to fit mediaeval English towns into these categories will find himself in difficulties. Anything approaching a spider's web at the nucleus of an English town appears to be extremely rare, and apart from a few towns where the Roman street-plan influenced later development a proper gridiron system is uncommon in England. This does not mean, however, that there was no planning. As far as one can judge from Speed's and earlier maps few mediaeval towns are without signs of it, and none show any signs of having been settled by 'squatters'—it was after

¹ Tait, *Medieval English Borough*, p. 119; Gross, *Gild Merchant*, I, 2.

² Dr. Salter's views are set out in greater detail in *History*, n.s. vol. XIV; O.H.S. LXVI, 483 ff.

³ The fact that the market extended no further than St. Mary's church in the Middle Ages may have some significance. No systematic excavation of the probable line of the wall has yet been made.

⁴ *Borough and Town*, p. 204.

all an age of corporate organisation—but planning does not imply the laying out of a town in its entirety at one particular moment. Oxford's plan is not strikingly regular compared with the majority of towns of any antiquity: rather the contrary. There are no roads running from wall to wall except those that intersect at Carfax, which is not even in the centre of the town, and all the blocks of houses are of unequal size.

What regularity Oxford has can be explained more naturally on other grounds than those advanced. When military necessity demanded the fortification of the settlement centring round Carfax, the line of the walls, we suggest, must have been dictated by the natural features of the country, particularly by the nature of the marshy ground, and the existing roads. Given walls inclosing a square or rectangular area and the two intersecting main roads, the street plan of Oxford, as we find it in the Middle Ages, is what one would expect to result from an increasing population. Its plan is more or less regular because its walls are more or less rectangular. However, we would not altogether dismiss the idea that there was some re-planning of the enclosed space at the date of the *burh's* foundation. Wallingford appears to have been divided into acre *tene-menta*,¹ and that may have been so at Oxford also. Cross-roads constructed at a later date may have coincided with the boundaries of some of these plots. But this reconstruction is far removed from Dr. Salter's picture of a full-grown merchant and garrison town being laid out in the late 9th or early 10th century. Such a hypothesis, to name only one objection, seems to allow insufficient room for change and development in Anglo-Saxon Oxford. Judging from the lack of reference to it in a period when written records were becoming frequent, it was not populous or important in the 10th century, but in the 11th it is constantly to the fore, and by 1066 was evidently amongst the most important of Wessex towns. An Oxford which had at least some interest in agriculture in the 10th century would fit in more with what we know of early towns,² and such evidence as Cnut's grant, made as late as 1034, of the church of St. Martin and a *praediolum* in the town is surely significant.³

Dr. Salter notes (p. 16) the importance of Oxford in the early 11th century, but should not something of its renaissance be attributed to the economic revival of that century, and the particularly favourable trading position occupied by the town, as well as to the fact that it was a royal and official centre? There is evidence in the story of the massacre of St. Bryce's day,⁴ and in the nomenclature of the Domesday inhabitants, for the presence in the town of Danish

¹ *D.B.*, i, 56a. Dr. Tait has called attention to the artificial appearance of the *Octo Virgate Regis* at Oxford and Wallingford.

² Tait, *op. cit.* pp. 68 ff.

³ *Abingdon Chron.*, i, 439.

⁴ O.H.S. xxviii, 2-9.

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settlers, most probably traders ; there is also evidence of attempts to improve the trade between London and Oxford in about 1052.¹ About half a century later we find the abbot of Abingdon taking tolls from the ships of the city,² a custom said to date from the time of Abbot Ordric (1052-65), a fact which suggests that the conference summoned by him had had fruitful results. Dr. Salter asserts that Oxford's position was not good for trade, neither in the Saxon period nor later, but surely its early history conflicts with that statement. If it was a convenient meeting place for Saxon kings and their courts why should it not have been so for traders ? Moreover the reasons given for the geographical suitability of Oxford for a university site will apply equally well and better to its suitability for trade ; the centre of an excellent road system, within easy reach of harbours and so on.

Dr. Salter denies that the Thames was navigable up stream (p. 17), but it seems difficult to accept his view in face of the evidence about tolls already cited, and later references to navigation on the Thames. It was complained, for instance, in 1316³ that the Abbot of Abingdon and others had constructed locks on the Thames between Oxford and Wallingford by which 'ships and boats laden with victuals are unable to pass to the town of Oxford and to return from thence as they have been accustomed to do.' The burden of the complaints in the 14th century seems to be that navigation which was once free is being obstructed by private owners, not merely down stream, as Dr. Salter suggests, but up stream also.

To return to Oxford's trade in the Anglo-Saxon period. Dr. Salter argues from the varieties of coinage minted in Oxford, and now in the national collection in Stockholm, that her trade was comparatively small, in fact no greater than that of Cambridge. But is it prudent to place much reliance on this evidence ? The varieties of coinage from any particular town that found its way to Scandinavia must have depended so much on chance, and a list in which Norwich only has the tenth place (Oxford has the eleventh) must be suspect, from the point of view of trading capacity. The mint in any case was royally owned, and is there any evidence to prove that the money minted in any particular place was intended solely for use there ?

Evidence from the 12th century of Oxford's flourishing trade is plentiful. There are its extraordinary privileges, its freedom to trade in London and outside on the same terms as citizens of the capital ;⁴ the provisions in the laws for the merchants of Lower Lotharingia (c. 1130) that the merchants of Oxford should buy from their ships next after those of London ;⁵ the great wealth of the

¹ *Abingdon Chron.*, I, 480 ; II, 282.

² *Ibid.*, II, 119.

³ *Cal. Pat. Rolls*, p. 501.

⁴ *Royal Letters to Oxford*, p. 4.

⁵ *E.H.R.*, XVII, 500.

Kepeharms¹ and Henry Simeon, which Dr. Salter notes; the alienation of about 150 acres of meadow land between 1138 and 1147, a sure indication of commercial prosperity; the precocious development of the Merchant Guild, and powerful craft guilds; the appearance of a taxable class of non-burgesses, the *minuti homines* of 1169; the flourishing state of the Jewish colony.

The Domesday account of Oxford is subjected to a careful and illuminating analysis. Among many other points the source of the king's income is discussed, toll, landgable and geld. The profits from breaches of the king's peace and other crimes, and also from the inheritance of strangers possessed of land in Oxford and dying there, which Domesday book mentions, are, however, omitted. It should also be noted that landgable and brugable were not the same thing originally (cp. p. 27),² though by the 12th century the distinction may have been forgotten and the taxes in practice treated as one: that there seems to be evidence for the payment of landgable outside the *burgus* as well as inside (cp. p. 27), for we find a house being granted freely outside the wall *excepta consuetudine regis*,³ and in Domesday book we are told that Robert D'Oilly's 42 houses within and without the walls were subject to geld and gable: that the pre-Norman tenure by landgable rent is frequently identified with socage as at London and other towns of Saxon origin.

Dr. Salter's estimate that landgable at Oxford was probably not more than £10 at the time of Domesday as Cambridge, a smaller town, paid £8 also seems to need modifying. There is not necessarily any relation between the size of the town and the landgable. What matters is the amount of land owned by the king, and a comparison with Cambridge is certain to mislead as it is clear that East Anglian boroughs had a particularly low landgable rent, about a penny,⁴ while that of Wessex boroughs was on the high side (8d. suggests itself at Oxford). A comparison with the total landgable rent of Wallingford, which rendered £11 *gablum* though there were only 276 *hagae*, would have led to a very different opinion about Oxford's total payment. It would be safest to admit that in this case, as in so many others, the evidence is insufficient for us to arrive at any conclusions.

¹ It should, however, be noted that it is very possible that part of this wealth came from landed property outside Oxford. Such an assumption would explain the king's claim to the marriage of Kepeharm's widow and solve Dr. Salter's problem (p. 38). For similar cases, see Hemmeon, *Burgage Tenure*, pp. 13-14.

² See Tait, *op. cit.*, p. 97 n. *Brugable* and *landgable* are also found at Bristol.

³ O.H.S. XLIX, 37.

⁴ See Hemmeon, *Burgage Tenure*, pp. 67-70. Oxford records distinguish between *terra de socaland* and *terra de octo virgatis regis*, and again between the 'lands of the king, baron and bishop' (O.H.S. xxviii, 28; *Abingdon Chron.*, II, 140); cp. the similar phrase, barons, church and king, used at Wareham and Wallingford.

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The account of the origin of the landgable rent can also be criticised on one or two points. We are told that when Oxford was founded the building plots were divided into three classes, sites for mural mansions, sites given to traders freely and sites retained in the king's hands and let at a landgable rent. But though it would certainly seem that by the time of Domesday only part of the soil of Oxford was in the king's hands it seems more probable that this was the result of gradual alienation rather than of any original settlement. There are definite grounds for believing this in regard to the mural mansions, where we are able to see in one instance the process of alienation taking place. Domesday book records that one of Walter Giffard's 17 mural mansions had been customary, *i.e.* part of the eight virgates of the king, but had been given to his antecessor by the king on these changed conditions.

Moreover we find it difficult to accept the view that the arrangements for defence based on the mural mansions were in force in 912. In suggesting that sites for these were let out then Dr. Salter follows Ballard¹ in preference to Mary Bateson and most recent historians, who consider that the defence of the county borough was originally shared between the burgesses and the district, and that in the case of Oxford the assignment of the burden of repairing the wall to definite houses in the borough was a later arrangement. An additional argument against Dr. Salter's view is that it necessitates the rejection of the only early evidence we have for the upkeep of the wall—the important document recently re-discovered by Miss A. J. Robertson, which lays down that each 4 hides of the 2,400 dependent on Oxford should be responsible for 5½ yards of wall. Finally, it may be noted that the fact that the repair of the walls was laid upon the mural mansions in 1086 and that nothing was claimed from the county if they defaulted (pp. 13, 22), does not tell us anything about the arrangements in force more than 150 years earlier. Nor is the connexion between manors in the county and houses in the town, as Dr. Salter assumes, confined to *murales mansiones*. There were, for instance, in Oxford 13 *hagae* and a meadow pertaining to Steventon.

In Chapter III Dr. Salter breaks new ground in giving a sketch of the government of mediaeval Oxford and its economic organisation. It is much to be regretted that he did not expand his original lecture and give us a fuller account, as in attempting to compress the subject he has drawn a composite picture of government during five centuries which is in fact true in its entirety of none. He argues that 'as there was little change in the constitution of Oxford from 1550 to 1800, so there was evidently not much between 1250 and 1550,' and that 'the records of post-mediaeval Oxford can be used to a large extent to illuminate the

¹ Ballard's view that in most Wessex towns the repairing of the walls of the town fell upon the pertinent manors is also accepted.

history of the previous period.' Many will consider this heresy. His static conception of burghal society leads him to give the reader no clue to the gradual evolution of municipal government and the stress of outside circumstances which moulded it. He does not mention the important subject of borough custom for which Oxford can supply a good deal of evidence, and without which any account of borough government must be incomplete. We should also like to have had some information about the royal and feudal nature of 11th-12th century government in Oxford, and some intimation of the extension of the authority of the burghal body over the various sokes within its bounds; some comment on the prominence of royal minters and other *ministri* among the important citizens in the early 11th and 12th century, and on the significance of landed burgesses like William de Chesney, that remarkable alderman of 1147, or Henry de Oxonia, burgess of Wallingford and Oxford, sheriff and father of a bishop. Dr. Salter's knowledge of local history would have been invaluable in elucidating some of these points, but where we have been given so much it is perhaps churlish to complain that we have not been given more.

Dr. Salter opens his account with the purchase of the fee-farm in 1199, and notes that the value of the charter was that 'the sheriff had no longer any hand in Oxford matters.' He overlooks the fact that it originated the right to elect reeves,¹ and probably coroners (cp. charters of 1200 to Northampton, Lincoln, and Ipswich), a momentous change in the constitution of the town. Hitherto the reeves had been royal nominees and subordinate to the sheriff: now they were responsible to the king, though the farm was to be paid to the sheriff.² In addition the charter had the effect, we suggest, of extending the growing monopoly of the Gild Merchant in civic matters. It must have been at this date that the right to elect reeves was vested in the members of the gild, the freemen that is, to the exclusion of the freeholders, the owners of burgage tenements. (Such a development is not unexpected when one considers the rapid flow of house property in Oxford into the hands of the religious, and the general tendency for power to gravitate into the hands of the freemen in other ancient towns of commercial importance). But Dr. Salter identifies the *burgenses* of 1066 and earlier with the later freemen or members of the Gild Merchant, and firmly contradicts Maitland's remark that Portmeadow may have once been the common pasture of those who held burgage tenements (pp. 26, 35). Apart from intrinsic difficulties created by the assertion that freeman and freeholder were always identical, have we enough evidence to prove the monopoly

¹ See Tait, *op. cit.*, pp. 185 ff. On p. 47 Dr. Salter suggests that one bailiff was elected by the burgesses as early as c. 1050, and that the other was elected by the Earl. In the reference given it seems more likely that a private reeve of Earl Leofric's rather than a borough reeve is intended.

² He was still paying it to the exchequer in 1243, and the right to deal with the exchequer directly was probably not acquired until 1257 (*Cal. Charters*, 1, 477).

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of the gild at so early a date? Does not the title *Cives Oxonie de communitate civitatis et de gilda mercatorum*¹ indicate the original existence of two bodies?

The change in common usage from *cives* to *burgenses* by the 13th century is also perhaps not without significance. Henry II's charter is addressed to the *cives civitatis*, but John's to the *burgenses*. Moreover, we have the analogy of other towns where the composition of the burgess body certainly did not remain the same in the formative years of the 11th and 12th centuries. The fact that at a later period the Oxford freeholders who were not also freemen, are found owing suit to the Husteng² as *sectatores* strongly suggests that at one time citizenship had depended on tenure with its obligation of suit to the borough court.

Almost as valuable as the grant of the right to elect reeves was the confirmation of the liberties the citizens enjoyed in the time of Henry II, in view of the threat to them from the growing university, and the centralizing activities of the crown.

A final and important point about the fee-farm is that it is extremely unlikely that the grant of it included the privilege of having return of writs with the consequent exclusion of the sheriff from Oxford, though Dr. Salter says that this was apparently the real value of the grant. So far as is known the right to answer at the exchequer for the fee-farm never included the right to answer for all other dues, or the privilege of being responsible for all the business of arresting, attaching and distraining hitherto carried out by the sheriff and his subordinates. No official grant was made of these powers to Oxford before 1257, the date at which a large number of other boroughs received the privilege, though it is possible, perhaps probable, that Oxford like Northampton (*V.C.H. Northampton*, III, 10) had encroached on the sheriff's business before that date.

The account of the officers of the town is not very clear, owing to the initial assumption that the custom of post-mediaeval Oxford may be applied to the earlier period. The facts adduced largely belong to the 15th century: some of the evidence is drawn from the 16th and 17th centuries, and only on p. 49 are we told that the sequence of office which is said on p. 46 to have held good in the mediaeval period must have been a matter of growth and dates so far as is known from 1440. The sequence certainly did not exist in the 12th century, for some of its component offices had not then come into being, and before 1199 it may be doubted if the aldermen, who had no financial responsibility, would be regarded as officially superior to the royal reeves.³

¹ O.H.S. xcvi, 86.

² The Husteng was the ancient court and the Mayor's court a 13th century upstart, or, if we suppose that the latter developed out of the 'morning-speech' of the gild, at least a comparatively new court.

³ The point is of importance as it affects the dating of some of the early charters. See Salter, *Oxford Charters*, no. 88, etc.

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In discussing the office of alderman Dr. Salter implies that there was an unbroken succession from the 12th century, but there are some grounds for doubting this. The 12th century aldermen were clearly gild officials and represented purely burghal interests, in contradistinction to the royal interests represented by the reeves. When the office of mayor was created one would expect it to supersede that of alderman as it commonly did in other towns, and it is a fact that the last known 12th century alderman, Lawrence Kepeharm, was the first mayor. We have the names of some early 13th century mayors, but no 13th century alderman's name has survived so far as we know before 1237 nor any mention of the office, whereas in the next twenty years the office frequently appears in connexion with Henry III's efforts to deal with the lawlessness prevalent in the city.

In 1248 there was a royal command that two aldermen might be elected and deputed from those ordained by William of York,¹ to do justice when the reeves should be absent,² and two years later the aldermen were ordered to assist the sheriff to collect arrears of tallage.³ Finally, there was a further order in 1255⁴ that there should be four aldermen and eight men associated with them to assist and counsel the mayor and bailiffs, and for preserving the king's peace and guarding the assizes. All were to swear fidelity to the king in person. Dr. Salter takes it that this order increased the number of the existing aldermen by two, but unless he has evidence for the existence of aldermen in the first thirty years of the century the preceding passages seem to require a different interpretation. The apparent existence of eight aldermen in 1237⁵ suggests an experimental arrangement in abnormal times, while the 1248 order, though ambiguous, is most naturally interpreted as implying the existence of more than two aldermen. All the royal orders give the impression that new police-officers are being royally appointed: the arrangements for the oath were certainly an innovation.

We should like to have heard something of the functions of the aldermen and that important unit of government, the ward, over which they presided.⁶ We miss, too, any reference to the coroners and their work, and to other minor officials.⁷ Above all the omission of any notice of the mediaeval council leaves a serious gap in the account of the development of the constitution. The lesser burgesses complained in about 1253 that the government of the town was in the hands of the mayor and fifteen jurats from whose number the bailiffs were always

¹ William of York was holding Assizes in Oxford in 1235 and 1241: in 1242 he and others were appointed to receive all complaints from the University in the king's absence, and order all things for its benefit (Wood, *Annales*, p. 232: *Cal. Pat. Rolls*, p. 283).

² *Cal. Close Rolls*, p. 217.

³ *Ibid.*, p. 272.

⁴ O.H.S. LXX, 20.

⁵ O.H.S. XCII, 37;

cp. *ibid.* LXX, 72 and note for the double reference to *octo aldermanni* in a document of 1297.

⁶ See e.g. *Cal. Pat. Rolls*, 1328, pp. 248, 329.

⁷ E.g. MS. Twyne, xxiii, 354.

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chosen.¹ In 17 Edward I Twyne records 9 *consultores jurati* and says that occasionally 12 occur. Possibly this body developed out of the 24 sworn to keep the peace and appointed by royal mandate in the troubled times of Henry III. They were in existence by 1238,² and perhaps in 1236, when we have the names of 22 burgesses assigned to keep the peace between the town and the university.³ Changes had taken place by the 15th century when we hear of 13 *consiliarii* in 9 Henry IV, 28 in 1469, and 35 in 1474. In Henry VIII's time the members of the mayor's council, who with the assistance of four men from North Gate Hundred elected the mayor and bailiffs, vary from 30 to 50.⁴ We also have reference to a common council at this time: 25 members are mentioned in 10 and 24 Henry VIII, and in a document of 1608 we are told that 24 not having held office were chosen out of the commons 'to be of the common counsel.'⁵

The citation of 16th and 17th century illustrations to prove that the mediaeval government of Oxford was 'oligarchic' (p. 49) is not convincing, particularly as it is clear that the constitution was rapidly becoming more oligarchical in those centuries. An attempt was made, for instance, in 1519 to confine the election of officers to the mayor's council only, to the exclusion of the commons,⁶ and after 1550, as Dr. Salter notes, this was the rule: the mayor and his council of twelve, as it had become, appointed to all offices except those of mayor and bailiffs. Again, in 1608 the mayor was chosen from the aldermen and assistants, but at a later date apparently he was chosen from the retiring mayor and the four aldermen (p. 50).

The two main courts, the husteng⁷ and the mayor's, are described. Some cases, it is said, could be tried equally well in either, but the contrary appears to be implied by the illustration given (p. 52). Twyne's remark that offences against the peace of the mayor were heard in the mayor's court and those against the peace of the king in the husteng court is quoted, but its veracity is not tested. Twyne, indeed, has chanced on the distinction between the two courts without quite realising its significance. The husteng was an ancient court endowed with certain royal privileges: it had power to try pleas *de vetito namio*, and pleas of free tenement by the customary law of the borough, a complicated body of custom concerned with the inheritance and sale of land, dower and free bench and so on. It tried all cases where there was a breach of the king's peace, *i.e.* assault with bloodshed, but the lesser offence of assault or trespass without bloodshed went before the mayor. Whether there was a breach of the king's

¹ O.H.S. LXXX, 274.

² *Cal. Pat. Rolls*, p. 217.

³ *Cal. Close Rolls*, p. 513.

⁴ *Records of the City of Oxford*, p. 120.

⁵ O.H.S. LXXXVII, 345.

⁶ *Records of the City of Oxford*, p. 24.

⁷ The name of portmote was changed to husteng probably in imitation of London (cp. p. 51).

peace or not will, we believe, be found to be the test in all cases of assault or trespass: where cases of debt or contract and the like are heard in the husteng it will be found that a free tenement or forcible distress are involved.¹ In addition, we would point out, a minor revolution resulted from the important charter of 1327 granting the burgesses the exclusive monopoly of assize cases.² The cherished privilege of not being bound to plead outside the walls did not protect its recipients from being impleaded in the king's courts held at Oxford. Only after 1327, it seems, did the bailiffs actively claim the liberty of the town before the royal judges.

Reference is made to some though not all the private courts held in Oxford. For instance, the abbot of Abingdon's³ and the prior of St. Frideswide's,⁴ for their men in the town, and Geoffrey de Clinton's⁵ are omitted. Their importance is great, for they show that at one time the portmanmoot was but one court among many, a public court with jurisdiction over royal burgesses only,⁶ which gradually extended its sway over the various baronial and ecclesiastical sokes. The court of the coroners and bailiffs held on Saturday, possibly in imitation of the similar London court, appears to be classed with the private courts (p. 54), but in fact it was a public court of long standing, for the actions of *intrusio* and *frisca forcia* were ancient borough processes ante-dating the assizes of Henry II. Other public courts which might have been mentioned were the court of Pie Powder,⁷ and the court Leet, held after 1355 by the university.

The account of the government of the university, interesting as it is, is again misleading in taking no account of the long process of development. Only in 1244⁸ did the chancellor acquire full jurisdiction over certain civil actions to which clerks were a party, and it was not until 1290 that the chancellor was granted cognizance of all trespasses, with three exceptions, where one party was a clerk.

Green and Rashdall were champions of the oppressed burgesses: the university now finds a spirited defender in Dr. Salter. He dismisses Green's charge that the university deprived the town of all rights of self-government as being more political than historical, and considers that though the university was granted large powers they were not to the injury of the town, and that the

¹ I hope to publish the evidence for these conclusions at a future date.

² *Royal Letters to Oxford*, p. 36.

³ *Abingdon Chronicle*, II, 134, 248.

⁴ *Cal. Close Rolls*, 1234, p. 368; *Monasticon*, II, 146.

⁵ Salter, *Oxford Charters*, no. 71.

⁶ Tait, *op. cit.*, pp. 86 ff.

⁷ E.g. MS. Twyne XXIII, 343, 442-3. The king's court of Marshalsea is referred to, but the meaning of the term 'within the verge' has been misunderstood (pp. 51-2).

⁸ *Cal. Pat. Rolls*, p. 424.

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importance of the skirmishes between the town and the university may easily be exaggerated. It is much to be hoped that Dr. Salter will on another occasion find time to make out a case for the university, for those who regard the town's loss of self-governing rights—and the facts about that are indisputable—as a contributory cause of its early decay will need a greater array of argument to convince them than he has found space for here. The point cannot be argued in the limits set by the present article, but it may, perhaps, be pointed out that the root cause of the trouble between the town and the university was finance; a loss of privileges so often entailed a loss of profits, which meant that the burden of the fee-farm would have to be met by direct taxation.¹ The loss of the assize of bread and beer, for instance, which Dr. Salter minimises by saying that the town was allowed to deduct from its annual fee-farm an amount equal to the profits of the assize, was very much greater than it appears. The value of the assize to the exchequer had long been fixed at £5, and though it is true that a decrease of £5 in the farm was obtained after petitioning for 28 years that did not compensate the burgesses fully for their loss as £5 did not represent the full value. The surplus profit was now in the chest of the chancellor instead of in the town's (Dr. Salter has estimated the total value of the assize in 11 Edward III as about £10).² The custody of the assize, which the university finally obtained with all profits save the £5 to the exchequer in 1355, also meant the control of the brewers' guild by the university, and a loss of fees to the town—a loss which was endured in sullenness until the abortive attempt to set up a rival guild in 1575.³ Matters were similar in regard to justice: every case removed into the chancellor's court meant a loss of fees to the town. And surely Dr. Salter is biased when he says that we hear of no complaint that townsmen failed to obtain justice in the chancellor's court? It is difficult to discount altogether the many bitter complaints by the burgesses of arbitrary power and partiality, that no one ever had such power to outlaw, destroy and banish them, that there was not one law for clerks and laymen and so on.⁴ But even if we do, there are still instances of royal intervention to protect the burgesses from excessive extortion.

The reasons for the decay of the town is a subject yet to be dealt with. It will be found, very probably, that general economic causes and the policy of the central government⁵ were largely responsible. Dr. Salter rightly stresses the effects of the Black Death (p. 87) on the town's prosperity, and cites the fall in the value of rents as proof of its decay in the 14th and 15th centuries. The rise in prices should, however, be taken into account in assessing the significance of this evidence. The university must also take its share of the blame. It

¹ *E.g.* O.H.S. xviii, 216; *Ibid.*, lxxi, 191, 198, 286.

² *Records of the City of Oxford*, p. 373.

³ *E.g. Cal. Pat. Rolls*, 1350, p. 488.

⁴ O.H.S. lxxiii, p. 141.

⁵ O.H.S. lxx, p. 49 ff.

enjoyed the amenities of the town, but contributed nothing directly to the lightening of its burdens ; indeed its policy often directly added to them and its turbulent student population was indirectly the cause of crippling royal fines being levied on the town.¹ In 20 Henry VI the situation was summed up by the town's complaint that the fee-farm and assessment to the tenth and fifteenth had been fixed when the place was populous, but now scarce a third of the laymen existed and it was mainly inhabited by scholars and their servants who were exempt, with the result that people were leaving the town and those that remained were likely to be destroyed by the burden.

To the very interesting account of the craft guilds it is possible to make a few additions. The suggestions about the reasons for the payments to the crown by the weavers' and corvesers' guilds (p. 32) should be compared with Mr. E. Lipson's explanation which meets all the difficulties,² and it is interesting to note that though there were said to be no weavers in 1346 there were 23, as well as 13 fullers, in 1380.³ There is a mention in 1392 of the skimmers' gild earlier than any noted by Dr. Salter, and the brewers' craft certainly existed in 1512-13.⁴ It is surprising to hear (p. 59) that the custom of the 16th and later centuries, that a man could not become a member of a craft unless he had first been admitted a freeman, can be carried far back into the mediaeval period, and we should have been glad to have the evidence for it. Another point of general interest is the date at which the merchant gild established its control over the craft guilds. Dr. Salter seems to imply that that control had always existed, but do not the royal charters of the weavers and corvesers by themselves disprove it ?

The topographical sections of this book are delightful, and we must express our gratitude for an excellent map of the franchise of Oxford : the map of the town within the walls, though beautiful, will not be so useful to the student ; it is undated and has a deceptively regular appearance. Among many fascinating points Dr. Salter touches on the problem of the North Gate Hundred, and accepts Miss Cam's thesis that when Soterlaw and Bullingdon Hundreds were united the part of Soterlaw Hundred to the west of the Cherwell was separated, and officially made into North Gate Hundred about 1200.⁵ He cites a reference which, he says, if genuine, would show that North Gate Hundred existed from the middle of the 12th century, and he might have cited a reference of c. 1160,⁶

¹ *Hund. Rolls*, II, 35-6 ; *Cal. Close Rolls*, 1247-51, pp. 4, 25-6, 270 ; O.H.S. XVIII, p. 216 ; *ibid.*, LXXI, p. 198, etc. ; *ibid.*, LXX, p. 2, etc.

² *Economic History*, p. 324.

³ O.H.S. XVIII, 6. By 1457 there were 28 in Oxford and Wolvercote (cp. *Medieval Oxford*, p. 60).

⁴ O.H.S. LXXIII, 90, 96 ; *Records of the City of Oxford*, p. 10.

⁵ *Oxoniensia*, I, 113-127. ⁶ O.H.S. XC, 195.

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but he does not show how this is to be reconciled with the Pipe Roll allusion to Soterlaw Hundred in 1199: Miss Cam's suggestion that Soterlaw Hundred was meeting outside the North Gate in the last half of the 12th century, if not earlier, seems to fit all the facts.

The relations between the town and the hundred are obscure, and Dr. Salter does not attempt to deal with them fully. He states, however, that the city effected encroachments in North Oxford in only two points (p. 71). A third encroachment, or possibly survival from the time when the suburb outside the North Gate may have been part of the *civitas*, is that Oxford tenurial customs were applied to some tenements at least. We hear of a case of this in 1235-6¹, and in 35 Edward III the burgesses claimed that tenements in the suburbs could be freely devised². This has some relevance to one of the encroachments referred to by Dr. Salter. He says that wills dealing with land in St. Giles' and St. Mary Magdalen were at one time proved in the court of the Hundred, but in 1349 and subsequently we find that such wills were proved in the mayor's court and not the Hundred. The reference given to prove the point is to the will of John le Saucer, which was proved in the mayor's court in January, 1340, and in the Hundred in the following March. In 1331 there is a will concerning property in North Gate Hundred only which was proved in the town court,³ and many instances of wills earlier than 1349 dealing with lands both inside and outside the walls could be cited.⁴ A particularly clear case for our purpose occurred in 1337⁵ when the Hundred witnessed the sale of a rent in North Gate Hundred, and reference is made in the deed to the will, which directed the sale, being proved before the mayor. It may have been normal for the Hundred court to confirm the decision of the mayor's court where land in the Hundred was concerned, though the only evidence for this so far as is known rests on the case of John le Saucer, but that it was normal for the Hundred to have probate to the exclusion of the mayor's court seems difficult to believe in the light of borough practice elsewhere, and does not accord with what evidence we have.

A fourth encroachment may be observed in 1371 when the liberty of the town was successfully claimed before the Justices of Assize in a case about a tenement outside North Gate.⁶ From the time of Edward III's charter granting the borough exclusive jurisdiction in assize cases the civic authorities had every reason to identify the city's boundaries with those of North Gate Hundred if possible. An unsuccessful attempt was made in 1339 to obtain cognition of

¹ O.H.S. LXVIII, 293.

² MS. Twyne, xxiii, 303.

³ *Liber Albus*, p. 13.

⁴ E.g. *ibid.*, pp. 11, 13.

⁵ O.H.S. LXVIII, 287.

⁶ O.H.S. LXXI, 274.

pleas of lands and tenements over North Osenev¹, and maybe it will be found that attempts to encroach on other liberties were made in the same way.

It is impossible to do justice in a short space to the chapters on the university and the churches, both full of interest, the latter especially. In the first the early importance of Oxford as a place of learning is demonstrated and the origin of the university is considered. Dr. Salter thinks it likely that there was 'no definite date when the university was born' (p. 92), but he has modified his views since his article in *History*, and does not now dismiss altogether Rashdall's theory of a migration from Paris as a reasonable explanation of the formation of an organised university. There are one or two points on which it is possible to disagree with his conclusions.² His views on the small importance of the colleges in the life of the university are natural in view of past exaggerations, but questionable, for though they were numerically small their contribution to the intellectual life of the university was high, nor is it easy to accept the opinion that if Wycliff met with support in Oxford it was not and could not be in the colleges.

To Dr. Salter's information that Magdalen, Corpus and Brasenose were the first colleges to have scholars under their Founders' statutes, and that Merton and Oriel had acquired something like them by subsequent arrangements in 1380 and later, we might add that the provisions made for Founders' kin at Merton and Queen's in the 13th and 14th centuries had the same effect. At both colleges boys who had mastered the elements of grammar were maintained at the college's expense during their Arts course, and were given a preference in election to fellowships.

We are given a mass of valuable information about the early history of the churches,³ and the reasons for their diminution; about parish chantries and fraternities; about the origin of churchwardens and parish seals. There is a little more information than Dr. Salter allows about the rebuilding and enlargement of the churches, and to the list of chantries of the Blessed Mary (p. 123) may be added one in All Saints', endowed with nine shops in 1361 by John Mauncel.⁴ Proctors of All Saints' occur in 1265-6,⁵ five years earlier than the

¹ *Ibid.*, p. 101.

² Some may be sceptical about Mag. Grim being head of the university in 1201. Rashdall was more cautious in suggesting that Mag. Alardus may have been chancellor. In a charter, dated 1205-9, both appear as witnesses after Hugh, dean of Oxford, but with no official designation (O.H.S. LXVIII, 77): cp. O.H.S. LI, 45.

³ We should like to have had Dr. Salter's views on Wood's statement that a Saxon Church of St. Benedict stood outside West Gate, and if a confirmation of its existence may be detected in the fact that the fair of St. Frideswide was once held on the vigils and day of the Translation of St. Benedict?

⁴ MS. Twyne, XXIII, 344.

⁵ O.H.S. LXXXIX, 140.

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instance given on p. 124. There is also another early reference to the proctors of St. Martin's, who brought an action for recovery of rent in 1274-5.¹

It is a dull book indeed which cannot be criticized, and the perspicacious reader will have gathered that *Medieval Oxford* is far from that. He will observe that it has provoked to controversy, but only by reading it will he obtain a proper appreciation of its learning and absorbing interest.²

FURTHER NOTES

By the REV. H. E. SALTER

The editors of *Oxoniensia* have asked if I should like to add a note to this article on 'Mediaeval Oxford.' I am glad of an opportunity to correct a mistake in the map of 'the Franchise of Oxford' on page 66 of my book. Within the last few weeks two pieces of evidence have come to light which prove that the field marked King's Mead on the way to Hincksey Ferry should be Snellseye and that King's Mead was to the south of it and was in the parish of Hincksey. Mr. Strickland Gibson of the Bodleian has discovered in the Archives a manuscript map of the course of the pipe which brought the water from Hincksey to Nicholson's Conduit; it is hoped to reproduce it in the Oxford volume of the Victoria County History. This map shows that the pipe crossed the Hincksey stream well below the ferry and went eastward keeping to the south of the main stream. Now, as we know from a description of Nicholson's plan that the pipe ran through King's Mead, it proves that King's Mead was the large meadow which reached to the south of Oseney island, but was separated from it by the river which is the county boundary. It is mentioned in the Abingdon Cartulary that there was a meadow in Hincksey called King's Mead, and I assumed that the king had two meadows, one in Hincksey parish and the other in the parish of St. Thomas. It now appears that they are identical; the meadow was in Hincksey parish; but the Mayor, when he made his annual perambulation of the bounds of Oxford, included this part of Hincksey and some other parts. The other piece of evidence suggests very strongly that the meadow, wrongly named King's Mead on my map, was Snellseye. The Cartulary of Oseney tells us that the nuns of Littlemore had a meadow 'between Oseney and Hincksey' in the parish of St. Thomas, named Snellseye, which hitherto it has been impossible to identify. The triangular island which adjoins the causeway to the ferry was owned by Stone's Hospital from about 1730 to

¹ MS. Twyne, xxiii, 314.

² He will be well advised not to depend on the index which is of little use.

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1937, and in the original deed of purchase is called Mynchen mede. We cannot prove that the nuns who gave the name to the meadow were the nuns of Littlemore, but we have no evidence that the nuns of Godstow ever had land in the parish of St. Thomas. It is reasonable therefore to identify Mynchen mede with Snellseye.

For another correction I must thank Professor G. G. Coulton, who read the book. On page 104 I have said that the boys who attended grammar halls, unlike the scholars of the University, were not tonsured; I should have said 'were not of necessity tonsured.' The regulations of William of Wykeham for his boys at Winchester show that sometimes when a boy came to Winchester, perhaps at the age of 12, he was already tonsured; but others were untonsured. The Founder insisted that after they had reached the age of 16, his scholars should receive the tonsure.

On page 122 for 'Bishop Carpenter' read 'Bishop Ly Herte,' and on page 51 for Edmund Fouler read Thomas Fouler. Perhaps a word may be permitted here about that mysterious Thomas Fouler. In the lectures the object was to get into print as many new facts as possible, and there was no time to embroider them. Thomas Fouler was one of the aldermen for the year beginning Michaelmas 1462, as we see in the list given in Wood's *City of Oxford*, vol. III. At present we do not know the aldermen for the years 1460 and 1461, but Fouler was not an alderman in 1463 or subsequently. It is fairly certain that he was the Thomas Fouler, Esq., who was member for Oxford in 1463. He was therefore not a tradesman but was elected a burgess and an alderman *honoris causa*, as the Public Orator would put it. He was probably the Thomas Fouler who was used by Edward IV in matters concerning South Oxfordshire between 1461 and 1470 (see Macnamara's *History of the Danvers Family*, etc.). He was brother of Sir Richard Fouler, chancellor of the exchequer to Edward IV. Sir Richard Fouler and Sir Richard Quatermain married sisters; they were devoted to Richard, duke of York, and his son Edward IV, and were the leading persons in south Oxfordshire about 1463. Those were ticklish times and the city may have been glad to enrol among the burgesses one who stood well with the chief powers. We can find no similar case in the previous two centuries, but from 1154 to 1460 there was no revolution in England and times were not dangerous. Two centuries later when there was another revolution and the city desired the favour of the conqueror, in October 1646 it elected the Governor of Oxford, 'Sargeant-Major-General Skippon,' to be a burgess and to have the rank of a bailiff.

Mrs. Lobel suggests, and rightly, that something could be said with profit about Henry de Oxonia and the mysterious William de Chesney, alderman of the merchant gild in 1147. It is the merest chance that his name survives, for

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if the Cotton fire had lasted another hour the only record in which he is mentioned would have been consumed. I have dealt with the Chesney family in an appendix at the end of the Eynsham Cartulary vol. 1 (O.H.S. vol. XLIX), but it has now been superseded by a better pedigree by Mr. L. F. Salzman, printed in the Sussex Archaeological Collections, vol. LXV. He was able to prove, what I could only guess, that the Chesneys of Oxfordshire were connected with the Chesneys of Sussex. William de Chesney was not the head of the Oxfordshire Chesneys but he had two knight's fees at Deddington; how he obtained them I do not know. The chroniclers tell us that he was a mighty warrior and was placed in charge of Oxford and the Castle and the country round about from 1142 to 1153. That he should have been an alderman of the gild is very curious; I can only assume that he too, like Thomas Foulter and Major-General Skippon, was elected *honoris causa*. As for Henry de Oxonia, who has one of the Cartae Antiquae all to himself (see Wood, *City of Oxford*, 1, 378), I should not wonder if he was a superior moneylender. He was sheriff in 1152 and 1154, and a charter of the empress Matilda has been recently discovered by Mr. J. C. Dickinson, possibly of 1152, in which Henry de Oxonia is mentioned as sheriff. His family had lived in Oxford for three generations as the Carta Antiqua shows, but what can be known of that misty period?

In my chapter on the churches of Oxford I said nothing about the churches of St. Andrew, Dantesborne and St. Benedict, which are mentioned by Wood, for the reason that they never existed. Mr. Andrew Clark discovered how Wood made his mistake about Dantesborne. In copying the Godstow Cartulary in the Record Office, he missed a line, and so saddled himself with two impossibilities, first that there was a water mill outside North Gate and second that there was a church of Dantesborne in Oxford. His error about St. Benedict arose from a document in the Record Office which is and was in bad condition. The phrase *cemeterium benedictum* was read by him as *cemeterium Benedictionum* and was taken by him to mean the cemetery of St. Benedict.

I think Mrs. Lobel would find that Dr. Carl Stephenson does not really hold that Oxford was square at an early time, but that if it were so it would fit his theory. Years ago he asked me if I could say anything about early Oxford which would fall in with his idea, and I said that some, *e.g.* Dr. Parker, held that at one time a wall ran under the Bodleian and went due south to St. Frideswide's. But as each year passes and no trace can be found of that wall, it becomes the thinnest of theories. I also think it is unfair to pin Maitland down to his off-hand remark about Portmeadow and the holders of burgage tenements. He said he knew nothing about Oxford and threw off the remark as an aside. He assumes that Oxford had tenements, the ownership of which made a man a burghess, but we hear of no such tenements in Oxford. Mrs. Lobel's discovery

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of a tenement outside the wall which paid landgable is very welcome and advances our knowledge. The argument from silence is dangerous, though at times quite legitimate. When it is argued that as we do not know the names of any aldermen between 1199 and 1237, it suggests that they did not exist during that time or part of it, we must ask what likelihood is there that they would have been mentioned. It did not become customary to give their names as witnesses until the second half of the 14th century, and we do not know the name of any alderman from 1237 to 1289; yet they certainly existed. If O.H.S. xcii, 37 is supposed to show that there were eight aldermen in 1237, then O.H.S. xc, 124 and 158 must be taken to show that there were three reeves in 1234 and five in 1229. This is absurd.

It is impossible to discuss the many points raised by Mrs. Lobel in her very careful notes; some of them could be discussed until the end of the world. I hope she will continue to work at Twyne's transcripts of the Mayor's court and the Husteng court, and at the voluminous records about Oxford to be found in the Assize Rolls.