

On the Charters and Municipal Government of Axbridge.

BY THE REV. WILLIAM HUNT, M.A., VICAR OF
CONGRESBURY WITH WICK.

BEFORE I begin to attempt an account of what I believe to have been the state of the internal government of Axbridge in different stages of its history, I will briefly enumerate some of the curious and important muniments which the courtesy of the Burgesses has placed before us. First in importance are the four Royal Charters of the town, viz. : that granted by Henry VI, which in some way escaped the notice of Mr. Smirke when he inspected the records of the Corporation ; the Charter of 3 and 4 Philip and Mary; that of 41 Elizabeth, the one held as the present governing Charter of the town; and lastly, one of 21 James I.

Next to these in importance, and almost before them in interest, is the curious MSS. we have before us, one copy of which is of the early part of the fifteenth century. Mr. Jones, yesterday in looking through the municipal records, found an earlier MS. than the one which has, as far as we know, been heretofore received as the only copy. I do not myself think that it is earlier than quite the end of the fourteenth century. They begin with a short treatise on

English boroughs, and then tell the story of the miraculous escape of King Eadmund while hunting in the royal forest of Cheddar, the later MS. ends with an account of the government of the borough of Axbridge and an extract from the Domesday Book, but the earlier one adds a copy of the Charter of John which is referred to in the *Inspeximus* Charter of Henry VI.

Most unfortunately the two translations belonging to the Corporation are disfigured by some strange mistakes, especially one which has turned Eadmund into Eadward, and in one case adds in brackets, "the Confessor," no doubt from a sort of strange superstition, which one has met with before, that every one before the Norman Conquest was either Alfred or St. Eadward, and which may possibly be corrected by a careful reading of Mr. Freeman's first two volumes of the Norman Conquest. Mr. Smirke read a very able paper on this Treatise before the Archæological Institute, which is printed in one of the volumes of that society, and to which I gladly acknowledge my obligations. I venture to hope that this society will, with the permission of the Corporation, print this most interesting document in our volume for this year, together with one or two entries of a later date in the Convocation Books, which I have been encouraged to think we shall be allowed to extract.

Besides the two MSS. of this treatise, we have before us a valuable collection of deeds and grants of various dates, amongst which I may mention one of Henry III, granting freedom from toll to the tenants of the churches of Glastonbury and Wells. And lastly the Convocation Books, Rolls of the Court Baron, &c., which contain many interesting and amusing entries.

Before I go on, I must express my warmest thanks to the Mayor, the Alderman, and other Burgesses of the town for the great courtesy which they have shown me in allowing me to burrow amongst their valuable records, and in so kindly bringing them before us to-day. Their kindness makes me hope that without offending them, I may point out that an iron safe would be a far better place for their documents than the present wooden cupboard close by the fireplace. I am sure that there is not a Burgess in the town who will not agree with me, when he considers the irreparable loss which an accidental fire would occasion.

I will now pass on to the facts which I have gathered from these and other authorities, and the opinions which I have been led to form from them. Two years ago, when we met in Bristol, I endeavoured to trace the causes of the growth of that borough, and we saw how intimately its history was affected by its foreign commerce; but Axbridge, though at least as ancient a borough as Bristol, has never, as far as I know, been distinctly commercial, and for this reason it has less history, and we have not the same power of fixing the date of the changes in its constitution as we have in the case of those boroughs which were more strongly affected by the great changes of thought and of style of living, which were brought in by each commercial wave. The earliest notice which we have of Axbridge shows us that before, and at the time of, the Conquest it was a part of the King's demesne land, and it seems implied that it was a part of the royal demesne of Cheddar. It then contained thirty-two burgesses, who paid a rent of twenty shillings to the crown, two mills, three fisheries, and some land, all which also paid to the King. It is not, I think, difficult to determine the political condition of these

burgesses. They were of course freemen, and more than this they were freeholders like the other freeholders of the county, that is to say, they held their land at a fixed yearly rent which they paid to their lord. This lord was the King, who held Axbridge, Cheddar, Somerton, and some other neighbouring places as his own private estate, and this was no small advantage to the borough, for the crown was always the best lord, and so long as the burgesses paid their fixed rent they were far less interfered with, and tyrannized over than the tenants of other lords. Like all freeholders, they had their own reeve, for the portreeve was to the borough what the shirereeve was to the county; he was the representative of the crown, and his Court was the Court of the freeholders or burgesses, who were in Axbridge, and in all 'royal boroughs', tenants of the crown.

We must not, I think, be led by the phrase, "in dominio," to think too little of the position of the burgesses of the eleventh century. They held their land by a fixed tenure. They possessed, we cannot doubt, rights of heirship, and such rights of alienation as belonged to the freeholders of the kingdom in general, they were amenable to the jurisdiction of their lord, but this jurisdiction was exercised by an officer chosen from amongst themselves, his court was held in accordance with their own customs, and in it they were assessors as well as suitors. It is difficult to say when our English towns first enjoyed the right of electing their reeve, it is possible that they may have done so in some degree from very early times, the lord having a right of negative, and also, no doubt occasionally putting in his own men, but still it seems to me more likely that he was at first regularly appointed by

the lord, whose representative he was, and that the right of election was gradually gained by our towns. The MS. of the end of the fourteenth century before us, boldly asserts that in the eleventh century the portreeve of Axbridge was elected by, and from out of, fourteen socmen, wardmen, or aldermen. I venture to believe that this is altogether a mistake, as I cannot but think that the reeve was more generally appointed by the lord, and that his office was chiefly to look after his interests ; and as to the fourteen aldermen, '*seniores principales*' it seems impossible that there should have been so many who exercised jurisdiction, when the whole number of the burgesses was only thirty-two ; and the very fact of the right of electing the portreeve being confined to a certain number of the burgesses, seems to point to a far later state of things of which I will speak directly.

This town, probably, owed its existence to the fact that many of our early English kings had a hunting seat in the royal forest of Cheddar ; and in the time of Eadward the Confessor, the royal manours of Cheddar and Somerton, with their appendages, of which Axbridge was one, yielded to the crown, as part of their yearly rent, one night's entertainment, which was no doubt levied when the royal saint pursued his favourite amusement of hunting. But at the same time I do not, of course, for a moment agree with our MS. in the statement to which Mr. Smirke seems to give a sort of assent, that our kings established the borough of Axbridge, and other boroughs, in order that they might have so many country houses or hunting seats throughout the kingdom. Of all the many theories which have been put forward about the rise of boroughs this is the most grotesque. Our English towns grew of

themselves, and were not established by any particular decree, or because of any special council. Purely English towns, by which I mean those whose known history is confined to English times, came into being either because men chose to dwell at some spot which had special natural advantages, such as Bristol once had for trade, or else they grew from a few houses near the castle or house of some great man, as Axbridge grew round the royal hunting seat of Cheddar, or else from those which clustered round some cathedral church or abbey ; but in any case we may be quite sure that their birth was natural.

The town did not remain in the king's demesne after the twelfth century. The manour of Cheddar and the Borough of Axbridge, together with the hundreds of Wynterstoke and Cheddar were granted by King John to Hugh, Archdeacon of Wells, at the rent of £20 a year. Henry III granted Cheddar and Axbridge to Joceline, Bishop of Bath and Wells, in free alms. From that see they passed in the reign of Edward I to the Bishop of Lincoln, who granted the advocacy of Axbridge church to his brother of Bath, and in the next reign, Axbridge and Cheddar passed again to the see of Bath and Wells, to which they belonged till Bishop Barlow changed them away with Edward VI. I am sorry to say that I have not yet been able to discover any records of the dealings of the town with its ecclesiastical lords. Churchmen were, I fear, not generally such good landlords as laymen, and a town which belonged to a bishopric or abbey, in most cases gained its franchises later than those which belonged to the crown or to lay nobles. But there is no reason to suppose that this town was in any worse condition for these alienations ; we have seen that when it

belonged to the crown the burgesses were without doubt freeholders, and enjoyed the privileges which belonged to those who held by freeholding; and when the town was alienated they simply changed their lord, indeed at the very time that this change was made, we find that the rights of the borough were considerably increased. The Charter of John, copied in the fourteenth century MS. before you, and quoted by the Charter of Henry VI, exempts the burgesses from serving on juries, it quits them from all suits of the shire, and from the interference of the sheriff, and frees them from the fines for murder; and then the town, with the adjoining manour, is distinctly recognized as possessing an existence independent of the rest of the county, with an exemption from county burdens and jurisdiction. About the same time we have a proof of the increasing material prosperity of the borough, given us by the establishment of a fair to be opened on the eve of the feast of St. Barnabas, and held for three days following. This fair was granted by Henry III to William Longsword, grandson of Henry II, and afterwards by Edward I to the Bishop of Bath and Wells by a deed of grant still preserved here. An annual fair was at that time a far more important institution than it has ever been since. It is almost impossible for us to realize how difficult and how dangerous it was to travel in those days. Very few inhabitants of Axbridge ever went more than a very short distance from their own town, and very few consignments of goods were ever made to them. The annual fair was the great opportunity of buying and selling for the town and the neighbouring population. Traders from all parts of the land would probably flock hither, bringing with them wares which the good men of

the town had never seen before ; and they took back with them the produce of the industry of the borough, of which tanned hides probably formed an important part ; for two leather searchers were annually elected as borough officers until quite modern times, whose duty it was to test the bundles of hides sold in the borough. The importance of such fairs as this would be greatly increased, if, as I believe was probably the case, the burdensome restrictions on our home trades and manufacturers were but laxly observed at such times. All tolls were paid to the lord of the fair, and he held a court called Pie Poudre, presided over by his steward, for trying all cases which might arise during its continuance. The burghers of Axbridge had not only this opportunity of trading with strangers within their own walls, but by a Charter granted 19 Edward III, they, in common with all tenants of the churches of Bath and Wells, were made free of all toll throughout the kingdom. This was no small exemption at a time when toll was levied everywhere ; when a man could not take a bale of goods from one town to another without paying numberless vexatious demands either for crossing a bridge, or entering a gate, or passing a ferry, or going through some lord's demesne which lay in his way. Many such tolls were collected in the king's lands, and in those of his lords. A grant, however, of exemption by royal Charter even when the words 'per totum regnum' are used as here, and as in the Charter given to London by Henry I, and to Bristol by Henry II, could not convey exemption from tolls save those which were taken on the king's demesne.

In the sixth year of King Henry VI this borough received the first of the four royal Charters of which the

originals are still known to be extant. It states and confirms the previous position of the town, and begins with the entry in Domesday Book, which has I think a special significance. As one town after another received great Charters from the crown, those whose rights depended chiefly on immemorial prescription, on the fact of having been held by burgage tenure, were most probably especially anxious to assert their legal status and for this reason the ancient position of the burgesses of Axbridge is stated at length. It then gives an Inspecimus of the Charter of John, which I have already mentioned, and of his grant of the town to Hugh of Wells.

To a rather earlier date belongs the curious MS. which lies before us, of the story of the miraculous escape of King Eadmund. It is certainly not older than 1386, and may be within about thirty years of the same date as that which has usually been received as the oldest copy. It tells us that in the time of the early English kings there were in this town fourteen burgesses of superior rank to the rest, (for this I think must be the meaning of '*principales*') by whom, and from whom alone, the portreeve was chosen. Now I venture to submit that such a state of things is entirely unlike what we know to have existed in our English boroughs in very early times. Whether the burgesses were united as in this borough, by being all freehold tenants of one lord, or as was generally the case in great trading cities, by being brethren of some merchant guild, (a bond which superseded the older, and I believe once universal, one of tenure), they were all of equal rank and had equal rights. But gradually throughout England the richer burghers, men perhaps of families in which civic dignities had become almost hereditary, began to shut out

the rest from their fair share in the management of the town, and to form a sort of select body which usurped to itself the rights which of old belonged to each and all. In London this began early, and in 1256 the greater burghers and the lesser—contemptuously called ‘*minutus populus*’—were engaged in a sharp struggle for the mastery; the great contest in Bristol came to a climax in the rebellion in the reign of Edward II; other towns were the scene of the same struggle, but in all cases the oligarchy had the victory, and there was established either by consent or by special act, a select body of men, who afterwards became the Common Council, who arrogated to themselves the common right of deliberation and the common right of election.

These fourteen capital burgesses seem to have been a body of this sort, for it is hard to believe that they could even have been aldermen of wards over which they exercised a separate jurisdiction as the MS. before us seems to imply. But no doubt they became to the exclusion of the other burgesses the sole assessors of the mayor not only in his ordinary court, but also in the court Baron which leased the lands of the commonalty; and by them and out of them alone the chief magistrate of the borough was chosen, who is called mayor instead of portreeve for the first time in the history of our borough in this fourteenth century MS. But if the inferior burgesses had for a time no voice in the election of their mayor, in this borough at least they have to a certain extent regained their ancient right: for when according to immemorial custom and royal Charter the burgesses meet together on the Monday after the Exaltation of the Holy Cross to choose their mayor, the inferior burgesses first nominate

and then the council proceeds to elect, and I am told that this nomination has hardly ever been disregarded, but at the same time it is provided by Charter that the nominee must be one of the fourteen capital burgesses. I am inclined therefore to think that here the ordinary burgesses of Axbridge never lost the right of giving that tumultuary vote, which was so long the recognized expression of the will of the people, but which has in this case become sobered down to an unromantic presentment which is carried upstairs to the council.

In the sixteenth century Axbridge received two great Charters—the one granted 3 and 4 Philip and Mary, made it a corporate town; the other of 41 Elizabeth, finally settled its government. The incorporation of a borough of ancient prescription, though an important era in its history, added nothing to its rights. The burghers had, before their incorporation, as full rights of jurisdiction, and of holding and transmitting property in common, as they had afterwards, either because they were united by a bond of tenure, all being freehold tenants of one lord, as we have seen to be the case here; or because they were amalgamated by what we may almost call a more artificial tie, because they all belonged to one great guild merchant, as in Southampton, Wallingford, and many other places. But incorporation gave a town these two great advantages. It established beyond dispute the rights which it already had by prescription, and though such a title was more honourable, still it was of course more difficult of proof than one which rested upon Charter. It also gave a town an existence recognized in law under some special denomination, such as the mayor and bailiffs, or, as in this town, the mayor, aldermen, and burgesses; and under this title the

borough could hold lands, and sue, and be sued, as a *corporate body*, endued with perpetual legal succession, and having representatives recognized by law. It made just the difference between an aggregate body and a corporate body.

The custom of incorporating existing communities or townships began I think about the middle of the fifteenth century, and received an immense impetus by the confiscation of the lands of religious houses. The king and his party were anxious to gain the approval of the middle class at this critical time, and to secure their favour, they made them to a certain extent sharers in their ill-gotten spoil. The towns received a very great increase to their estates and many became for the first time large land-owners. The property consecrated to religious uses and administered by religious bodies was handed over to secular communities. I leave to any one tolerably acquainted with the later history of our municipalities before the Reform Act, or even to any one who can form an opinion on the present administration of the old municipal Charities, to pronounce judgment on the wisdom, I will not say the righteousness, of such a policy. The incorporation of towns was a natural, almost a necessary, consequence of this great increase of their estates, because though it did not as we have seen enlarge their right of holding land, it gave them greater facilities for doing so. Axbridge was somewhat later than most towns in receiving its Charter of incorporation probably because it so long remained a Bishop's town. But in 1548, Edward VI, by the advice of the Duke of Somerset, with an insolent injustice, of which in this case the youth of the king must clear him, seized nearly all the temporalities of the see of Bath and Wells,

Axbridge among the rest, and left Bishop Barlow almost houseless and penniless. The town then returned to the crown and was incorporated early in the next reign by the Charter of 3 and 4 Philip and Mary, which we have before us. This Charter still recognizes the thirty-two burgesses, and it is curious to find that this limited number recorded in Domesday Book still remains in the Borough, so that the present burgesses of Axbridge are the actual successors, man for man, of the freehold tenants of the crown who dwelt here certainly more than eight hundred years ago ; their number has never been lessened, and they have never added to it by admitting others to the enjoyment of their rights. With these thirty-two burgesses the fourteen aldermen are thus mentioned—‘*de discretioribus et magis probrioribus,*’ from whom, and by whom alone, the mayor was to be chosen. This Charter also grants the town the right of holding the assize of bread and ale, but this like some other of its clauses, is simply confirmatory, for you will find a record of this assize being held by the town as far back as the reign of Henry IV.

This Charter was soon followed by another, granted 41 Elizabeth, which is that by which the borough is still governed. The most important clause in it is that which establishes the Common Council, which at last took the place of the fourteen principal men, so oddly called aldermen, of whom I have already spoken. Instead of them there was to be but one alderman, and eight capital burgesses, and these with the mayor form the Common Council, to whom pertains the right of electing the mayor and alderman and of supplying vacancies in their own number, though the inferior burgesses enjoy their ancient right of giving their collective vote at the election of

mayor. In this newly constituted body was vested the whole government of the borough, the keeping of the peace, and the management of the corporate property; and these large powers remain still as the borough was not affected by the Municipal Reform Act. This Charter also granted the right to elect a recorder, who sits with the mayor and alderman to enquire of all minor offences, and it confirms the exemption from serving on juries and from the jurisdiction of the county magistrates granted to the burgesses by King John.

The last Charter, which the town has received, is a Confirmation Charter of 21 James I, which also adds West Street to the bounds of the borough, and grants it two serjeants, and maces bearing the royal arms.

The Convocation Books of the borough, in the seventeenth century, contain some curious entries, two or three of which I will mention.

It had been the custom of the borough to pay the mayor £16 a year wages, in order that he might provide feasts for his fellow burgesses, but in time men began to consider this sum extravagant, and in 1666 the wages were brought down to £8, and a little later to £4 a year, which is the present sum paid, and which I fear is not enough to give the electors much of a dinner.

On the 6th April, 1666, we find an order made by the Common Council, forbidding any inhabitant from going to Bristol for fear of the plague, which seems to have lingered long in that city, and any one who disobeyed was to be shut up in his own house for one month, which was at once a punishment and a preventive against infection, although one would think barely wholesome, especially at such a critical time, for the sufferer.

The last entry which I shall notice, is the letter of the Council, dated November 29, 1684, addressed to some nobleman, whose name I cannot discover, which describes the consternation which they felt when they heard of the forced surrender of the borough Charters to the crown. This iniquitous proceeding was to secure the ascendancy of the Tory party throughout the kingdom, and was carried out by the Attorney-General, Sawyer, and the lawyers of the court faction. The Council of this town heard with dismay that all their highly prized franchises were to be laid at the feet of the king ; and they sent three of their fellow burgesses to Lord Fitzharding to ask his advice, but he was only able to confirm their fears, and they, like many a more powerful town, had no choice but to submit. I have not been able to find any entry which speaks of the restoration of their Charters, or any great Inspeximus Charter of King Charles ; but it is certain that the borough lost none of its franchises. The Common Council still retain the powers vested in them by the Charter of Queen Elizabeth ; they still look for the rights of their town to the mass of valuable documents which they have in their own possession, which they have so justly prized, and which they so kindly show to all who are interested in such matters.

In conclusion, I must again thank them for their kindness to this Society and to myself, and beg to assure them that I most heartily join in the prayer inscribed on the old window of their council chamber—

“God that’s Lord of all,
Save the council of this hall.”
