XXIV.—*The History of Malmesbury as a Village Community.*

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IN the north-west of Wilts is a district which contains some remarkable reminiscences of the two dominant races who have influenced the history of this country. In tracing out the history of this district, as it has come down to us by the traditions and records of early chronicle writers, we arrive at an important epoch when for the first time is brought into strongly marked prominence the outline of the community which had settled there. This community, known to us later under the local name of Malmesbury, is one of the most perfect types of the primitive village which has survived in England, and to the elucidation of its chief characteristics it is proposed to devote some little attention. Keeping before us the outline made known from early records we shall see how this is gradually filled in from facts, which though gleaned from later and modern records, are nevertheless stamped as belonging to the earliest stages of history. And when this local mosaic is completely pieced in we shall be able, I think, to satisfy ourselves that what has so persistently clung to locality in later days originally belonged to a social group, types of which are still to be found in Eastern Europe and India, where society is in a state of arrested progress and has not advanced along the lines which mark its development in Western Europe.

At the commencement of our researches we meet with some significant facts which in the first place give some kind of definite outline to a district which has Malmesbury for its centre point of interest, and in the second place enable us to discover in this district strong traces of the continuance of Celtic habitation unbroken by the Saxon conquest. It is necessary to clearly understand these facts.

The western boundary of this district is the British trackway marked in most maps as Akeman Street, running from Bath to Cirencester, while on the eastern side the great forest of Braden spread its thick foliage. In the north-west angle

of this district was situated the British fortress of *Caer Dur*. The present topography of the place sufficiently attests that it was once a position of importance, and by nature well adapted for the site of a fortress, while the lane leading to it by Back Bridge affords, says Mr. Akerman, to this day, one of the most perfect examples of the roads by which our ancestors were wont to travel.^a Before the Romans left this island they had turned the British trackway into a foss road and *Caer Dur* into one of the defending halting places along the line.^b

Driven out of *Caer Dur* by the Romans the British settled in a fortress two miles off which they knew as *Caer Bladon*. That this seems to have been the course of events is borne out by the fact that no Roman remains have been found on the site of *Caer Bladon*;^c and curiously enough there still exists a tradition among the inhabitants of the place that *Caer Dur* is "one hundred years older."^d *Caer Bladon* was built on the summit of a hill surrounded on all sides but one by two rivers, and its position as a formidable hill-fortress had probably much to do with its later most interesting history.^e

We have thus clearly before us by the light of modern topographical remains the two British strongholds of *Caer Dur* and *Caer Bladon*, and our next point is

^a *Archaeologia*, xxxvii. 257.

^b Traces of Roman work at *Caer Dur* are noted in *Wilts Arch. Soc.* viii. 6.

^c An account of some *Ancient Triangular Bricks Discovered at Malmesbury* is given in *Gent. Mag.* 1831, part ii. pp. 499, 500. These are concluded to be Roman in *Journ. Arch. Assoc.* xxviii. 41, by Mr. Syer Cuming, who, writing about some triangular bricks discovered in Marden Castle, Dorchester, says, "Triangular bricks have been discovered at Malmesbury [*Caer Bladon*], and near Canterbury, having perforations through them of about the same diameter as those in the Dorset examples. The date of the Malmesbury bricks is *not* well defined; but those met with in Kent positively belong to the Roman epoch, and constituted a portion of a hearth with which was an iron *tripus*, hooks, &c. for cooking."—*Journ. Arch. Assoc.* xviii. p. 272. On turning to this last-mentioned reference we find Mr. Syer Cuming himself the exponent of the Roman theory. Mr. J. Brent exhibited the "triangular bricks very imperfectly burnt," which had been discovered in digging for gravel at Bigberry Hill about two miles from Canterbury at a distance of seven feet from the surface, which originally had been two feet higher (a wood which stood thereon having been grubbed up). Near to them was picked up a very perfect arrow-head of flint; and Mr. Cuming pointed out a vessel, found among the débris, "the parts of which bespeaking a Celtic origin," and he "detected a portion of the rim of a rude urn referable to the stone period, so that," says Mr. Cuming, "there are within the limited area of a few feet objects of the primeval, Celtic, and Roman periods." But there is no evidence that these bricks are Roman, and they are associated at all events with primeval and Celtic objects.

^d *Archaeologia*, xxxvii. 257.

^e The position is best described by a passage in *Gent. Mag.* 1831, part ii. p. 500, where the discovery of triangular bricks is noted.

to consider their position after the English inroad, which, succeeding the epoch-making battle of Deorham, brought the Celt and Saxon for the first time face to face in this district. It is extremely difficult to decide this part of the question, but I think it can be satisfactorily established (1) that the English at once sacked and occupied *Caer Dur*, renaming it scornfully, and in illustration of its condition then and long afterwards, *Brokenburgh*; ^a (2) that they sacked the homestead at *Caer Bladon*, but left the British garrison isolated in its strongly defended *castellum*.

I have partly followed Dr. Guest^b in the reading he has given of an interesting passage from the *Eulogium Historiarum*; but as this passage is the key to much that I shall have to advance presently in connection with the early history of the community who settled at *Caer Bladon*, it will be well to quote it here. It is as follows:—

There was in Ireland (Scotia) a certain monk named Meildulf, who was so harassed by thieves and robbers in his own country that he could hardly live. He, seeing that he could not long remain there, took to flight and came as far as England. As he was surveying the country and thinking how God would dispose of him, he at last took up his quarters under the *Castellum* of *Bladon*, which in the Saxon tongue was called *Ingelbourne Castle*. This *Castellum* was built by a certain British king by name *Dunwallo*, and by surname *Molmuncius* There had formerly been a city there, which was totally destroyed by the foreigners (*alienigenis*) but the *castellum*, being a fortified building, maintained itself, and stood there for a long time . . . without having any dwelling near it. The king's residence and the manor belonging to it were, both in the Pagan and in Christian times, at *Kairdurburgh*, which is now called *Brukeburgh*, or otherwise *Brokenbern* (*Brokenberh*). The hermit aforesaid, by name *Meildulf*, selected for himself a hermitage beneath the *Castellum*, having obtained permission from the men in charge of it, for there was not much resort of people there; and when the necessities of life began to fail him, he collected round him scholars to teach, that by their liberality he might mend his scanty commons. In a short time these scholars so learning the rudiments swelled into a small convent.^c

This passage follows up the evidence from the topographical remains, and it is important to bring into prominence its chief features. They are as follows:—

1. The Anglo-Saxon head-quarters were at *Brokenburgh*;
2. The British still held out at *Bladon*, which was known to the English as *Inglebourne Castle*;
3. The Irish (Celtic) monk settled under the walls of a fortress inhabited by his fellow-countrymen.

^a Guest, *Origines Celticae*, ii. 252.

^b *Ibid.* ii. 251, 252.

^c *Eulogium Historiarum*, Rolls Series, 1857, i. 225

Dr. Guest suggests that Meildulf “found an English guard posted” in the castellum at Caer Bladon;^a but there is absolutely no evidence in the chronicle for this. On the other hand, all the facts point to Caer Bladon being occupied by the British. Meildulf would settle where he obtained some sympathy, and not where he was at the mercy or by the sanction of people whom he considered foreigners — alienigenos. We are told that the castellum maintained itself, and was known in the Saxon tongue as Ingelbourne Castle; but this naming by the Anglo-Saxons is no proof of conquest, as the brook flowing by Brokenborough was known as the Ingelbourne, the brook of the Engle, Caer Bladon would be correspondingly known as the castle on the Ingelbourne. To emphasize the evidence for the continued British occupation, it is curious to find that the Celtic name of the river, the Bladon, was known in later times and used by the Saxon bishop in his charter of 672, and both the Celtic name Caer Bladon, and the English, Ingelbourne Castle, subsequently gave way to one which originated from the Irish monk Meildulf, the old English name being Maildulfsbury, thence the Malmesbury of modern times.^b And it is worth asking whether this Celtic monk could have imposed his name upon a community who were not of the same race and language as himself, especially as we learn from a passage preserved by Leland in his *Collectanea* (ii. 304), that the Saxons had previously to this date destroyed “a house of nuns close by the castle of Inglebourne, in a certain hamlet called Ilanburgh, by the Saxons termed Burgh-ton.” Noting that here again we have a Celtic place-name supplemented by its Saxon equivalent, it is clearly arguable that the destruction of the Christian convent would not have been followed by the ready assent to the establishment of a Christian monk if the occupiers of the castellum were of the same race as the destroyers of the convent. And the reasonable assumption is that the castellum was held by the British as a frontier stronghold for that king who, in the language of Dr. Guest, as “lord of the rich and beautiful district which stretched from Malmesbury to Lands End must have been little inferior to the King of Wessex himself, either in the extent or resources of his dominions.”^c

We have some confirmation of this from the history of the Celtic church which was established in this district. When Meildulf settled under the castle of Caer Bladon he saw around him nothing but the ruins of the former town. “There

^a *Origines Celticae*, ii. 252.

^b Cf. Rev. W. H. Jones in *Wilts. Arch. Soc.* viii. 69.

^c *Origines Celticae*, ii. 270.

had," says the record previously quoted, "formerly been a city there, which was totally destroyed by the foreigners, but the castellum, being a fortified building, maintained itself and stood there a long time without having any dwelling near it." He built a cell (*tugurium*) under the walls of the castellum, and an extract given by Leland in his *Collectanea* (ii. 301) fixes the date of this as A.D. 637. It was thus that the light of the old Celtic church was kept burning in spite of the opposition of the fierce paganism of the early Saxons.^a The same British chief who is credited with building *Caer Bladon* is also said to have built *castella* at *Laycock* and *Tetraonburgh*, and though the latter place is not now to be identified, *Laycock*, it is important to note, is situated in this old Welsh district with which *Malmesbury* is identified, and was also the seat of a British church.

And even the first glimpse we get of Saxon influences is the appearance of the far-famed *Aldhelm*, a near kinsman of *Ina*, who, in 688, became King of *Wessex*, but who had been a pupil of *Meildulf*. It was his great mission to soften and almost eradicate the bitter enmity that existed between the Celtic churches and those which recognised the authority of *Augustine* and his successors. It has been well said that there was a fixed determination among the British not to attempt the conversion of the Anglo-Saxon race.^b But *Aldhelm* came to the work fresh from the teaching of his Celtic master *Meildulf* of *Malmesbury*. There he built two churches, one on the foundation of an old British church,^c and later on he founded other churches at *Bradford* and *Frome*, both of which places again are situated within the Celtic tongue of land which had for its northernmost stronghold the castellum at *Caer Bladon* or *Malmesbury*. Thus again we are forced to the conclusion that strong Celtic influences existed in this district, and they must be reckoned with in any attempt to understand the evidences of early times which meet us in the institutions which now exist.

I think we thus get as a starting point clear evidence of a Celtic stronghold at the northernmost boundary of a wedge-like Celtic district, maintaining itself between the English-conquered districts of *Mercia* and *Wessex* longer than any

^a Mr. Trice Martin in his introduction to the *Registrum Malmesburiense*, ii. page xl. comes to the same conclusion as myself, that *Meildulf's* church was Celtic, "it must have followed the rule of *St. Columba*, and it was not until the reforms of *Eadgar* and *Dunstan* that the stricter Italian rule was enforced and observed." I notice also that *Dr. Leo* points out that "it was to the west of England and to Wales that the British Christians were driven in early times, witness the names of the headlands on the Welsh Coast."—*Local Nomenclature of the Anglo-Saxons*, p. 54.

^b Rev. W. H. Jones, in *Wilts. Arch. Soc.* viii. 76.

^c *Ibid.* 73.

other stronghold.^a And in addition to the military stronghold there is the influence of the subsequent religious foundation tending to keep up as far as possible, in the midst of other influences, Celtic traditions of social organization. If we add to these two pregnant facts the extreme probability of a strong Celtic population having survived the Saxon occupation^b of the district, we may expect to find that the institutions which are discoverable at the dawn of history, or by the light of modern scientific research, are strongly tinged with Celtic characteristics. And I would further suggest that the realization of these expectations would go far to substantiate the reading of the early chronicle evidence which I have ventured to adopt.

We are now in a position to ask ourselves what are the initial facts with respect to the community who settled at Malmesbury? In 637, when Meildulf took up his abode, there was no village or inhabitants outside the fortress. In 672 Leutherius, bishop of the Saxons, granted to Aldhelm "terram illam cui vocabulum est inditum Maldumesburg." This gift no doubt included the ground upon which the two churches were afterwards built. But the building of a church other than the monastic church implies the existence of a community who would use it, and the question that therefore arises is—was this community, which now appears for the first time, composed of the original garrison of Caer Bladon and their descendants, or was it a band of Saxons who were attracted thither by the monastery? My own reading of the evidence is that it was the Celtic community who had occupied the castellum, and who, as more peaceful times arose, and as the monastery flourished beneath their walls, again occupied the deserted village, and again worshipped in the church of their forefathers. At all events there is no evidence of any great inroad of Anglo-Saxons, and, though they unquestionably took part in the final settlement of the district, it was side by side with their old Celtic foes, not in place of them. If this is the correct view to take there will be traces of this race origin in the later institutions.

What these later institutions were it is our next step to establish. The chronology of events has guided us so far, and now we must leave chronology and seek our guide in the science of comparative politics. By this we know that an institution is not modern because it happens to have been noted for the first

^a Guest's map in *Origines Celticae*, ii. 242, gives the position of the races very clearly.

^b I say "occupation," because, if Caer Bladon, sacked in A.D. 577, was still allowed to retain its British garrison in the castellum the "conquest" of the district clearly did not take place then. But an occupation unquestionably did take place when Mercians and West Saxons in later years overlapped their earlier boundaries and fought against each other or united against a common foe.

time by modern inquirers: it is modern, or archaic—the creation of an historical period, or the descendant from a far-off period—just so far as it is comparable to modern or archaic institutions known to exist elsewhere. If its parallels are known to have been created in order to meet the living practical purposes of modern times, then we may classify its origin as appertaining to modern history; if on the other hand its parallels are to be found only in those backward lands, or among those arrested societies which exist in the eastern world in great plenty, and in the western world on the borders of civilization or in isolation amidst and in spite of civilization, then we class it with its fellows as appertaining to primitive history. Guided by what we already know of the beginnings of the Malmesbury community at the dawn of English history, we purpose next to group it among its parallels either in modern or primitive history.

We will consider the structure of the Malmesbury community under the heads of (1) the basis of membership; (2) the rights of membership.

The basis of membership has some features which are of almost unique importance. Our knowledge of them is chiefly to be obtained from an account in the *Gentleman's Magazine* of 1832,^a which is copied from a manuscript dated 1685-6. What this manuscript is, and where it is, I have failed to discover, but that the extract I am going to use is original cannot for one moment be doubted.

Being to mention Malmesbury often in the ensuing narration, I have thought it not unfit, to say something of the policy of that auntient Corporation, which by the justice and clemency and liberality of former Kings, hath not only retained its auntient forme of Government, but hath been enriched with great quantitys of land, which are disposed amongst the Freemen and Guildeners, by very just and prudent methods. The Borrow of Malmesbury is situated in two parishes, that of Malmesbury properly, and that of Westport. The Commoners and Guildeners of Malmesbury are divided into sixe centurys or hundreds or tribes, and every Commoner is reduced under one of these tribes, and inrolled in a large skin, under the name of a tribe or hundred, so that there are six columns of names, all which persons have right of Common in the large portion of ground called King's Heath, given to them by Charter, in reward of faithful services done to King Athelstan, whose monument is yet extant in Malmesbury, by that magnanimous King, but wisely limited, so that every Commoner hath an equal advantage by it. Now the 48 names which by antiquity or seniority come to be next the names of the respective centurys or tribes, are termed the 48ths, and have an Addition of Land in a Common Field, belonging to that Corporation, as a Corporation. There is also a superiøre order of 24^s, which are elected ever out of the 48 by the majority of the 24^s, who doe not always respect seniority, but the tribes of the persons. There is also another order, which consists of 13, who by the majority of the 13, are ever elected out of the majority of the 24^s onely, in which Election seniority is also not always regarded.

^a Part i. pp. 405-6.

Three persons of this 13 are yearly presented to the Commoners by the rest of the 13, who choose out of them an Alderman for the ensuing yeer, which Alderman is a Justice of the Peace for the Burrow; and hath power to nominate a Deputy, who is to act onely when the Alderman is out of the Burrow. These 13 have also large Meadows or Pastures, none lesse than 8*l.* nor none worth more than 16*l.* per ann. to each one, but under penalties of waste, so that these grounds are not empayred, altho they pass thorow many hands.

Confining ourselves firstly to the constitution of the community, what is the evidence to be derived from this remarkable document? The answer is to be found by ascertaining the constitution of the Welsh tribal communities, which can readily be done by turning to Mr. Seebohm's *English Village Community* (pp. 181-206). Mr. Seebohm is there treating, not of the late survivals, imperfect in form and twisted from their archaic originals by the forces of modern politics, but of the early tribal communities as seen from the evidence of laws and other early authorities. And though I shall not suggest that we can absolutely identify the Malmesbury community, with its "hundreds or tribes" and its "thirteens," with the "tribes" and "thirteens" of the Welsh system, yet I shall urge that the archaic arithmetic of the early Welsh tribes has unquestionably survived in the curiously complicated system of the Malmesbury community. "Without pretending to have mastered all the details," says Mr. Seebohm, "of these obscure [the Welsh] tribal arrangements, the point to be noted is that the scattering of the tyddyns all over the country side, and the clustering of them by fours and sixteens, or twelves, into the group which was the unit paying the gwestva or tunc pound, and again into clusters of twelve or *thirteen* under a maer as the unit of civil jurisdiction were obviously distinctive features arising from the tribal holding of the land."^a Apply this statement to the condition of things at Malmesbury, and what do we find? There could be no very extensive "scattering of the tyddyns all over the country side," because the community at Malmesbury was hemmed in by the Sassenach; but substitute for this a closer drawing together of the few tribal homesteads that remained when they again issued from their castellum, and the rest of Mr. Seebohm's summary of the early Welsh tribal constitution holds good too as a summary of the late Malmesbury constitution.

In the first place we have not any definite traces of a "village" at Malmes-

^a *English Village Community*, p. 205. Mr. Seebohm quotes from the *Gwentian Code*, p. 375, the following, "there are to be thirteen trevs in every maenol, and the thirteenth of these is the super-numerary trev."

bury. There is a community of independent homesteads, but not a village in the archaic sense. This is well illustrated by the evidence of *Domesday*, which shows that Malmesbury was situated in two hundreds, that of Cheggelewe and Sterchelee, and Mr. W. H. Jones significantly asks "if the town of Malmesbury existed at the time when the hundreds were formed, is it likely that it would have been parted between two hundreds, especially when we bear in mind that the lordship of both belonged, from an early period, to the Abbot of Malmesbury?"^a I do not follow Mr. Jones in his answer to this question, but it suggests to my mind that, though there was a *community* at Malmesbury recognisable certainly as early as Bede, it was based upon the old tribal system which we have been examining, and that there did not arise anything like a town until those much later years when commerce had broken through the archaic network which held the community together.

Of course, it is not to be expected that the structure of the community in the seventeenth or nineteenth centuries was exactly the same as the original from which it descended; and the disturbing causes which prevented at the starting point a free settlement of a tribal community would introduce modifications of the general archaic system from the very beginning. But, considering these facts, the twisting which has taken place, owing to the operation of modern economic laws, is wonderfully small; and I do not think we shall be overstepping the bounds of historical science by translating the modern title, "capital burgess," into the archaic "tyddyn" of the Welsh. It is advisable to consider a little closely the analogy which is here suggested; and it appears to me to work itself out in a very simple way. The particular type of tribal community which Malmesbury most nearly parallels is that of South Wales according to the Dime-tian and Gwentian codes. There the free trev was the gwestva-paying unit; and, according to the archaic arithmetic which governed the constitution of these tribal arrangements, we have the following grouping:

$$\begin{array}{rcl}
 12 \text{ trevs under a maer} & = & 1 \text{ maenol with a court and unit of legal} \\
 & & \text{jurisdiction.} \\
 12 \text{ tyddyns or 4 randirs} & = & 1 \text{ trev.} \\
 100 \text{ erw of pasture, \&c.} & \} & \\
 4 \text{ erw of homestead} & \} & = 1 \text{ tyddyn.}
 \end{array}$$

^a *Domesday for Wilts*, p. xxxi.

The Malmesbury constitution may be grouped thus :

1835. Per Municipal Corporation Commission.	1685. Per quotation from <i>Gentleman's Magazine</i> .
280 commoners	
48 landholders	The 48s.
24 assistants	The 24s.
12 capital burgesses and	The 13s.
1 alderman }	

It will be seen by this, that the 280 commoners are the outcome of the period between 1685 and 1835, and as constituent portions of the community must be struck out of our present consideration. But, what is much more important, we must strike out too the "titles" of the other bodies, and substitute for them the extremely archaic titles derived from the number comprising the body. There thus remains the three bodies of the 48s, the 24s, and the 13s. Now, if we eliminate from these the body of "twenty-fours," we are enabled to make a pretty easy comparison of the Malmesbury community with the South Wales tribal system; and I would suggest that we may well consider this body to have been the creation of the fifteenth and sixteenth centuries, just as the 280 commoners are proved to have been the creation of the seventeenth and eighteenth centuries. If this is so, we have left as representatives of the archaic tribal constitution of Malmesbury, the 48s and the "thirteen"; and my suggestion is, that in these two bodies we have the 12 tyddyns and 1 supernumerary tyddyn, with their corresponding 4 erwes (or acres) each, or together, 48 erwes.

We will deal first with the 48 erwes, or acres, belonging to the tyddyn, and endeavour to ascertain how they helped to form the group of "landholders" who became an integral part of the community. Mr. Seebohm points out the difficulty attending the curious geometrical system of the early Welsh tribes, unless we adopt the shifting characteristics of a pastoral people; and he states that, long before the fourteenth century the households were settled in their homesteads, geometrical regularity had ceased, and the land was divided and subdivided into irregular fractions.^a I contend we have in Malmesbury a curious example of these irregular fractions. When the tyddyns lost their archaic nature, they could no longer keep to the old laws of succession by undivided groups, and hence at some period when the pressure of population began to tell, the question of the suc-

^a *English Village Community*, p. 205.

cession to the communal property began to arise.^a To meet this state of things the then possessors of the 48 erwes, or acres, belonging to the tyddyns were allowed to keep their holdings, and in virtue of them to become the basis of a new class in the community, just as at later periods the same question would arise, and additional classes such as the "assistants" and "commoners" subsequently succeeded to the inheritance of the once undivided households of the original tribal holdings.

We have next to deal with the "thirteen," and I may advance the suggestion that the close analogy this body bears to the group of tyddyns in the old Welsh tribal system considerably strengthens the perhaps somewhat speculative considerations just put forward as to the origin of the other bodies. The group of tyddyns was made up of 12, plus one supernumerary tyddyn, making together 13. And so the "thirteen" at Malmesbury were composed of 12, plus one supernumerary. This important fact did not appear until 1876 when evidence was taken before the municipal commissioners.^b Nor is this all. It was one of the features of the tribal system, as we see it in Ireland, that "the families of free tribesmen did not always occupy the same tyddyn, but were shifted from one to another whenever the dying out of a family rendered needful a redistribution to ensure the fair and equal division of the tribal lands according to antiquity and their rank under the tribal rules."^c The holdings of the "thirteen" at Malmesbury were likewise at one time, though not now, subject to a re-allotment whenever a new member was admitted upon the death or removal of an old member.^d

I shall have to explain presently the difference in the extent of the land held by the capital burgess and the tyddyn, and in the meantime will pass on to the next portion of our inquiry, namely, the basis of kinship in the community.

We have to deal with modern phraseology in considering the extent to which the Malmesbury community is indebted to blood relationship for its basis of membership; but in spite of this we can detect, I think, the archaic original which preceded the record as it has come down to us. The mode by which persons can become free burgesses was settled in 1821, and this was preserved by an Act of Parliament then obtained for the enclosing of the borough lands. It is thus given by the commissioners of 1835:

^a I have discussed this important subject, and its bearing upon such a state of things as appears at Malmesbury, in *Archæologia*, ante, pp. 195—214.

^b See *Municipal Corporation Commission*, 1876, part ii. p. 836, "there is always one capital burgess who has not a 'burgess past'; he is paid money out of what is subscribed by the other capital burgers."

^c Seebohm, *English Village Community*, p. 236.

^d See *Municipal Corporation Commission*, 1876, part ii. p. 833.

Every son of a free burgess or commoner in his own right, he being at the time of claiming admission of the age of twenty-one years and married, and also a parishioner of one of the parishes within the borough, and likewise at the same time an inhabitant householder in an entire tenement (and not an inmate) within the borough, is entitled to be admitted a free burgess or commoner of this borough. Every man who has married a free burgesses daughter, he being at the time of claiming admission so married and his wife living (but not otherwise), he being also of the age of twenty-one years and a parishioner of one of the parishes within the borough, and an inhabitant householder in an entire tenement (and not an inmate) within the borough, is entitled to be admitted a free burgess or commoner of this borough; but a free burgesses daughter having once married cannot communicate to a second husband a right to admission: nor will such subsequent marriage give to the sons or daughters of such husband by another wife any right to admission. No son of a free burgess born before his father shall have been admitted in court a free burgess is entitled to be admitted a free burgess. No daughter born before her father shall have been admitted in court a free burgess can communicate to or invest any husband with any right or title to be admitted a free burgess.

Disqualification and causes for rejection and amoval are (1) conviction of felony; (2) not being at the time of admission, or at any time after admission ceasing to be an inhabitant householder in an entire tenement within one of the said parishes within the borough.

Blood relationship is by this constitution absolutely the basis of the Malmesbury community,^a and even where it oversteps the line of male descent, it runs parallel to the archaic system, where, as in some tribes in the Punjab, the daughter may bring her husband to fill up the ranks of the community, failing through disease or any other calamity.^b We even have preserved in this curiously constructed system of municipal freedom the archaic succession of all the sons—"every son" being entitled to take up his freedom upon coming of age.

The regulation of the affairs of the community was determined by an assembly composed of all its members.^c The report of the Municipal Corporation Commission of 1835 describes the assembly at Malmesbury as follows:—"An assembly composed of the alderman, capital burgesses, assistant burgesses, landowners, and commoners, has the privilege of deciding on the title of claimants to a share in the Corporation lands." The commissioners of 1876 obtained the information that there are four courts during the year, one for the appointment of officers,

^a The evidence of Mr. Player before the Commission of 1876 illustrates how actual was the kinship basis of the Community. See *Question 6318 et seqq.*

^b Tupper, *Punjab Customary Law*, vol. ii. pp. 74, 75.

^c Laveleye's *Primitive Property* gives parallel instances from Russia (p. 14), Switzerland (p. 94), Germany (p. 111), Holland (p. 283), and it is an admitted feature of the primitive community wherever found.

one for the swearing in of officers, one for admission of commoners, and one for the turning out of commoners upon disqualification. We do not know sufficiently of the details of the proceedings of this assembly to pick out all the points of contact with the assemblies of early social groups; but Mr. Trice Martin has preserved in his preface to the *Registrum Malmesburiense* (vol. iii. page xliii.) an interesting archaism which accompanies the delivery of the allotted portions of land to the commoners, seizin being given by the transferring of a twig and the repetition of the rhyming formula—

This land and twig I give to thee,
As free as Athelstan gave it me,
And I hope a loving brother thou wilt be.

The appearance of the rhyme at once denotes that we are in the presence of archaic custom,^a and the last line recalls that “common brotherhood” which is a typical feature of early communities, and of which we have already had some evidence in the kinship which underlies the constitution of the Malmesbury community. Further than this is the significant practice of the delivery of the twig. There exists many examples of the primitive community in England, where the annual allotment of the land is made by means of curiously formed twigs,^b a twig being placed on each strip of land, and corresponding twigs being cast into a hat, from which the various members of the community draw. The twigs so drawn denote the piece of land which each drawer is to have for the coming year. With these interesting facts before us I suggest that in the rhyming formula still surviving at Malmesbury we have a relic of the periodical redistribution of land by the assembly of the community.

We have next to deal with the rights of the community. The rights of membership at Malmesbury, governed by that intricate system which has already been noted, are entirely of an archaic order. There is the tenement or homestead. There is a right to land “in a common field,” that is land held in common by those bundles of strips of acres or half-acres which Mr. Seebohm has made so familiar to us. There is the common pasture attached to the arable lots. In 1835 the Municipal Corporation Commission thus described this land:—

^a I have given some details of this interesting subject, rhyming formulae, in an article in the *Antiquary*, vol. viii. pp. 12-15.

^b *Archaeologia*, vol. xxxvii. p. 383. On symbols of transfer generally, consult Spence's *Court of Chancery*, i. p. 22.

The property of the Corporation consists of about 516 acres of land, divided among the entire body in the following proportion: 280 commoners, about 1 acre each; 48 landholders, about 1 acre each; 24 assistants, about 2 acres each; the alderman and eleven [twelve] senior capital burgesses, 140 acres between them (see *Report*, vol. i. p. 77).^a

but the Commissioners of 1876 obtained much more valuable information. This information I summarise as follows, the reference figures being the number of question and answer in the evidence:—

1. The homestead, which gives in primitive times the right to land allotments in the common lands, is represented by thirty-nine properties, which belong to the alderman and capital burgesses (5487-5500).

2. The allotment of lands.—No one can hold land unless he be a freeman of the borough either by right of birth or marriage (5415). This enables them to take up their right as commoners (5420), and they take common as a vacancy occurs. The commoners then succeed by rotation to a vacant acre held by the landholders. The mode of succession to this higher body is regulated by custom. The custom is, that the whole common is divided into six “hundreds,” each hundred part having a particular name (5433-6). The commoner draws lots upon one or more of these six “hundreds,” and enters himself as a candidate for vacancies as they arise (5411). He cultivates or lets his allotment, which is not marked out by boundaries or by fences (5531). The next grade is that of assistant burgess. To become a member of this grade the candidate must first give a “seeking feast” to the body of twenty-four (6293), and then take up his allotment upon the death of a present holder. Then from the assistant burgesses are elected the capital burgesses, who have each a burgess part in the lands of the borough (5470).

Now this remarkably intricate custom has many features common to the primitive agricultural holdings, some of them of special interest. The village tenements, the arable allotments, the common pasture, are all characteristics that do not belong to modern times. Rotation by death or seniority replaces the annual allotment of primitive times. And this slight deviation is quite capable of historical explanation (see Laveleye's *Primitive Property*, p. 93), besides which we may compare this succession to long-established allotments to the Punjab custom of succession to ancestral shares.

Another fact it is important to note is the use of the word acre in its archaic sense. Each of the six “hundreds” has a certain portion of the common land

^a This is the same as recorded in the preamble of the local Act 1 and 2 Geo. IV. cap. 34, and it is important here to note this as an instance of archaic custom being recorded in a modern statute.

appertaining to it. This is divided out into lots or "acres." These, it was explained to the Commissioners of 1876 (Q. 6491), are not statute acres, some being half and some three-quarters of an acre, and it is these nominal acres which form the holding of the members of the hundreds.^a

With reference to the curious division of the communal lands into "six hundreds or tribes," I am tempted much to dwell upon the archaic terminology here so distinctively used. But whether or not there be anything to be derived from this, the real point to note is, that the sixfold division does not really affect the constitution of the community. The "thirteens," the 48s, &c., exist quite independently of the six hundreds, and all that this division applies to is the land. I think there can be little doubt that we have here the survival of an influence which was not Celtic in its origin. I have noted how the two races, Celtic and Saxon, probably met at Malmesbury on more equal terms than usual, and it may be that in the sixfold division we see traces of Teutonic influence. An arrangement into six fields is to be met with at Kells, co. Meath,^b and this, perhaps, may give the clue to an explanation of the Malmesbury system. Kells was overrun and re-settled by Danes, and there is something more than conjecture for referring its curious constitution to this period and people. Now Malmesbury was overrun by the Danes, and I throw out the conjecture for what it is worth, that the division into the six hundreds, perfectly independent as it is of the rest of the organization, might be due to this later race-influence.

One further note of parallels between the Welsh tribal system and Malmesbury must be made. Observing that in king Alfred's time, Cornwall, Devon, Somerset, and even parts of Wiltshire still formed what was known as "West Wales," Mr. Seebohm goes on to point out how that king in his will carefully abstained from applying the word *ham* to his numerous possessions in the West Welsh districts, but invariably used in describing his estates there the word *land*, the *land* or the *landes* at such and such a place.^c Now the use of the term *land* in this particular way is one of the dialect peculiarities of Wiltshire,^d and particularly so of Malmesbury. There is first of all the specific title of "landholders" applied

^a This naming of the holdings by the term "acres" led to a wrong statement of the area of the corporation property. In 1835 it was stated to be 516 acres (see above), but there were really 516 *lots*, which represented 800 statute acres, if not more. See *Commission of 1876, Question 32,613 et seqq.*

^b I communicated this to the *Athenaeum* of 3rd March, 1883; and see Seebohm, *English Village Community*, p. 227.

^c Seebohm's *English Village Community*, p. 254.

^d Davis, *Agriculture of Wilts.*

to one section of the community, and a section too which enters into the most archaic parallels with the early tribal system, and the evidence before the Commissioners of 1876 clearly establishes the term "lands" as a specific phrase locally known to Malmesbury.

We have now gone through step by step the constitution of the Malmesbury community, and alike in the basis and rights of membership we have found strongly marked parallels to the basis and rights of membership in archaic society. There is one final, and I hold conclusive, test by which we may prove the archaic nature of this community, and that is by ascertaining its degree of original independence from the national law and the national economy.

There was absolutely no room for the national law of England within the constitution of Malmesbury. Small offences being punishable by the assembly of the community, the whole of the criminal code is got rid of by the simple expedient of expelling the felon from membership; an expedient which in early society led to the creation of "broken-men," who, fleeing from one tribe, were adopted by another. The law of wills can find no place, because succession to property is by kinship, all the sons succeeding to the rights of the father. There can be no alienation or gift of property, and hence no laws to govern this process. The position of woman requires no law to regulate it, because after she has passed the patrimonial rights to her husband she has no further *status*, and her position when unmarried would be that of absolute dependence upon the father.

To show its independence of the national economy we must revert to a subject which I mentioned just now as requiring some explanation, namely, the smallness of the holdings of the members of the community.

Now, the area of land belonging to the modern corporation has admittedly diminished. The commissioners of 1876 obtained from one of the witnesses evidence to the effect that, "by reputation," they had lost some lands, and do not know where they have gone to, and they possessed "old deeds relating to property" of which they do not know the existence. If we turn to the doings of the abbey, as chronicled in the *Registrum Malmesburiense*, we can obtain some explanation of this. The enclosure of the common lands round Malmesbury, says Mr. Trice Martin in his preface to that volume, furnish the subject of many of the documents. Fouleswike and the Rowmerse, which are frequently mentioned in this connection, are probably what is now known as Bird's Marsh, about a couple of miles north of Chippenham, on the Malmesbury road. Portmaneshethe recalls the familiar Portmeadow of Oxford, and was the property of the burgesses, as well as Barndehethe or Burntheath, which the Malmesbury people are fond of

telling strangers was granted to their ancestors by Athelstan for help given in the battle against the Danes.^a

It is impossible without local knowledge to do justice to the extremely valuable documents collected in this volume; and I venture to suggest that the Wilts Archaeological Society, to whom we already owe so much, should take up the subject in the same spirit that Mr. Akerman has adopted in his paper in *Archaeologia* (vol. xxxvii.) on the possessions of the Abbey of Malmesbury, in North Wilts. It seems pretty certain that the tenements within the town and the grants without could be one and all identified. Even without this local identification these documents tell us the same story which we have learned from other parts of the history of Malmesbury. The lands are intermixed allotments in a common field, and held by their various owners in bundles of acres. It will be sufficient to quote one or two examples to prove this; and I will select the documents dealing with Thornhill. This is the name of one of the six "hundreds" into which the lands of Malmesbury are divided; and I think we have here not only evidence of the ancient mode of culture and holding, but of the once wider extent of these "hundreds." The first document is a grant of "tres acras terrae cum omnibus pertinentiis suis in campis de Thornhulle, quarum duae acrae jacent juxta tenementum quondam Roberti le Charpenter versus occidentem, una dimidia acra extendit se versus terram Willelmi Parcarii inter terram Willelmi le Frere et Ricardi Pinnoek, et alia dimidia acra jacet in campo de Borghtone^b qui vocatur le Ham, inter terram Roberti Woderove et terram Aliciae de la Grene."^c Here we have two acres lying together, and two half-acres lying between the acre-strips of other holders. The next document relates to an exchange of land at Thornhill, consisting of "illas septem acras terrae arabilis quae jacent in campis de Borughtone et Thornhulle,"^d of which two acres and two half-acres are the same as described as above, and the remaining four acres are scattered in parcels, two of one acre each, and the remaining two acres together. The last document relating to this district is the grant to the abbey "totum tenementum meum et terram meam apud Thornhulle, cum domibus, gardinis, curtillagiis, pratis, pascuis, et pasturis."^e

But if we have thus been able to show that one of the "hundreds" now

^a *Registrum Malmesburiense*, vol. ii. p. xliii.

^b This is the hamlet alluded to above (p. 4) as the seat of the nunnery destroyed by the Saxons and called by the Britons Ilanburgh.

^c *Reg. Malm.* ii. 184.

^d *Ibid.* ii. 230.

^e *Ibid.* ii. 349.

belonging to the Malmesbury community once extended beyond its present area the remaining documents of Malmesbury Abbey show us very clearly how the abbey gradually gathered into its hands tenements in the town and large tracts of land without, which once no doubt belonged to the community. And when we come to the charters of John, which granted the town to the abbey in fee-farm, and gave them absolutely the castle, the Norman successor of that ancient British castellum which was the source of all civil rights in Malmesbury, we know quite well that the stage when old communal lands were to be transformed into church lands had been reached.

Looking at the evidence thus, I do not think it is too much to suggest that the community of Malmesbury was once a community independent of the national economy for its support, obtaining its own food and its own clothes from the lands and flocks which it owned. One special illustration of this fact is the custom of granting land for the support of the village officers. Sir Henry Maine has drawn significant attention to this point,^a and its bearing upon the independent economy of each settlement. That we have a survival at Malmesbury in the annual grant to the alderman of a piece of land known as the "Alderman's kitchen" is evidence of a once existing system of economy which did not extend beyond the community itself.

This concludes the evidence with reference to the archaic nature of the Malmesbury community, and it will be admitted, I think, that on the whole the twisting from the original has been singularly slight considering the lapse of time and the peculiar racial disturbances which attended the early settlement of the district. It may be that some of the customs I have enumerated are to be attributed to Saxon origin and not Welsh. And certain it is that we have no evidence, as far as I can see, of the old custom of food-rents so characteristic of the Welsh tribal system. But while on the other hand we have so near as Cirencester an example of what Mr. Seebohm characterises as "very much like a survival of the Welsh food-rents at one of the cities conquered by the Saxons in 577,"^b so I would venture to suggest a survival at Malmesbury of the duty of the free tribesmen "to join the chief's host in his enterprises," in the *Domesday* record that "when the King going on an expedition, whether by land or sea, he was either wont to have from this borough 20 shillings for the support of his sailors, or took with him one man for each honour of 5 hides."

^a *Village Communities in the East and West.*

^b *English Village Community*, p. 211.