

Notes and Documents

BURH-GEAT-SETL.

THIS word is very familiar to students of Old English constitutional history. In the words of my friend Professor Maitland 'we have all heard of the ceorl who "throve to thegn right." He had five hides of his own land, a church and a kitchen, a bell tower and a *burh-geat-setl*, which, to our thinking, is just a house in the "gate," or the street of the burh.'¹ Previous writers have seen in this compound a right of jurisdiction over tenants,² and the definition has been taken into the dictionaries of Old-English.³ Yet it seems plain that no such compound existed, and that it has simply arisen through the tampering with the punctuation of the manuscript by editors.

The source of this compound is the interesting Old English 'law of promotion,'⁴ known by the title 'Be leodgescinðum and lage,' preserved in the 'Textus Roffensis.' It was first printed by Lambarde in 1576,⁵ who describes it as 'an Englishe (or Saxon) antiquitie, whiche I have seene placed, in divers old copies of the Saxon lawes, after the end of all, as a note or advertisement.' It is unfortunate that Lambarde did not specify the manuscripts thus referred to, for the only manuscripts recorded are the 'Textus Roffensis' and a manuscript whence Spelman⁶ printed what Schmid believed to be an earlier version of the tract. From the 'Textus' it was printed by Hickes,⁷ Wilkins,⁸ Thorpe,⁹ and Schmid,¹⁰ and in Hearne's edition of this valuable chartulary.¹¹ The section containing this compound is printed by Schmid as follows:—

And gif ceorl gepeáh, þæt he hæfðe (*sic*) fullrice fif hīða āgenes landes, cirican and kycenan, bell-hūs and burh-geat-setl and sunder-note on cynges healle, þonne wæs he þononforð þegen-rihtes weorðe.

¹ *Domesday Book and Beyond*, p. 190.

² Selden, *Titles of Honour*, part ii. c. 5, § 4 (*Opera*, iii. 657); Stubbs, *Constitutional History*, i. 125.

³ Bosworth-Toller; Clarke Hall, *Student's Anglo-Saxon Dictionary*; Sweet, *Student's Dictionary of Anglo-Saxon*.

⁴ Palgrave, *Commonwealth*, p. cxxxv.

⁵ *Perambulation of Kent*, p. 364.

⁶ *Glossarium*, p. 568.

⁷ *Dissertatio Epistolaris*, p. 113.

⁸ *Leges Anglo-Saxonicae*, 1721, p. 70.

⁹ *Ancient Laws and Institutes of England*, i. 190.

¹⁰ *Die Gesetze der Angelsachsen*, 1858, p. 388.

¹¹ P. 48.

Palgrave asserted that this tract was 'evidently part of a poem,'¹² and Coote¹³ completed Palgrave's stichic re-arrangement of the text. It is going too far to state, as these writers do, that it is a poem: it is rather one of the alliterative legal jingles of which we have other instances. It is, therefore, necessary to read, with Coote—

cirican and kycenan,
bell-hus and burhgeat,
setl and sundor-note
on cynges healle.

This, of course, separates the *setl* from *burhgeat*, and this separation is confirmed by the punctuation of the older texts of Lambarde, Hickes, and Hearne, which place a full point (with the usual value of a comma, as in Old-English manuscripts) between *geat* and *setl*. Wilkins omits the point before *setl*,¹⁴ and Thorpe followed him, and added hyphens between *burh*, *geat*, and *setl*. The point after *setl*, which has led to this erroneous linking together of the three words, is the point used so constantly in manuscripts before the sign for *and*, *et* (·) that it almost seems to be part of the sign. Whilst the punctuation and alliteration prove that the *setl* is not connected with the *burhgeat*, they do not prove or disprove the view that the *setl* might be, like the *sunder-notu*, in the king's hall. The old Latin versions do not throw any light on the question.¹⁵

In this connexion it is worthy of notice that a contemporary Kentish charter of 867 records the grant by King Æthelred to a priest of *unam sedem in loco, qui dicitur sancti Martini ecclesia* [Canterbury] . . . *et unam modicam villulam at [ad] eandem sedem cum recte pertinet*¹⁶ (sic). This is endorsed in a contemporary hand 'án setl æt sçe Martine.' This *setl*, with its appurtenant *villula*, reminds one of the 'haws' in boroughs, to which Professor Maitland has paid so much attention. *Setl* in Old English is so elastic a term that it is risky to attempt to assign any technical meaning to it. In some cases it means a law court (from the judgment seat), but it would be rash to affirm that it means jurisdiction in this case or in the 'Be leodgепincðum.' Despite this Kentish charter, I am strongly inclined to hold that this 'promotion law' merely means that it was a condition precedent that the rising ceorl should have a seat assigned to him in the king's hall, in addition to having a 'separate office' therein. Perhaps we may say that it was required that he should be *hoffūhig*. Whether this be so or not, the requirement of a

¹² *Commonwealth*, p. cxxxv.

¹³ *Romans of Britain*, 1878, p. 372.

¹⁴ So also George Phillips, *Versuch einer Darstellung des angelsächsischen Rechts*, p. 115. Göttingen, 1825.

¹⁵ There are two of these, (a) that of the *Quadripartitus*, in Schmid, p. 389, (b) an equally early version in the *Textus Roffensis*, ed. Hearne, p. 46, and in the *Pseudo-leges Canuti*, Schmid, p. 431.

¹⁶ *Brit. Mus. Facsimiles of Anglo-Saxon Charters*, ii. 37; *Cart. Sax.* ii. 129.

separate or definite office in the king's hall from the would-be thegn shows that this well-known passage applies exclusively to the attaining of nobility by service to the king. The picturesque atmosphere surrounding this 'promotion law' has caused many writers, including apparently Professor Maitland, to give this passage an unrestricted application to all owners of five hides, &c.

The separation of *setl* from *burhgeat* is a serious objection to Professor Maitland's suggestion that the passage means 'just a house in the "gate," the street of the *burh*.' His note that 'it does not seem certain that Old English *geat* can mean *street*' understates the case. It is pretty certain that it cannot. *Gate* in the sense of *street* occurs only in the Danish districts, and is clearly derived from the Old Norse *gata*, a word that is possibly not even related to the Old English *geat*, and which is, in any case, a different grammatical formation.¹⁷ It does not seem probable that the *burhgeat* can refer to the ownership of a gate of a fortified town, since there must have been more five-hide thegns than town gates. There are cases where town gates were known by men's names,¹⁸ perhaps the owners of sokes. Some of these men may have been the builders, not the owners, of the gates bearing their names. It is most reasonable to conclude that the *burhgeat*, like the church, the kitchen, and the bell-house, was the property and residence of the ceorl or thegn. Professor Maitland supposes that by the tenth century, or the date of the composition of this 'promotion law,' *burh* 'more often pointed to a borough than to a strong house.' But even then it did not mean exclusively a borough. It seems to mean a manor in the numerous Burys in Middlesex, Hertfordshire, Essex, and Bedfordshire, such as Edgeware and Edgeware Bury, and it meant little more than 'large house' in London.¹⁹ In the 'Gerefa,' an eleventh-century work, the word is applied, apparently, to the farm enclosure about the lord's dwelling.²⁰ So also the hedging of

¹⁷ The German 'Gasse' corresponds etymologically to O.N. 'gata,' Goth. 'gatwō,' not to English 'gate,' O.E. 'geat.' The charter quoted by Prof. Maitland (p. 196, note 1) from *Cod. Dipl.* ii. 26 (= *Cart. Sax.* ii. 30) does not prove that 'ubi appellatur Weoweraget' means that *get* is the 'publica strata,' but that this *get* of the dwellers in the 'regio' Wye was a point on the 'publica strata.' Cf. 'ubi nominatur æt Vuiht-baldes blawe' in the same charter.

¹⁸ At Bristol one of the oldest gates, at Pithay, 'aliter Aylewarde strete,' was known as 'Ayllewardes-yate' (Will. of Worcester, *Itinerarium*, p. 182). Another was known as 'Alderich Gate' (from *Ealdric*). In London Aldersgate is from Ealdred, Ludgate from Ludd or Ludda (?), Billingsgate from Billing, Aldgate from Ealh (?) ('Ealsegate,' eleventh century, Hermann, *De Mirac. S. Eadmundi*, p. 43). If *gate* meant *street* in London, it is a very strong proof of Danish influence. The east gate of Gloucester was known as *Ailesgate* (from *Ædel*).

¹⁹ Aldermanbury, Lothbury, Bloomsbury, Bucklersbury. The two latter (Bleomund's-bury, Bockerel's-bury) derive their names from thirteenth-century owners.

²⁰ Liebermann, *Anglia*, ix. 262. That 'on byrig' is here regularly the dat. sing. of *burh*, and not a non-existent *berry* in the sense of 'mulberry tree,' as Liebermann suggested, is proved pretty clearly by the mention of the time when the *gerefa* 'ſar

a similar *burh* is mentioned in the equally late 'Rectitudines.'²¹ In 'Beowulf' the plural is used, as in the case of *geard*, 'yard, court,' in a collective sense with the meaning 'in house,' 'in life,' &c. In the famous account in the 'Chronicle,' *sub ann.* 755, of the death of Cynewulf and Cyneheard at Merantun, the king at the first alarm goes to the door of the *būr* or *burh* (both words occur in the manuscripts), evidently a country house, and the ætheling talks to the slain king's retainers 'on *pære byrig*' (in the *burh*, i.e. from inside), having locked the gates (*gatu*). In numerous cases ancient manors still preserve a *burh*-mound, or moat, and occasionally two or three Old English *aulae*, or manors, in a single parish may be found recorded by an equal number of mounds or moats. May we not, then, conclude that in this 'promotion law' the *burh-geat* is, *pars pro toto*, a manorial *burh*, whether with or without seigniorial jurisdiction?

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MILITARY TENURE BEFORE THE CONQUEST.

In his admirable study on 'The Domesday Book and Beyond' Professor Maitland advances views of very great importance on military tenure in England before the Norman Conquest. As these views gravely affect the theory on the origin of knight service that I have enunciated in this REVIEW, it is incumbent on me briefly to consider them, distasteful though it must be to an historical student to question any statement of so eminent a scholar.

We read with truth that 'no matter with which we have to deal is darker than the constitution of the English army on the eve of its defeat;' and few indeed would care to speak with any certainty on the subject. The view, however, of Professor Maitland is that, when the Normans came hither, 'they saw something very like military tenure.'² The real territorial army (we are not speaking of the 'house carls') was 'a small force,' probably due from the counties at the rate of one man for every five hides.

For example, 'the five-hide rule would be satisfied if Worcestershire sent a contingent of 240 men.'³

For Worcestershire, we read, was probably assessed at 1,200 hides. But Professor Maitland goes further. He sees a system developing 'which for many practical purposes will be indistinguishable from the system of knights' fees;' and he sees it specially developed in Worcestershire, and above all in the bishop's triple hundred of Oswaldslaw, to which he has devoted great attention.

binnan bið, which Liebermann correctly explained as meaning 'im Domänenhofe.' *Byrig* does not mean 'garden,' as stated by Andrews, *Old English Manor*, p. 263, note 2, who seems to be under the impression that it is a different word from *burh*.

²¹ Cap. 2 (Schmid, p. 372).

Op. cit. p. 156.

² *Ibid.*

³ *Ibid.* p. 157.